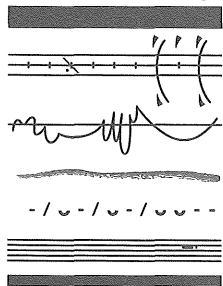


MAR 8 1996



MINNESOTA
STATE ARTS BOARD

March 7, 1996

Deanne Gueblaoui
Legislative Commission to Review Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155-1201

Enriching the

cultural life

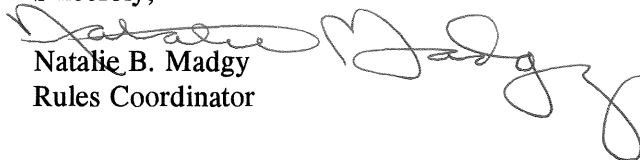
of Minnesota

for 30 years.

Dear Deanne:

As we discussed today, I am enclosing the required Statement of Need and Reasonableness related to our Dual Notice to be published on March 25, 1996. If you have any questions, please give me a call.

Sincerely,


Natalie B. Madgy
Rules Coordinator

Park Square Court
400 Sibley Street
Suite 200
Saint Paul, MN
55101-1928

(612) 215-1600
(800) 8MN-ARTS

Fax: (612) 215-1602

State of Minnesota

2

Board of the Arts

4

Proposed Permanent Rules
Governing Procedures for
Receiving and Reviewing requests
for, and Standards for Distribution
of, Grants and Other Forms of Assistance.

6

8

STATEMENT OF NEED
AND REASONABLENESS

10

I. INTRODUCTION

12

The subject of this proceeding proposes rules to replace existing Board of the Arts rules governing the procedures for receiving and reviewing requests for and distribution of grants and other forms of assistance. This Statement of Need and Reasonableness justifies the need for and reasonableness of the proposed rules action as required by Minn. Stat.14.131 and 14.23.

14

16

This Statement of Need and Reasonableness consists of five sections. Section I is the Introduction. Section II identifies the statutory authority to adopt these rules. Section III is a general statement that contains background and the process used by the agency to develop these rules. Section IV discusses statement of need and reasonableness items required as of January 1, 1996 under Minn. Stat. Ch. 14 Sections 13 and 21 which are (1) a description of the classes of persons who will be affected by the rule; (2) the cost to state agencies to implement and enforce the rule; (3) a determination of whether there are less costly or less intrusive methods for achieving the purpose of the rule; (4) a description of alternative methods that were seriously

18

20

22

24

considered and the reasons why the alternatives were rejected; (5) the probable costs of
2 complying with the rule; and (6) the differences between the rule and federal requirements and
the need for and reasonableness of each difference. In addition, this section comments on the
4 requirements related to fee rules and requirements describing the notification given to affected
classes of persons Section IV contains the need for and reasonableness of the proposed sections
6 of the rules.

8 **II. STATUTORY AUTHORITY**

10 The statutory authority to adopt these rules is Minn. Stat. §129D.04 Subdivisions 1 (e) and (f).

12 **III. GENERAL STATEMENT**

14 **BACKGROUND OF THE MINNESOTA STATE ARTS BOARD:**

The Minnesota State Arts Board is a state agency dedicated to enriching the cultural lives of all
16 Minnesotans. The agency receives an appropriation from the Minnesota State Legislature, which
is supplemented by funding from private foundations and the National Endowment for the Arts.

18
The Arts Board offers grants, services, and resource publications to individual artists, arts
20 organizations, sponsoring groups and schools throughout the state. The Arts Board also offers
informational publications free of charge. Equal opportunity to participate in and benefit from
22 programs of the Minnesota State Arts Board is provided to all individuals regardless of race,

national origin, color, sex, age, religion, sexual orientation, or disability consistent with Minn.

2 Stat. Ch.363.01. In carrying out its mandate, the agency utilizes two principal sources of
financing: biennial legislative appropriation and federal funds, primarily from the National
4 Endowment for the Arts. The activities of the agency fall into two principal categories: grants
and services. Grants are direct financial payment to individuals and organizations for the creation
6 of art, for the provision of services to artists, and for assisting the arts community in making
programs accessible to the public.

8

A major principal of operation of the agency is the utilization of citizen advisory panels for the
10 development of priority and policy options, and the review and recommendation of grant
applications and other forms of assistance. These panels serve in an advisory capacity to the
12 Board, which considers their advice when making final decisions. Advisory panel members serve
without compensation, other than expense reimbursement.

14

The structure of the agency, for Board member terms and residency requirements, the roles of
16 staff, the use of advisory panels and conditions relating to them, as well as the agency's duties are
spelled out in the statute.

18

Background of the Regional Arts Council System

20 Minnesota State Legislative funds for the arts are allocated to two different but related funding
systems for maximum service to constituents on a statewide basis - the Board of the Arts,
22 referred to as the Minnesota State Arts Board or the Board, and the Regional Arts Councils. The

Minnesota State Arts Board serves the state by increasing arts awareness, access, and
2 participation through grants, services and resource publications to individual artists, arts
organizations, sponsoring groups and schools throughout the state. The Regional Arts Council
4 system, established in 1977 (1077 Minn. Laws Ch 332, §T, subd. 3b, serves the needs of arts
organizations and artists throughout the state on a grassroots level. The Board was empowered to
6 work with regional representatives to establish arts regions statewide and to designate an
organization in each of the regions to serve as Regional Arts Council. At the time that these
8 Rules were promulgated there were eleven (11) regions which followed the boundaries of the
established regional development commissions in accord with Minn. Stat. Ch. 462.381- 462.398
10 with the exception of Regions 6E, 6W, and 8 which were combined into one region.

12 The Board and the Regional Arts Councils share the responsibility for equitably distribution of
legislative funds for the arts throughout Minnesota. According to Minn. Stat. Ch. 129D.04,
14 subds, (I) and 2.d. the Regional Arts Councils are autonomous from the Board of the Arts.
Regional Arts Councils are charged with assessing the needs of their respective regions,
16 developing programs and services to meet those needs, and distributing funds through an
accountable, competitive, and public process. Working with the Regional Arts Councils, the
18 Board prepares a Regional Arts Council/MSAB Memorandum of Agreement which each
Regional Arts Council must sign to receive its block allocation. The State Arts Board has
20 oversight responsibility for ensuring that each Regional Arts Council adheres to the terms of the
Memorandum of Agreement, that each Regional Arts Council engages in an appropriate biennial
22 planning process, and that each Regional Arts Council submits an approved biennial plan.

2 Regional Arts Councils are autonomous from the Board and from each other in their planning,
decision-making, programming, and operations. They independently develop biennial plans,
4 policies and programs based on valid constituent needs assessments. In addition, they adhere to
their approved, publicly disseminated biennial plan and operate in a fiscally responsible manner
6 that serves the needs of their region. Parts 1900.23 - 1900.41 define the Board's oversight
responsibilities in regard to the designation and review of the Regional Arts Councils and define
8 the programming and operating requirements which Regional Arts Councils must follow in their
expenditure of legislative funds. The rules do not address Regional Arts Councils' activities
10 which use non-legislative funds or interest earned on any revenue source.

12

THE AGENCY RULES DEVELOPMENT PROCESS:

14 The agency first adopted rules in December of 1976 in order to comply with Minn. Stat. 139.10,
Subds. 1(e) and 1(f) (Supp. 1975). The next rules activity was completed in 1979. During the
16 years that followed, the agency relied on an internal process, which included public and arts
constituent input, for developing program information to communicate the procedures for
18 receiving and reviewing requests for and distribution of grants, loans, and other forms of
assistance. Legislative appropriation actions during those years, in practical terms, revised two
20 key content areas of the 1979 Rules. The first was to support quasi-autonomous Regional Arts
Councils and the second was the cessation of funding for public radio and television grants from

the Board. To respond to the needs of the arts community, program information materials were
2 revised to reflect procedural adjustments.

4 In 1991, parts 1900.1400 and 1900.1700 of the rules were amended to change from a postmark to
a receipt deadline. In the mid-1990s the Agency's attention returned to an examination of the
6 necessity of promulgating new rules. The agency received regular public input regarding its
programs and procedures through a variety of means. These included constituent meetings,
8 phone inquiry from prospective applicants, and written comments from grant recipients on final
report forms.

10
The Board also relied on statewide news releases and *Arts Board News*, a quarterly newsletter,
12 mailed to more than 7,500 addresses each quarter and reaching every county in the state, to
solicit feedback and input to the Board's programs, procedures, and policies. The agency
14 newsletter is the best way to reach artists and arts organizations in the State of Minnesota along
with interested individuals and institutions.

16
On an annual basis, the Board scheduled constituent meetings across the state and allowed
18 individuals to react to developing long-range goals and objectives, programs, and budget. For
example, in fiscal year 1994, the agency held public meetings in Duluth, Saint Paul, Rochester,
20 Fergus Falls, and Marshall, Minnesota. The meetings were well attended by artists,
representatives of arts organizations, Regional Arts Councils, and other interested members of
22 the public who had the opportunity to give input without comment or debate by Board members

1 or staff. The public was notified of these meetings by news releases, 3,276 individual letters to
2 constituents, announcements in the State Register, and notices in local arts publications. In
addition to the public meetings, written comment was accepted from a number of individuals
4 unable to attend the meetings.

6 In addition to the regularly scheduled statewide constituent meetings, informal roundtable
discussions were held with specific potential applicant groups. At least once a year, all major arts
8 institutions came together with Board staff to discuss needs and issues in their field and future
trends.

10
The citizens who serve as panelists and make recommendations on grants and other agency
12 programs and services, also provide direct feedback to agency staff about program policy and
procedures at the end of each panel meeting.

14
The agency has been working with a task force comprised of members of the Board of the Arts
16 and its staff, members of the Board and staff of the eleven Minnesota Regional Arts Councils to
develop and draft agency rules.

18 **IV. OTHER STATUTORY REQUIREMENTS**

20 Minn. Stat 14.131 subpart(1) requires agencies, when preparing the statement of the need for
and reasonableness of the rule to include a description of the classes of persons who will be
22 affected by the rule, including classes that will bear the costs of the proposed rules and classes

that will benefit from the proposed rule. Costs are incidental to the process of receiving a grant or entering into a Percent for Art Contract.

There are six categories of classes of persons who will be affected by the rule. These are listed and described in the following paragraphs. As the Board provides grants and other forms of assistance, all of the classes are self-selecting and voluntarily choose to participate in its programs. The costs are incidental in comparison to the benefits from the programs.

Arts Organizations across the state of Minnesota that are engaged in either presenting artists, touring companies, or exhibitions; or associated with the conception or creation of artistic work for production, performance or exhibition are affected by the rule as potential program applicants. According to current agency records this class includes 1,035 statewide groups including Performance groups, Museums, Galleries, Small Presses, Literary magazines, Fairs, Arts centers, Cultural series organizations, and Art service organizations.

Individual Artists are persons engaged in the conception or creation of, or performance of, artistic work for production, performance, exhibition, or other artistic endeavors. This class of persons is affected by the rule as potential program applicants. According to agency records this class includes 6,241 statewide in all artistic discipline categories including the general categories of Visual, Performing, and Literary Arts as well as Folk Arts. The group of Visual Artists also includes persons who are not residents of Minnesota and who voluntarily participate in the agency's Percent for Art in Public Places program.

2 The 362 (1993 data reported in the 1994 -1995 school year) School Districts in Minnesota are
potential partners in the Board's Arts in Education programs as they contract with the Board for
4 the receipt of the grant award. Arts Educators are persons engaged in the process of teaching
students about the arts as well as other teachers using the arts in other curriculum areas. This
6 group includes the 7,166 certified K-12 art teachers actively employed in a Minnesota school.
These individuals get involved in the application process and preparation of materials and
8 participate in the funded activity.

10 Minnesota Regional Arts Councils are the eleven independent organizations designated by the
Board which are participants in the decentralized arts funding system in the State of Minnesota.

12

Persons associated with Percent for Art In Public Places building projects are those public
14 officials, agency staff, architects and other design professionals and community members who
volunteer to participate in the Percent for Art program administered by the Board.

16

These six classes will directly benefit from the proposed rule in addition to many others who
18 benefit. According to the "individuals benefiting" data reported by fiscal year 1995 grant
recipients, over 10 million encounters with the arts resulted from grant activities which can be
20 said to improve the quality of life in Minnesota for its citizens, including K-12 students, and
enhance the livability measures used to rank cities and states.

2 Minn. Stat. 14.131 subpart (2) requires agencies, when preparing the statement of the need for
and reasonableness of the rule to include a description of the probable costs to the agency and to
any other agency of the implementation and enforcement of the proposed rule and any
4 anticipated effect on state revenues. To implement its statutory mission, the agency would use
generally accepted philanthropic procedures, whether or not rules were in effect, to review any
6 requests for grants and other forms of assistance. Without rule making, a professional staff would
still follow a process and procedures which include the publication of comprehensive guidelines
8 for each program or service, the review of grant applications contained on pre-formatted
application forms, the issuance of grant contracts based on state and federal requirements, and
10 maintenance of short and long term data files. The role of most agency personnel is to manage
the programs and services of the agency, and not to implement rules. Based on this philosophy,
12 there are no extra costs for the affected parties, over and above those currently existing, for
implementing the proposed rules. The existing costs are incidental and very necessary for the
14 Board's decision making compared to the resources provided by the Board actions. Because the
agency requires no fees from the public to file applications for grants and other forms of
16 assistance, there are no effects on the loss of state revenues which are attributable to these rules.
However, the Board's programs, including the Percent for Art in Public Places program,
18 collectively have spin off positive effects on the Minnesota economy in terms of employment,
purchases of supplies and materials, taxes and strengthening organizations and individuals.

20
22 Minn. Stat 14.131 subpart (3) requires agencies, when preparing the statement of the need for
and reasonableness of the rule to include a description of a determination of whether there are

less costly or less intrusive methods for achieving the purpose of the rule. As previously stated,
2 the agency would follow generally accepted philanthropic procedures to review grants and other
forms of assistance, regardless of the existence of rules. The agency periodically considers
4 alternatives to generally accepted procedures, such as non-competitive reviews of grant
applications, ceasing to use peer advisory panels to review grant applications, fewer grant
6 categories, fewer review criteria, and multiple-year awards rather than annual reviews in most
categories. To avoid a system based on entitlements, to maintain accountability, to provide a fair
8 and open system, and to maintain continuity of review over time, the agency has continued to
rely on current industry practices by foundations and other state arts agencies to deliver grants
10 and other forms of assistance. We think this is the least costly and intrusive method consistent
with the goals we have stated.

12
An alternative to the processes and procedures specific to the Percent For Art in Public Places
14 Program which relies on a committee process involving local representatives, architects, arts
professionals and artists would be to use a single individual arts professional to select and
16 approve all of the artwork. The Board rejected this approach which could be less costly if only
one art authority was hired to make all of the selections because it did not satisfy their preference
18 for an open public process that represented the interests and viewpoints of a broad group of
stakeholders.

20
Minn. Stat. 14.131 subpart (4) requires agencies, when preparing the statement of the need for
22 and reasonableness of the rule to include a description of any alternative methods for achieving

the purpose of the proposed rule that were seriously considered by the agency and the reasons
2 why they were rejected in favor of the proposed rule. An alternative method pertaining to the
Percent for Public Art program is presented in the context of the response to Minn. Stat. 14.131
4 subpart (3) above. In addition, the Board seriously considered three alternative grantmaking
models: Total Entitlement, Total Decentralization and Institutions Only.

6
The Total Entitlement Model is characterized by the elements whereby all organizations of a
8 specified budget size and length of institutional existence in the State of Minnesota could receive
a grant without substantial review or monitoring. This was rejected due to the lack of any
10 necessary and prudent accountability and the Board's preference to target areas of service to
reward Minnesota organizations who distinguish themselves when providing services to the
12 public.

14 The Total Decentralization Model is characterized by the element whereby all State of Minnesota
Arts resources are delivered to the arts community through decentralized offices across the state
16 rather than through a centralized state department. This was rejected because it did not respond to
the need for a comprehensive overview of how grants are distributed and recognition of the
18 variation in applicant's needs from one geographic area to another. An additional reason for
rejecting this alternative was that it did not have the efficiency of accountability measures of a
20 state agency which are not only guided, but required to comply with state regulations, including
the Administrative Procedures Acts.

1 The Institutions Only Model is characterized by the exclusion of all individual artists from
2 participating in agency grant making programs. This was rejected because the state's professional
3 artists, most of whom are not aligned with any institution but provide significant service to the
4 public, would be discouraged from participating in creative endeavors rather than encouraged by
5 the Board, consistent with the agency mission.

6
7 Minn. Stat. 14.131 subpart (5) requires agencies, when preparing the statement of the need for
8 and reasonableness of the rule to include a description of the probable costs of complying with
9 the rule. The rules pertaining to the review of applications from arts organization and individuals
10 include the compliance costs of copying application forms and required materials, preparing
11 worksamples and at the discretion of the applicant, the postage for the return of those
12 worksamples after the grant review is completed.

13
14 The costs associated with copying the application form varies from program to program
15 with a range of \$.25 to a maximum of \$ 20 plus the value of the staff time to prepare the
16 materials. The worksample costs vary depending on the type of worksample and quantity of
17 worksamples needed during the review process. For example, photographic slides of artist's
18 work are components of several programs. The cost per slide is estimated to be in the range of \$3
19 - \$5. The number of slides required for review varies between five and twenty depending on the
20 specific program. Consequently, the cost to an applicant might range from \$15 to \$100. The
21 work sample copying costs for Literary applicants might be a maximum of \$7 for a twenty-five
22 page manuscript. For applicants in video or filmmaking the cost to provide a video work

sample is estimated to be between \$100 and \$600, whereas the costs for musicians and others
2 submitting audio tapes is estimated to be between \$20 - \$300. In addition, all applicants would
incur worksample return postage costs when complying with the proposed rules, unless the
4 applicants indicated a preference to deliver and pick-up their work samples. Work samples are
considered necessary expenses associated with doing business as a professional artist,
6 consequently many applicants submit samples that they have on hand while other applicants
generate work samples solely for the purpose of applying to the Board's programs. Additional
8 costs that would be incurred by organizational applicants, include expenses associated with the
required interviews, and the two-performance tickets which are necessary to assure that one
10 advisory panel member and the Board's program associate experience a live event. Interview
costs might range from \$340 for an organization 245 miles from the Board's office which would
12 cover travel, meals and overnight accommodations for two persons, to \$0 for organizations
located in the seven county metropolitan area. In circumstances where the costs might present a
14 hardship for an applicant, telephone conference calls have been an acceptable alternative. The
two performance tickets would range from \$10 - \$90 dollars. Finally, arts organizations applying
16 to the Operating Support and Formula Funds program are required to complete Certified Audits
which are estimated to cost from \$1,700 to \$17,000 depending on the size of the organization's
18 budget and complexity of financial system. However, this expense is not viewed as an additional
cost, as the completion of a Certified Audit is considered standard and routine for the fiscal
20 management of a nonprofit entity.

The probable costs to a participating agency associated with The Percent in Art in Public Places
2 program are minimal. In general, they are the costs associated with the staff time of persons
participating in the committee processes.

4
Minn. Stat. 14.131 subpart (6) requires agencies, when preparing the statement of the need for
6 and reasonableness of the rule to include an assessment of any differences between the proposed
rule and existing federal regulations and a specific analysis of the need for and reasonableness of
8 each difference. It is important to note that both the Board and its federal counterpart, the
National Endowment for the Arts (referred to as the "NEA"), are not regulatory agencies, but
10 agencies to which entities voluntarily seek grants and services. As such, the intent of Minn. Stat.
14.131 subpart (6) seems to be only somewhat applicable. However, it is important to note that
12 the Board receives less than 10% of its budget from the Federal resources. As a condition of
accepting these funds, the Board agrees to comply with pertinent federal requirements which are
14 routinely incorporated into all Board grant contracts. One significant difference that exists
between the NEA and Board, is opportunity for the affected parties to access the services. Most
16 of the Board's potential applicants are not eligible to apply to the NEA programs. An
examination of the data for the ten years 1986 - 1995, reveals that 103 organizations received
18 grants from the NEA as compared to the 450 organizations receiving grants from the Board.
According to the NEA 1996 -1997 Program Guidelines, only a relatively small number of the
20 1,110 Minnesota Arts Organizations would be able to apply due to budget requirements of at
least \$200,000.

Similarly, over the same time period, 99 individuals received grants from the NEA while 669

2 individuals received grants from the Board. In Fiscal Years 1996 - 97, the only individual artists

eligible to compete for NEA grants are Literary and Jazz artists, whereas the Board funds all

4 major arts discipline categories including Literary, Music, Dance, and Visual.

6 A comparison of the procedures for receiving and reviewing requests for, and standards for

distribution of Grants between the Board and the NEA reveals several similarities even though

8 the Board is not required to follow any processes or procedures, as the Board is independent

from the NEA. This is not unexpected since the procedures and process used by the majority of

10 the 50 State Arts Agency and the six Arts Agencies in the U.S. territories have evolved from

those established by the NEA in 1965. Both agencies rely on pre-established criteria to guide

12 their decision making, use advisory peer panels to make recommendations to the decision

maker(s), have established eligibility requirements, require application materials which, in most

14 programs, includes a work sample, and require final reporting mechanisms. For example, as

described on page 22 of the *Grants to Organization Application Guidelines* for 1996 - 1997, the

16 primary criteria for NEA grants are "artistic excellence and artistic merit. In addition, the impact

of the project and the ability of the individual or organization to carry out the project are

18 considered".

20 The Board and the NEA both identify advisory panels members using an open nominations

process which involves nomination by another person as well as self-nomination. Considering

22 grant applications, the NEA eligibility is open to "fund nonprofit organizations that further the

goals of the NEA as outline in the mission statement” (pg. 5, NEA) the Board’s eligibility is

2 focused on individuals and nonprofit arts organizations in the state of Minnesota. The application
forms request a core of computer information required by NEA final reporting and is used by all
4 56 state arts agencies and U.S. Territories.

6 An examination of the federal counterpart to the Board’s Percent for Art in Public Places
program, the General Services Administration’s Art in Architecture program, reveals there are no
8 formal connections between the two agencies. It is noteworthy that participation at the Federal or
State level in these public art programs is voluntary and not regulatory, therefore, further
10 explanation of differences in the regulations is not required.

12 Minn. Stat. 14.131 also requires agencies, when preparing the statement of the need for and
reasonableness of the rule to include comments and recommendations of the commissioner of
14 finance and address any fiscal and policy concerns raised during the review process, as required
by section 16A.1285. This requirement does not apply, as these rules do not set, adjust, or
16 establish regulatory licenser, or other charges for goods and services.

18 Minn. Stat. 14.131 also requires the agency to describe the agency’s efforts to provide additional
notification to persons or classes of persons who may be affected by the proposed rule or must
20 explain why these efforts were not made.

PART I

22 The perceived intent Minn. Stat. sec. 14.101 is for an agency to seek input from persons or
classes of persons who might be affected by the rules (hereafter referred to as “affected

parties”) so that they may provide information to the Board for consideration when drafting the content of a forthcoming rule. In the next several paragraphs, we intend to describe the methods the Board used to seek information from potentially affected parties and therefore demonstrate that the Board has gone to great lengths to obtain input from those parties in the development of the proposed rules.

The seven methods were:

- (1) A notice published in the December 5, 1994 *State Register*
- (2) An announcement in the Summer, 1995 *Arts Board News*
- (3) A notice published in the September 5, 1995 *State Register*
- (4) Constituency Meetings
- (5) Regional Arts Council Forums
- (6) Final Report Forms
- (7) Advisory Panelist Feedback

METHOD 1

On December 5, 1994 a Notice of Solicitation of Outside Information or Opinions on Rules Governing Procedures for Reviewing and Distribution of Grants, Loans and Other Forms of Assistance was published in the *State Register*. This publication did not generate any response from the public. However, the agency continued to work on drafting proposed rules using a negotiated rule making style with the affected parties. Our progress in early 1995 was slower than expected and by summer, 1995 we were advised to publish another Notice to comply with revisions to the rule making statutes.

METHOD 2

In the summer of 1995 the agency published the following announcement in its publication, *Arts Board News* which was mailed to over 8000 constituents.

Notice Regarding Rules: The Arts Board is updating agency administrative rules. To keep our

list current, we ask that those who have received rules information in the past call our office
2 by October 16, 1995 to confirm their interest in receiving further information.

4 Though the primary intent of this announcement was to update our rules mailing list, we clearly
stated the fact that the agency was working on administrative rules and consider this one method
6 by which we notified affected parties. As explained later in this document, we believe the *Arts
Board News* to be the single most effective vehicle for reaching the affected parties. As a result
8 of this notice, there was one telephone inquiry about the general purpose of rule making, when
given the opportunity to further comment or the constituent did not feel it was necessary.

10 METHOD 3

12 On September 5, 1995 a Notice of Solicitation of Outside Information or Opinions on Rules for
Grants, Loans and Other Forms of Assistance was published in the *State Register*. Though this
14 notice was determined to not comply with the new statute, it did alert the affected parties with the
fact that the agency was working on revising its administrative rules and we consider it another
16 method that was used to comply with Minn. Stat. 14.101.

18 METHODS 4 - 7

The four remaining methods used to seek information from affected parties referred to as “on-
20 going”, have a history of being successful, and have provided valued viewpoints on the matters
contained in the agency’s proposed rules, even in the years prior to our current rule making
22 activity. It is the Board’s intent to continue to use these vehicles to obtain information even when
the agency is no longer actively promulgating administrative rules.

24
Constituency meetings. In fiscal years 1991 through 1994 the agency adopted strategies specific
26 to the subject of the rules. For example, FY 1992 Goal 7: To provide operating support to
Minnesota’s medium and large, nonprofit arts institutions included the task 1(f) and 1(g)

2 (f) To involve constituents in restructuring operating support through preliminary
discussions with grantees in Duluth, Rochester, Moorhead, and the metro area and one
4 statewide roundtable held in the Twin Cities.

6 (g) To consider revised review criteria which may include factors such as geographic
locations, need, cultural pluralism, and a clearer definition of artistic quality.

8 The press release dated June 30, 1992, "Arts Board Solicits Public commentary" included the
following information and invitation:

10 At these meetings constituents are invited to express their opinions about the Arts
Board's programs and services -- what is working well, and what they would like to see
12 changed. Those unable to attend are urged to put their comments in writing and send
them to the Arts Board offices". The meetings are posted on the agency "official notice"
14 bulletin board.

16 In 1990, eleven Constituency Meetings were held in six Minnesota cities (St. Paul, Worthington,
Minneapolis, Rochester, Duluth and St. Cloud.) Persons and groups that were invited and who
18 attended these meetings included: persons of color, arts organizations, folk, craft, and design
artists, other individual artists, schools, and Regional Arts Councils.

20 In 1992, seven constituency meetings were held in five Minnesota cities (St. Paul, Duluth,
22 Mankato, Moorhead, and Minneapolis.) Persons and groups that were invited and who attended
these meetings included: writers, performers, visual artists. These meetings were announced in
24 press releases, in 749 letters of invitation, and in *Arts Board News*, the agency publication mailed
to over 8,000 affected parties.

26 In 1994, five constituency meetings were held in five Minnesota cities (Marshall, Duluth, St.
28 Paul, Fergus Falls, and Rochester.) Letters of invitation and press releases were sent to
constituents in each of the regions that included the meeting locations.

30 Direct face-to-face conversations with the eleven (11) Regional Arts Councils are another
32 method used by the Board. Between May 1994 and November 1995 minutes of the Regional
Forum provide a record demonstrating the dialogue between the Regional Arts Councils and

the Board on the subject of preparing the working draft of the proposed Agency Rules at ten
2 different meetings. There were many informal drafting sessions between the Board assigned staff
and Forum representatives. Personal telephone contact is routine between the Regional Arts
4 Councils and the Agency. In addition, there is a RAC-MSAB Liaison Committee which is made
up of three Board members and three Regional Arts Council executive directors that meets to
6 discuss programs and procedures of interest to the parties and to resolve any concerns.

8 Another on-going method used was the Final Report Forms which provide each grant recipient,
including Individual Artists, Arts Organizations, and Schools, with the opportunity to respond to
10 the question: "Offer suggestions about ways in which the Arts Board can better serve you and the
arts community, i.e. communication with staff, clarity and content of the application and other
12 forms, related to this grant, the nature of this grant, or suggestions for new programs." The
responses to this item are reviewed by the rule writer and program associate and used in the
14 agency rule making process. According to agency records, over the two year period of Fiscal
Year 1994 and 1995, 751 final reports were provided the opportunity to give opinions to the
16 Board.

18 The last on-going method used was Advisory Panelists' comments. Volunteer panel members are
asked for feedback about any Board policies, procedures, or standards used in the receipt of, and
20 review of applications. These comments are recorded and officially maintained in the agency
panel meeting files. This information is used by staff in the agency rule making process.
22 According to agency records, over the two year period of Fiscal Year 1994 and 1995 253
advisors served the agency in this capacity.

PART II

28 The perceived intent of the additional notice required under Minnesota Statutes sections 14.14
and 14.22, is either to (1) provide notification to affected persons who may not be reached by the
30 state register publication or the Board's rule making mailing list so that they may comment in 21

support of or opposition to the proposed rules and be informed of the Board's intent to adopt
2 rules without a public hearing or their option to request a public hearing on the proposed rules or
(2) explain why efforts were not made (Minn. Stat. Secs. 14.131 and 14.23). As explained above,
4 the Board has so actively worked with affected parties in the development of the rules that the
Board believes it is unnecessary to provide any additional notice beyond the State Register and
6 mailing list notice. However, it has decided to provide one last notice in the *Arts Board News* as
a reasonable effort to reach affected parties.

8
The next several paragraphs describe the Board's additional notice plan and explain why various
10 alternative efforts were not selected.

12 The Board has identified six classes of persons who may be affected by the proposed rules. They
are Arts organizations across the state of Minnesota, Individual Artists, Minnesota's Arts
14 Educators, Minnesota's School Districts, Minnesota's Regional Arts Councils and persons
associated with Percent for Art in Public Places building projects.

16
The agency reviewed twenty-seven options including print and electronic vehicles for providing
18 additional notification to these six classes in addition to the prescribed State Register and mailing
list methods. The review considered the audience reached as it related to the affected classes, the
20 efficiency to meet publication deadlines and additional costs to the agency.

22 We examined information provided in the 1994 Twin Cities Media Directory that describes
reader demographics, circulation area, circulation, advertising, publication day, and publicity
24 opportunities.

26 Regarding the class of Arts Organization, we considered *The Giving Forum*, a publication of the
Minnesota Council on Foundations which is mailed to 10,000 organizations across Minnesota;
28 *MAP Points*, published by the Management Assistance Program which is mailed to 2,800
nonprofit organizations in the seven-county metropolitan area; *Legalese*, a publication from the
30 Center for Nonprofit Management and a coalition of sponsors, which in the past has been 22

mailed to 9,000 nonprofits. In addition, we considered use of electronic mail on the internet to a group of seventy-seven Minnesota arts constituents using a Minnesota Arts internet account . None of these publications is as satisfying for reaching Arts Organizations as compared to the *Arts Board News*. The *Giving Forum* reaches an audience that greatly exceeds the arts groups affected by the proposed rule. Its reader demographics are reported to be 90% nonprofit organizations, 10% grantmakers and libraries. In addition, the fee for placing notices or advertisements ranges from \$85 - \$825 (one page), depending on the size. *MAP Points* reaches an audience that is limited geographically to the metropolitan area. In addition, the fee for placing notices or advertisements ranges from \$75-\$500 (one page), depending on the size. *Legalese*, as of January 1996, is an unreliable vehicle as reported by the editor; there was no specific date for the next publication due to funding issues. Finally, the Minnesota Arts internet group is limited to the subset of groups and persons affected by the rules who have the technology.

When considering the class of Individual Artists, we examined *City Pages*, a metro area publication; four publications which focus on communities of color: *Colors*, *Insight News*, *Asian Pages*, *La Prensa*, and *The Circle*; Newsletters from Arts Service Organizations that serve artists' needs including The Loft, American Composers Forum, Intermedia Arts, Minnesota Dance Alliance, and the Playwrights Center News none of these is as satisfactory as the *Arts Board News* because the audiences reached are not specific to the affected parties. For example, the American Composers Forum reaches a Minnesota and expanding national membership as described in their letter of January 12, 1996 explaining their recent organizational name change. An additional factor was that we learned that many arts organizations would not publish the Board's rule notice information because it does not fit with their publication's mission.

Reader demographics of *City Pages* is reported to be "educated progressive adults." This publication may be obtained by a paid subscription or picked up at one of a number of free newsstands in the metropolitan Minneapolis - St. Paul area. The fact that this publication does not have a statewide distribution made it unsatisfactory as a vehicle to notify affected parties.

2 Some publications serving communities of color reach a wider audience than the subset of
persons affected by the rules, while other are limited. For example, *Insight News* serves only the
north side and downtown of Minneapolis while *The Circle's* circulation area is the Upper
4 Midwest Region. The fees per page range from \$660 - \$2,268. Again, the Board believes that
these are not as satisfactory as the *Arts Board News*.

6
The classes of Arts Educators and School Districts suggested the examination of the publication
8 *Artbeat* from the Minnesota Alliance for Arts Education. *Artbeat's* reader demographics of 1,300
includes Minnesota parents, educators, and artists, a group described by the sponsoring
10 organization as a "controlled circulation". The advertising rate is \$400 for a full page. They
routinely receive all Board news releases and the editor selects those which are perceived to be
12 useful and of interest to their readers. We know that they announces Board application deadlines
which provides the opportunity for affected classes or persons to get on the Board's mailing list
14 and, as a consequence, receive *Arts Board News*. In addition, 1992 agency outreach efforts which
are described later in the Additional Notice Plan focused on Minnesota School districts. The
16 decision to not use *Artbeat* is based on the Board's belief that it would be redundant.

18 The class of the Minnesota Regional Arts Councils leads to the examination of an electronic-mail
system called "RACNET" which was established in 1995 for the purposes of communications
20 among the councils, with an address for the Board's use for the purposes of announcements and
notices. We also considered contact using the telephone, written correspondence, and routine
22 personal contact. Based on conversations with the individual Regional Arts Council directors,
there are limitations of actual use of the electronic bulletin board. There are efforts underway to
24 use another electronic means to supplement communication, such as e-mail on the internet. The
vehicle for notice for this group continues to be written correspondence, personal telephone calls,
26 and face-to-face conversations associated with formal meetings of the Regional Forum and
MSAB/RAC Liaison Committee, as well as informal meetings.

After evaluating all of the affected parties and options we identified a three-part additional notice plan. First, The Board proposes to publish a notice in the *Arts Board News* proposed for publication on about March 15, 1996 that the Board plans to adopt a rule governing procedures for receiving and reviewing requests for, and standards for distribution of, grants and other forms of assistance and that anyone may submit written comments on the rule or make a written request for a hearing on the rules providing the comments or requests are received by Natalie Madgy by April 24, 1996. The Board's seasonal publication, *Arts Board News*, which is distributed to the 8,200 persons and groups on the agency mailing list is the single most effective and efficient publication vehicle to reach the greatest number of classes and groups of persons affected by the proposed rule. Each of the other alternatives reviewed either has limited focus or excludes other persons or classes included as affected parties, reaches too many persons or classes not affected by the proposed rules, or is too expensive for the benefit that would be obtained.

The conclusion to use the *Arts Board News* is based on the fact that the mailing list used for distribution is considered the best single-source resource for identifying arts constituents statewide. It is used by Arts organizations and other affected parties to update their mailing lists which are then used to distribute their newsletters and publications.

Over the past ten years, the agency has actively recruited names for inclusion on this list. An analysis of the categories of constituents by geography, ethnicity, and institutional type is done annually. Formally, in Fiscal Year 1991, the agency adopted a strategy to focus staff to make the reasonable effort to reach persons and groups affected by our agency's programs. The task was "To review the constituent database, identify categories of intended constituents currently omitted and, if desired, consider procedures to add these constituents to the system." The activities that followed included outreach to people on the mailing lists of other arts organizations, nonprofit groups, and publications inviting them to add their names to our computerized list. The actual outreach to twelve specific groups and classes of persons affected by our administrative rules, who are listed below resulted in 2,590 additional entries to the agency constituent mailing list between 1991 and 1994.

2 The groups were: Very Special Arts Minnesota - Roster of Artists with Disabilities; School Arts
4 Fund of United Arts; Minnesota State Fair Arts Center; Resources and Counseling Minnesota
6 Artist Guide; South East Minnesota Arts Council (Region 10) Arts Directory; Minnesota Sun
8 Publications - metro area arts organizations; Minnesota Hands - craft artists; Prairie Lakes Arts
Council (region 9) artists; North West Regional Development Commission (Region 1) artists and
organizations; Minnesota Crafts Council metal craft artists; Minnesota Education Directory of
Minnesota School districts; and Centro Cultural Chicano Artists.

10 The second component of our plan is to modify language in future constituent meeting
12 announcements and letters, descriptions on final report forms and when introducing the feedback
14 component to advisory panel members that will specifically solicit input on the Arts Board's
rules such as "the information gathered will be seriously considered in the agency's
administrative rule making process".

16 The third element of our plan is to continue to use the on-going methods described earlier in this
18 document for working with classes of persons or groups affected by the agency's rules. These
methods have been very useful to the Board during the development of our proposed rules draft.
Furthermore, these efforts have been adopted by the Board and are consistent with the agency's
1995 Long Range Plan 1995 and the Strategic Planning process since 1991.

20 In conclusion, our additional notice plan is reasonable because unlike regulatory or fee setting
22 agencies, the Board's primary function is to distribute funds and other forms of assistance to
individual artists and organizations who voluntarily seek the funds or services. The affected
24 parties are encouraged to be involved in the procedures and processes of the agency at any time,
not just during the rules promulgation process.

26 Through the above listed activities and, additional notice plan, the Board of the Arts believes it
28 has more than fulfilled all statutory requirements and requests approval of its Additional Notice
Plan under Minn. Stats. secs. 14.101, 14.131, 14.14, 14.22 and 14.23 and Minn. Rules part
30 1400.2060 subp. 1.

1 Minn. Stat. 1400.2070 subpart 1 (c) requires the agency to include a list of any witnesses that the
2 agency anticipates asking to testify if there is a hearing on the rule, and a summary or description
of their testimony. In the event of a hearing, the Board's may call upon the following list of
4 individuals to present a summary of the documents that are part of the rule making record
including the Publications in State Register, the Mailing List Certification and the Statement of
6 Need and Reasonableness, including the notice plan.

- 8 Conrad Razidlo, Minnesota State Arts Board Chair
- Teresa K. Parker, Minnesota State Arts Board Member
- 10 Sam W. Grabarski, Minnesota State Arts Board Executive Director
- Robert C. Booker, Minnesota State Arts Board Assistant Director
- 12 Natalie B. Madgy, Minnesota State Arts Board Rules Coordinator
- Elizabeth Childs, Minnesota State Arts Board Program Associate
- 14 Regina Flanagan, Minnesota State Arts Board Program Associate
- Karen Mueller, Minnesota State Arts Board Program Associate
- 16 Philip Nusbaum, Minnesota State Arts Board Program Associate
- Sally Sand, Minnesota State Arts Board Program Associate
- 18 Marjorie Casey, Minnesota State Arts Board Communications Director
- Carolyn Bye, Metropolitan Regional Arts Council Executive Director
- Robert Hedin, Artist
- 20 Pete Sieger, Architect
- Beverly Dusso
- 22 David O'Fallon, Executive Director, Minnesota Center for Arts Education
- Patrice Koelsch, Writer/Critic/Cultural Worker

24 **V. NEED AND REASONABLENESS**

General

26
The major purposes of the rules are to provide constituents with clear guidance regarding:
28 1) access to, availability of, and procedures for agency programs and services; 2) decision-
making procedures and timelines; and 3) criteria and standards for review of applications for
30 funding or other forms of assistance.

The rules represent one of two principal information documents distributed to the agency's clientele. In addition to rules, the Board provides program information which offers additional material and clarifications about the agency, but does not contain any eligibility or review standards which are not also promulgated in rule form. It is felt that the program information is necessary because the nature of the arts and an arts agency cannot be adequately described in the limited context of rules.

Rules and regulations relating to eligibility and review standards are necessary to the agency in order to permit priorities and standards of quality to be exercised in a manner understandable and acceptable to the agency's constituents. In a situation in which demand for grants invariably exceed the available resources, clarity in eligibility and decision-making is a protection for the agency and potential applicant.

Finally, with reference to the proposed rules pertaining to the Regional Arts Councils, it is necessary for two primary reasons. First, to provide clarification of the relationship between the Regional Arts Councils and the Board. Secondly, to provide clarification of the authority and responsibilities of the Regional Arts Councils. Such clarification is reasonable due to the importance that a decentralized funding system has in the statewide arts community. A component of such magnitude left unclarified and unexamined through the rule making process would permit ambiguity and misunderstanding between the agency, the Regional Arts Councils and the citizens of the state.

2 SUMMARY OF THE EVIDENCE AND ARGUMENTS:

4 The evidence and arguments are based on the following principles:

- 6 1) Procedures that are minimally burdensome for the potential applicants;
- 2) Procedures that ensure the accountability of the review process;
- 8 3) Procedures that comply with mandates of law;
- 4) Procedures that comply with mandates from agency funding sources;
- 10 5) Procedures that are administratively practical;
- 6) Procedures that ensure equity to all potential applicants and grant recipients;
- 12 7) Procedures that minimize legal/political risk to the Board, its programs, and future funding;
- 8) Criteria that are relevant to the program intent; and
- 14 9) Criteria that conform to acceptable norms and standards of the arts community.

16 The need and reasonableness for each individual rule follows:

18 1900.0110 This rule is necessary and reasonable in order to inform all interested persons of the
source of the Board's authority to adopt rules.

20

1900.0210 This rule is necessary and reasonable in order to inform all interested persons of the
22 purpose and scope of the rules.

2 1900.0310 subpart 1 This rule is necessary and reasonable in order to define the terms used in the
rules which are terms unique to the arts or have specific meaning in these rules.

4

1900.0310 subp. 2 The definition "advisory panel or panel" is synonymous with advisory
6 committees, the statutory term in Minn. Stat. Ch. 129D.04, subd 1(h), is necessary to clearly
inform all interested parties that recommendations on grants, other forms of assistance, or on
8 public arts policy matters are made by specific groups of people. It is reasonable to define the
term this way because statute 129D.04 (h) allows its use and this is the Board's practice for over
10 ten years

12 1900.0310. subp. 3 and 1900.0310. subp. 4 The definitions "applicant" and "application" are
necessary to clarify for the public and potential grant seekers that the agency has established
14 specific meanings and the definitions are not set by others. It is the agency's intent to eliminate
confusion that such means as informal conversation, memoranda, or letters are acceptable as
16 applications. It is reasonable to define the term this way because statutes 129D.01 (d) and
129D.04, subd. 1 (g) allow for a system of distribution of grants and other forms of assistance.

18

1900.0310. subp. 5 The definition "Board" is necessary to avoid confusion with any other use of
20 the term "Board" which may exist in the arts community of Minnesota, or the general public. It is
reasonable to define the term this way because statutes 129D.01 (b) and 129D.02, subd. 1 allow

for the distinction made between the final decision making body of the agency from the agency
2 itself.

4 1900.0310 subp. 6 The definition "certified audit" is necessary to clearly inform all interested
parties, including potential applicants, and to distinguish a specific financial document from
6 other possible financial reporting documents, such as a financial statement or a budget statement.
It is reasonable to establish a standard to allow for uniform comparisons of financial figures
8 between organizations allowed by statute 129D.04 subd 1 (f) and 129D.06 subd. 2 (1).

10 1900.0310 subp. 7 The definition "equipment" is necessary to clarify specific agency policies
pertaining to limited use of grant funds for equipment. It is reasonable to adopt the qualification
12 of "having a useful life of more than two years" because it is based on a Federal Grant
Administration Rules under circular A-110 from the Office of Management and Budget (OMB)
14 and the Board must comply with circular A-110 as a recipient of federal funds from the National
Endowment for the Arts.

16
1900.0310 subp. 8 The definition "fiscal agent" is necessary to clarify the authority and
18 responsibilities of a fiscal agent in relationship to the Board and the organization carrying out the
grant activity. In addition, it is necessary and reasonable to distinguish the use of the term "fiscal
20 agent" as it varies according to the context. The rules pertaining to parts 1900.0110 - 1900.2210
have one meaning, whereas in the context of the Regional Arts Councils, parts 1900.2310 -
22 1900.4110, the term has a somewhat different meaning. The Arts Board limits its definition of

fiscal agent geographically to Minnesota. This is consistent with the mission of the agency to
2 serve the citizens of Minnesota. This is reasonable because the board wants a nonprofit or
government agency to be fiscally responsible to secure a high quality of fiscal management by
4 the party agreeing to work with a fiscal agent. It is reasonable to require that only Minnesota
entities act as fiscal agents in order to maintain contract enforceability and because the grant
6 recipients are Minnesota entities.

8 1900.0310 subp. 9 The definition "grant" is necessary and reasonable to clarify and distinguish
the type of distribution of dollars from a program which includes a review process from any
10 other type of financial decision authorized by the Board.

12 1900.0310 subp. 10 The definition "individual artist" is necessary to clarify and distinguish a
specific type of person who is involved with the arts, as defined in Chapter 129D, for whom the
14 programs and services of the agency are intended. The Board considered the wide range of
meanings commonly used by the general public. The Board recognizes that individual persons
16 engaged in artistic activity self-identify themselves along with their personal choice of language
that they use descriptively may vary from the preference of "artist", to a discipline specific
18 reference such as "photographer", or even describe their art as "something they do" and not use
any label. Some interpretations and variations such as hobby artist, craft artist, or fine artist may
20 be viewed as restrictive. The definition proposed by the Board is reasonable because the Board
does not intend to restrict its programs and services, nor does it intend to confuse the public.

22 Recognizing the variations and the Board's sensitivity to respecting individual preferences, the

term is intended to be self-identifying and modified only by the common dictionary definition of
2 the term "professional" such as found in The American Heritage College dictionary (3rd
Edition):

4 **1.a** Of, relating to, engaged in, or suitable for a profession: professional training. **b.**
Conforming to the standards of a profession: professional ethics. **2.** Engaging in a given
6 activity as a source of livelihood or as a career. **3.** Performed by persons receiving pay. **4.**
Having or showing great skill; expert. - *n.* **1.** A person following a profession, esp. a learned
8 profession. **2.** One who earns a living in a given or implied occupation. **3.** A skilled
practitioner; an expert.

10
1900.0310 subp. 11 The definition "organization" is necessary to clarify and distinguish a
12 specific type of association of individuals for which the programs and services of the agency are
intended. It is reasonable to limit eligible organizations to section 501(c)(3) organizations
14 because the statute 129D.01(d) defines sponsoring organizations as qualifying as tax-exempt
organizations within the meaning of state tax statute 290.05, subd. 1(I) or its successor.

16
1900.0310 subp. 12 The definition "other forms of assistance" is necessary to clarify the nature
18 and scope of the help provided to the public by the agency. It is reasonable because it is allowed
in the statute 129D.04, subd. 1 (a).

20
1900.0310 subp. 13 The definition "person of color" is necessary to clarify the agency's use of
22 the term related to its programs and services, because there may be a other interpretations which
are not the intent of the Board. It is reasonable because the categories are based on federal census
24 categories that have been adopted by all state arts agencies under the auspices of the National

Assembly of State Arts Agencies (NASAA). The category labels were modified to reflect the
2 recommendations made by the Board's Cultural Pluralism Advisory Committee in 1990.

4 1900.0310 subp. 14 and 1900.0310 subp. 15 The definitions "presenting activities" and
"producing activities" are necessary and reasonable to clarify and distinguish the nature of arts
6 activity in which a potential applicant is engaged. In 1994, the Board convened a series of
community meetings to discuss the needs of the arts community. These discussions included
8 conversations which identified two distinct areas of grant support. It was recommended that the
Board's programming eligibility adopt the new distinctions to improve understanding and to
10 avoid misunderstandings of the Board's grant programs in the community. These distinctions are
reasonable because they determine whether or not a potential applicant is eligible to receive a
12 grant from the Board.

14 1900.0310 subp. 16 The term "program information" is necessary to distinguish the
announcement of the Board's grant and program services, and the information and instructions
16 contained in written form, from the rules or any other document. It is reasonable to provide the
public with detailed information in a form which is designed to be user-friendly and specific to
18 the intended potential applicant audience.

20 1900.0310 subp. 17 The term "Regional Arts Council" is necessary to distinguish the specific
organizational entities which are participants in the decentralized arts funding system in
22 Minnesota as required in Minn. Stat. 129D.04 subd. 2 (d) from all other entities. It is

reasonable because the legislature intended that each Regional Arts Council is independent from
2 other Regional Arts Councils and independent from the Minnesota State Arts Board.

Furthermore, it is necessary to differentiate those entities that have received designation from the
4 Board as allowed by Minn. Stat. 129D.01 (e) to serve as Regional Arts Councils, from other
organizations with similar names or purposes, or from organizations that had received
6 designation at one point in their history, but do not currently have such designation. The
definition is reasonable to avoid confusion and misunderstanding on the part of the Board, the
8 Regional Arts Councils, the Minnesota arts community, and the general public. Furthermore, it is
reasonable to direct the Minnesota arts community and the general public to the appropriate
10 organization to respond to their concerns.

12 1900.0410 subp. 1 This rule is necessary to clarify the processes and procedures for the advisory
panels which are primary advisors to the Board. It is reasonable to have a mechanism to ensure
14 that there is a full complement of qualified advisory panel members to complete the agency's
work as required in Minn. Stat. 129D.04 subd. 1 (h).

16
1900.0410 subp. 2 This rule is necessary to assure that the Board has a pool of potential
18 applicants from which it can select members to serve on panels or, if necessary, to replace a
position which may result from an appointee's resignation or inability to serve. Furthermore, to
20 ensure an open and effective public process, it is critical that the public knows how the advisory
panels are created and discontinued, how members are nominated and appointed, the members'
22 qualifications and how conflicts of interest are avoided. It is necessary to provide for the

method of appointment and length of term of members of any panel to avoid confusion and
2 misunderstanding. The restriction to a single fiscal year of service is not limited to the actual
date(s) of the panel meeting because the individual may be contacted as needed during the entire
4 fiscal year of the appointment to offer opinions. Clearly informing the public and potential
applicants who may be interested in also being a panel member is necessary and reasonable
6 because Minn. Stat. Ch. 129D.03 restricts advisory committee members from being applicants
for or recipients of board assistance.

8

It is necessary to provide for public notice of openings on advisory panels in order that all
10 individuals have an opportunity for input into the compositions of advisory panels. It is necessary
to geographically balance and include at least one person of color in order to ensure that citizens
12 of the entire state are represented as fairly as possible. This rule is reasonable because it
encourages the agency's grantmaking to comply with Minn. Stat. Ch. 129D.04 subd. 2,
14 paragraph b, which describes the Board's duty to distribute Board assistance equitably according
to population throughout the geographic regions of the state.

16

1900.0410 subp. 3 This rule is necessary to inform the public about the Board-appointed
18 advisory panels used to review applications. It is necessary and reasonable that the Board receive
expert advice in the areas of artistic excellence as allowed by Minn. Stat. 129D.04 subd. 1 (h). As
20 the arts involve thirteen (13) major categories of arts disciplines, and forty-seven (47) specific
categories, no single individual can have all-encompassing expertise and experience for applying
22 the evaluation criteria. It is necessary and reasonable to clearly inform any potential panel

member of the requirements of their service, which may include hours of preparation in advance
2 of the scheduled panel meeting. Furthermore, since panel members are frequently engaged in full
time employment, it is necessary and reasonable to inform them in advance of the time
4 commitment so that leave arrangements can be made. Finally, it is reasonable and necessary for
panel members to be prepared and fully participate so that they contribute in a manner which is
6 fair to an entire applicant pool for all the proceedings.

8 1900.0410 subp. 4 This rule is necessary to clearly inform the public about the compensation of
panel members. The panels are like advisory task forces under Minn. Stat. 15.059, subd. 6, in
10 that they advise the Board on specific programs. Per diem is prohibited under Minn. Stat. 15.059,
subd 6. It is reasonable that members of advisory panels be reimbursed for travel expenses
12 because it is required by the state reimbursement policy, it is also a gesture recognizing the
important value of panel work.

14
1900.0410 subp. 5 and subp. 6 These rules are necessary for the public to know what constitutes
16 a conflict of interest for an advisory panel member and what happens during an advisory panel
meeting if there is a conflict of interest. They are reasonable because the Board doesn't want
18 panelists reviewing and recommending an application where there may be direct or indirect
financial gain to a panelist or family member, or gain to an organization with which a panelist is
20 associated. Furthermore, this is reasonable as it is consistent with the ethical standards
established in Minn. Stat. 10A.07, subd. 2 for public officials.

22

1900.0510 This rule is necessary so that the public understands that the criteria established by the Board for review of applications must be consistent with the standards set forth by the funding source to the Board which are allowed by Minn. Stat. 129D.04, subd. 1 (g). Each Board program is intended to meet one or more identified needs in the arts community. These needs generally are to encourage the growth, development, or stability of an art form consistent with the Board's enabling legislation. Funders offer programs which are specific to a potential applicant pool.

When the Board receives such funds for its grants programs, it is reasonable that the Board pass on the intended criteria to its potential applicants.

1900.0610 This rule is necessary to inform the public and to distinguish the primary criteria to be used by all advisory panels for making their recommendations to the Board from other characteristics, such as social, political, or economic needs of the community. It is reasonable to clearly identify that the priority of the Board is to promote artistic quality and merit which is allowed in Minn. Stat. 129D.04, subd. 1 (g). Furthermore, it is necessary to inform the public that the criteria are further distinguished in each of the agency's grant programs. This is reasonable to permit specific programs to detail the elements of the primary criterion and identify additional criteria to be considered to meet specific program goals.

1900.0710 This rule is necessary to inform the public about the advisory panel activities which result in a set of recommendations to the Board for grants and other forms of assistance. It is necessary to clarify the relationship between the advisory panel's recommendations and the authority of the Board to make final decisions. It is necessary that the Board give considerable

weight to the recommendation of advisory panels because advisory panels are composed of
2 experts in the area of the arts for which the application is made. However, it is reasonable that the
Board make all final decisions based on the same criteria used by the panel in order to be in
4 compliance with general principles of administrative authority. It is useful and fair for the public
to clearly know what to expect of a review process rather than remaining uncertain about what
6 process is used by the advisory panel. Full public knowledge of the process is a key factor in the
accountability of the agency.

8

1900.0810 This rule is necessary so that the public knows the general processes followed by the
10 agency for making grants and other forms of assistance. It is necessary and reasonable to require
the use of a specific application form and required application materials so that all applications to
12 a specific program are uniform. Each potential applicant must respond to the same items of
information and questions in order to determine eligibility to compete, to present all necessary
14 information fairly and consistently to advisory panel members when they are making
recommendations, and to perform administrative data entry functions efficiently. It would not be
16 administratively efficient or practical to accept a variety of unstructured documents from the
approximate 1,000 potential applicants seeking grants from the agency in a fiscal year. It is
18 necessary and reasonable to require a copy of a fiscal agent agreement when the applicant
organization does not have independent tax exempt status, in order to establish a relationship
20 with an organization or unit of government that will ensure sound financial accountability and
management for the grant funds. Because the Board's resources are limited, it is necessary and
22 reasonable to limit the field of potential applicants for grants assistance through the use of

eligibility requirements. It is necessary and reasonable to send all potential applicants a

2 notification letter of acceptance or regret in order to avoid confusion and uncertainty on the part
of potential applicants as to the status of their application. It is necessary and reasonable to set a

4 45-day deadline for such notification in order to ensure that all applications are acted upon within
a reasonable time and permit completion of administrative preparation of necessary documents.

6 It is necessary and reasonable to have an applicant submit a revised budget when the amount of
the grant is different from the amount of the original request so that the grantee's record reflects

8 an accurate budget. When a request does not fit the requirements of a grant program, the Board
determines the most equitable means to respond on a case-by-case basis. The response may

10 include not providing any assistance, or providing assistance in a form other than a grant. Board
or staff may also respond by providing consulting or technical services or workshops.

12
1900.0910 This rule is necessary to inform the public about the basis used by the Board to

14 establish program deadlines. It is reasonable to clarify that priorities regarding the form of
assistance may vary from year to year. Furthermore, knowledge that deadlines are determined by

16 availability of resources, and quality and characteristics of the potential applicant pool is

important to avoid creating an impression among the public that Board assistance and deadlines

18 are arbitrary. This rule is necessary and reasonable because it permits the Board to grant funds, or
give priority to program categories in response to constituent demand and community need.

20
1900.1010 subp. 1 This rule is necessary to inform potential applicants of their eligibility for

22 grants or other forms of assistance because there are a number of activities, conditions, or uses

of funds which are not eligible for Board support. There are eligibility requirements that pertain
2 to all potential applicants and others are specific to organizations or to individual artists. In
addition, there are eligibility requirements which are program specific in addition to the items in
4 this rule. This is necessary because many of the items listed have their basis in Minnesota statute
or federal restrictions. Other items are set by the Board to maintain consistency with its mission
6 and policies. This is reasonable because the Board's resources are limited, it helps to eliminate
false expectations on the part of applicants, and limits the field of potential applicants for grants
8 and assistance.

10 1900.1010 subp. 2(A) This rule is necessary so that artists are not discouraged from participating
in any Board funded activity due to excessive entry or exhibition fees. This is reasonable because
12 persons with limited resources must carefully choose how they spend these resources. It has been
documented that the total income from work as a Minnesota artist is in the \$12,000 and under
14 category. Even adjusting for inflation to 1995, this would be considered a low income. This
statistic reflected 79% of the respondents and was reported by the trustees of Columbia
16 University/Research Center for Arts and Culture, New York City in the 1989 publication
Information on Artists: A Study of Artist's Work Related human and social services needs in ten
18 *U.S. locations.* Therefore, any excessive fee may be viewed to prohibit participation. The use of
the term excessive is to distinguish reasonable fees which are customary and accepted in the
20 course of doing business in the nonprofit arts community from those that are viewed as
commercial ventures and not intended to benefit the artist.

1900.1010 subp. 2(B) This rule is necessary and reasonable to guarantee that funds are only used
2 for the upcoming activities by the potential applicant and to encourage the creation of new art
and not pay for art previously developed. This rule is necessary because the State of Minnesota
4 does not contract for services or products rendered prior to the fully executed contract consistent
with Minn. Stat. 16A. 2-8.

6
1900.1010 subp. 2(C) This rule is necessary and reasonable to comply with provisions of
8 constitutional law relating to the first amendment's established clause.

10 1900.1010 subp. 2(D) This rule is necessary and reasonable to comply with provisions of
constitutional law relating to the first amendment's establishment clause. For example, in the
12 U.S. Supreme Court case of Grand Rapids School Dist. v. Bell 105S.Ct.3216 (1985) Justice
Brennan wrote, "with but one exception our subsequent cases have struck down attempts by
14 States to make payments out of public tax dollars directly to primary or secondary religious
educational institution." 473 US at 392-93, 1055.ct at 3227. The court has held that persons who
16 are of the age appropriate to kindergarten through grade 12 generally do not have the maturity
necessary to distinguish between religious activities and secular activities which might occur in
18 the environment of a parochial school. Consequently, it is reasonable to restrict funds from being
used for activities occurring in any K-12 parochial school.

20
1900.1010 subp. 2(E) This rule is based on FY 1995 Appropriations Act for the Department of
22 the Interior and Related Agencies, and 18 U.S.C. Section 1913 and OMB Circular A-122 "Cost

Principles for Nonprofit Organizations, 'Lobbying Revision'" and is necessary to comply with

2 restrictions on the use of federal funds. It is reasonable to include this requirement in order to

inform applicants of its existence. It is necessary and reasonable to include the same restrictions

4 on the use of state funds in order to maintain consistency from grant to grant and to restrict use of

state funds to artistic activities. Therefore, it is reasonable that these restrictions be placed on all

6 potential applicants.

8 1900.1010 subp. 2(F) This rule is based on Office of Management and Budget Circular A-110

"Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher

10 Education, Hospitals, and other Nonprofit Organizations," 1993, Subparts A(2)(1) and C (1) (34),

and is necessary to comply with restrictions on the use of federal funds which include limitations

12 of the use of funds for capital costs and defines the term equipment. It is reasonable to include

this requirement in order to inform applicants of its existence. It is necessary and reasonable to

14 include the same restrictions on the use of state funds in order to maintain consistency from grant

to grant and to restrict use of state funds to artistic activities. Therefore, it is reasonable that these

16 restrictions be placed on all potential applicants.

18 1900.1010 subp. 2(G) This rule is necessary to be consistent with the Board's policy that public

funds are intended to encourage arts activities that would otherwise not be available to the

20 general public. This position is implied in Minn. Stat. 129D subd. 1 (d) which requires tax-

exempt status as a requirement for an organization. As the nature of profit and nonprofit arts

22 activity has been debated in Minnesota and nationwide, this requirement is both necessary and

reasonable given the growth of the arts in Minnesota and the increased competitiveness for
2 public grants. It is reasonable that the Board clarify that the use of funds is not intended for arts
activities with a mass-market distribution which have the likely potential to be self-sustaining.

4
1900.1010 subp. 2(H) There is no need to justify this rule as it is unchanged from what was
6 previously adopted and only renumbered.

8 1900.1010 subp. 2(I) and 1900.1010.2(J) These rules are necessary to maintain an accountable
public grant making program. All grant contracts require some form of final reporting. The
10 failure to comply with this contract provision would be a violation. It is reasonable to expect that
the Board not issue additional funds to any potential applicant which has violated a prior or
12 existing contract because it suggests a liability to the Board regarding the terms of any future
contract.

14
1900.1010 subp. 2(K) This rule is necessary to establish the opportunity for general public access
16 to the arts and at the same time to encourage public recognition that arts activities have economic
value through the financial partnership between the grantee and the attending public. It is
18 reasonable that an admission fee be required as a symbol to establish the Board's value of
professionalism of the arts. The phrase, 'whenever feasible,' has been added to allow for
20 organizational policies which are consistent with the intent of federal standards yet do not
establish admission charges. This modification is necessary and reasonable because several

institutions have no entrance fees as an institutional policy in order to encourage a broad
2 attendance by Minnesota's citizens and for the purpose of eliminating financial barriers.

4 1900.1010 subp. 2 (L) This rule is necessary to encourage financial independence from the two
public funding partners in Minnesota: the Board and the Regional Arts Councils. After ten years
6 of restricting any co-mingling of any Board and Regional Arts Council dollars, several recurrent
problems suggested a new policy was needed. One problem referred to as an avoidance of
8 "duplicate funding," interfered with the Board's mission to stimulate growth in arts activity
across Minnesota which included the growth of collaborative activities. In addition, for example,
10 it was burdensome to ask a potential applicant to not apply to a Regional Arts Council when an
application was still pending with the Board. The policy was felt to be restricting the
12 development of arts activity. After several community discussions, this new rule was
constructed. It is reasonable, to include funding from both the Board and a Regional Arts
14 Council, but not in an amount which would exceed half of the total project resources. This rule is
reasonable because it encourages a broad base of financial support for artistic activity and does
16 not discourage collaborative activity.

18 1900.1010 subp. (3) and 1900.1010 subp. (4) This rule is necessary and reasonable because there
must be a clear understanding of the intended potential applicant for specific programs and
20 services of the agency. In the event that the legal status of a potential applicant would restrict the
application, the Board may approve the use of a fiscal agent if it is consistent with the program
22 intent. This action is necessary to comply with the Board's mission described in Minn. Ch.

129D and Minn. Stat. 129D.04, subd. 2(c) enabling legislation of promoting artistic activities. It
2 is reasonable, because emerging organizations may comply with the artistic goals of the Board's
program, but may not have established a legal or financial structure that would support the
4 Board's criteria for fiscal accountability. The use of a fiscal agent, as described in subpart 4,
provides a clear and accountable mechanism for some situations in specific programs.

6
1900.1010 subp. 5(A) This rule is necessary and reasonable because there must a clear
8 understanding of the intended potential applicant for specific program and services of the agency.

10 1900.1010 subps. 5(B), (C) and (D) These rules are necessary and reasonable to ensure the
accountable distribution of funds to adult persons entitled to benefit from Minnesota generated
12 public tax revenue. The requirement that the potential applicant be at least 18 years old is
necessary so that the agency may enter into a lawful contract with the potential applicant.

14 However, it is reasonable to identify the specific exception, when specific art forms require the
creative process to include persons under 18 years of age.

16
1900.1010 subp. 5(E) (1) This rule is necessary to promote the direct individual creative process
18 for the artist. There are other programs which are intended to benefit organizations. This rule is
reasonable to discourage beneficiaries other than the individual potential applicant and to
20 encourage work generated by the individual artist for personal and independent creative
purposes.

22

1900.1010 subp. 5(E) (2) This rule is necessary and reasonable to promote the Board's mission
2 and programs which are directed to artists who are viewed as professionals and whose work is of
a professional caliber. Consequently, it is reasonable that financial support for artists in training
4 is prohibited. Furthermore, the role of providing scholarships is outside the authority of the
Board as described in Minn. Stat. Ch. 129D.04.

6
1900.1010 subps. 5(E) (3), (4), (6), and (7) These rules are necessary and reasonable to
8 encourage the original direct process of creating art and arts activity. The Board established these
rules to distinguish clearly eligible application activity from activity it did not intend to fund.

10
1900.1010 subp. 5(E) (5) This rule is necessary because the Board intends to support arts activity
12 in Minnesota. The Board may not lawfully restrict the movement of a grantee; however, it may
restrict the use of funds to Minnesota residents for intended arts activity. This rule is necessary
14 because of the high rate of mobility among individuals applying to agency programs and is
reasonable because it is the Board's intention that its programs primarily benefit the citizens of
16 Minnesota. However, the Board welcomes citizens of other states to enjoy the artistic creations
of Minnesotans. In particular, the Board recognizes that in several Minnesota communities, the
18 communities themselves expand into neighboring states such as Fargo (ND)/Moorhead (MN),
and Duluth (MN)/Superior (WI).

20
1900.1010 subp. 6 This rule is necessary and reasonable to direct readers of the rules to other
22 sections of the rules for additional program specific requirements.

2 1900.1110 There is no need to justify this rule as it is unchanged from what was previously
adopted and only renumbered.

4

1900.1210 This rule is necessary to inform the public and to clarify the legal relationship
6 established between a grant recipient and the Board. It is necessary and reasonable to enter into a
contract in order to identify the rights and responsibilities of all parties relative to each individual
8 grant and to fulfill administrative and legal obligations of accountability under the State of
Minnesota's contracts law, Minn. Stat. Ch. 16.B.06, subd. 2. It is necessary and reasonable to
10 inform the grant recipient of the reasonable timeline for returning the grant contracts and any
necessary attachments, so that the Board will know if the potential applicant accepts the grant. In
12 the event a grant recipient does not return the documents within the 45 days and does not accept
the grant, the agency will have the opportunity to make an alternative grant decision.

14

1900.1310 This rule is necessary and reasonable to inform all interested persons as to how they
16 may access agency rules and program information. The Board makes an active effort to make the
public aware of the documents available and allows the public to request the items they want and
18 need. The primary publications which have been developed are (1) the *Arts Board News*,
periodically sent to all constituents on the computerized mailing lists and (2) the *Mailing List*
20 *Questionnaire*, sent in all information request packets and in response to phone inquiries.

1900.1410 This rule is necessary and reasonable in order to provide the Board with the flexibility
2 to expand existing categories of assistance or develop new categories in response to constituent
need and demand. The duration of such categories has purposely been limited in order that the
4 potential applicant can be assured that the Board is not arbitrarily continuing a category of
assistance with procedures and criteria which have not been promulgated in rule form.

6
1900.1510 This rule is necessary to inform the public and potential applicants about, the
8 procedures and processes for the Operating Support program used in the review process where
potential applicants must compete for limited funds and to ensure that the legislative intent to
10 assist large and mid-sized arts organizations is met. As described in a 1986 memo from the
agency assistant director to the Minnesota Department of Finance, "The agency's Operating
12 Support activity was first initiated in 1976 as a subsidy program to support the activities of a
relatively few large and medium sized arts organizations throughout the state. The program
14 remained in this form until 1982 when a change in distribution procedures was initiated to
segregate large and medium sized organizations based on budget size,... to establish a system of
16 grantmaking that took into consideration the size and scope of potential applicant organizations
and allowed them to compete in a more appropriate process as the demand for the limited
18 resources increased."

20 1900.1510 subp. 1 (A) The definition "operating expenses" is necessary in order to clearly
establish a uniformly understood meaning to this fiscal language. Standards for certified audits
22 do not delineate a detailed definition of this term. Our experience has demonstrated that a wide

variety of interpretations has led to confusion in our field of potential applicants. In the absence
2 of a specific definition of operating expenses from experts in the accounting profession, it is
necessary and reasonable for the Board to establish a definition for operating expenses in order to
4 communicate accurately and consistently with the public and potential applicants. The two
versions of this definition are necessary to respond to the new 1993 standards published by the
6 Financial Accounting Standard Board's (FASB) in Norwalk, Connecticut in Statements of
Financial Accounting Standards #116 and #117: Financial Statements of Not-for-Profit
8 organizations. In summary, by the end of an organization's fiscal year 1996, every nonprofit must
adopt the new FASB rules for nonprofit audits. Organizations with "\$5 million or more in total
10 assets and \$1 million in annual expenses" are required to adopt the new rules beginning with
their fiscal year 1995. Consequently, some potential applicants will adhere to the new standards,
12 while others will rely on the pre-fiscal year 1996 standard. It is reasonable to use standardized
definitions which are developed and accepted by the accounting profession so that the figures can
14 be equitably and fairly compared from one institution to another.

16 1900.1510 subp. 1 (B) The definition "organization" is necessary and reasonable to clearly
distinguish the groups dedicated solely to the arts from all others which have other levels of
18 interest in the arts and to communicate these differences in a clear and fair manner to the public.
Reference to arts service organizations is necessary and reasonable as the nature of the creative
20 process includes the work done in those organizations which serve as artistic laboratories for core
artists that perform, read, or otherwise enhance the creation of a work of art or that serve to

enable individuals to be artists. These types of institutions are valued as important threads in the fabric of the Minnesota arts community and the broader national arts community.

1900.1510 subp. 2 and 1900.1510 subp. 3 These rules are necessary to clearly inform the public of the intended purpose of the Operating Support program and the activities supported by the grant funds. This category of assistance is not for a specific, time-limited, goal-oriented project, but rather for the overall, general operation of an organization. Without this understanding, applicants would not be able to self-select and apply to only those programs of their interest. If potential applicants were not self-selective, an inappropriate and unreasonable administrative burden would rest with agency staff to determine a potential applicant's program area interest. It is necessary and reasonable to fund organizations because they provide a broad artistic service to the general public across the artistic disciplines of the visual, literary, and performing arts that enhances the quality of life to Minnesota's citizenry as allowed by Minn. Stat. Ch. 129.04 subd.

1.

1900.1510 subp. 4 This rule is necessary to clearly describe the specific criteria used by the advisory panel to make Operating Support recommendations to the Board. These criteria are needed for the advisory panel members to make recommendations based on distinctions between organizations. It is necessary to clearly communicate to the public and all potential applicants the ranking of the criteria in order of importance to reflect the policy and priorities of the Board. It is necessary to communicate to the public and potential applicants that the highest priority is placed on the creative process as well as service to a potential applicant's principal art form through

specific program. It is necessary and reasonable to distinguish the elements which are to be
2 considered by the advisory panel members from all other possibilities. It is reasonable to identify
criteria in advance of a review of a pool of applicants in order to establish a fair and equitable
4 process. The criteria are reasonable because they focus the panel members and the Board to
examine critical factors that, when present, will likely result in an accountable and rewarding arts
6 experience for the citizens of Minnesota that is consistent with the purpose of the grant program.
It is reasonable that artistic excellence is the primary criterion because with limited dollars, the
8 Board's desire is to present the highest quality of the arts to Minnesotans as allowed in Minn.
Stat. 129D subd. 1.

10
1900.1510 subp. 4 (A) Artistic excellence and leadership are necessary and reasonable because
12 the board intends to stimulate and encourage the creation, performance and appreciation of the
arts of the finest caliber in the state as allowed by Minn. Stat. Ch. 129.04 subd. 1. It is reasonable
14 that specific characteristics are identified to avoid arbitrary or capricious review. Item (1) is
necessary and reasonable because it allows the board to identify and encourage that the most
16 meaningful arts experiences are available to the citizens of Minnesota. Item (2) is necessary and
reasonable because it is important to the board that the resources of the state are used to assist
18 citizens of Minnesota experience artistic development and to avoid any decline in an
organization's constituency. Item (3) is necessary and reasonable because the deliberate
20 development of an organization's arts mission statement that addresses a cultural or artistic
vision serves as a key tool to evaluate an organization's ability to successfully meet its
22 objectives. Item (4) is necessary and reasonable because arts organizations have many

opportunities to impact individual artists and the career and artistic growth of individual artists is
2 important to the Board. Items (5) and (6) are necessary and reasonable because strong and
vibrant arts organizations and artist activity are important the Board's mission as allowed under
4 Minn. Stat. 129D.04 which describes the duties of the board to stimulate and encourage the
creation, performance and appreciation of the arts in the state. In addition, it is reasonable that an
6 arts organization provide opportunities for involvement and support of Minnesota artists because
it is important to the Board that the creative process be enhanced by diverse viewpoints and
8 perspectives from individual artists who provide the artistic material for the organizations. Item
(7), requiring consideration of the qualifications and achievements of artists and artistic
10 leadership, is necessary and reasonable because it is the Board's intent to evaluate factors that
demonstrate the skills, abilities and knowledge which contribute to artistic excellence and the
12 effectiveness in the community of the organization's artistic product.

14 1900.1510 subp. 4 (B) The required elements of management and fiscal responsibility are
necessary and reasonable because the Board has the responsibility of protecting the public's
16 financial interest when making grant decisions. Item (1) is reasonable and necessary because the
expenditure of resources and promotion are most likely to be successful when consistent and
18 supportive of the organization's artistic program. It is reasonable and necessary that the Board
avoid making grant decisions to organizations with unsound financial planning and marketing
20 which does not support the organization's artistic programs. Items (2) and (3) are necessary and
reasonable because decision making which includes the viewpoints of artists and the audience
22 and is based on planning and evaluation is more likely to result in meaningful arts experiences

for the citizens of Minnesota. These items are reasonable and necessary because the Board
2 intends is to avoid making any grants that may not be meaningful. Item (4), requiring
consideration of the applicant's board composition and roles, staff qualifications, and
4 responsibilities, is necessary and reasonable because the Board intends to make grants to
organizations that have the human resources to provide meaningful artistic experiences for the
6 citizens of Minnesota. This item is reasonable because the Board intends to avoid making grants
if there is serious uncertainty about the availability of an applicant's human resources. Items (5),
8 (6), (7), and (8) are necessary and reasonable because consideration of these elements is critical
so the Board avoids making grants that question the effective use of public funds. Item (9), which
10 considers challenges and opportunities, is necessary and reasonable because Minn. Stat. 129D.04
Subd 1. allows the Board to stimulate arts in the state. It is reasonable that artistic discipline,
12 geographic location and availability of an applicant's resources be considered because the Board
considers these factors critical to the effectiveness of an artistic product. It is reasonable that the
14 Board intends to avoid making grants to organizations that engage in artistic activities in artistic
disciplines other than those consistent with the organization's demonstrated experience and
16 abilities.

18 1900.1510 subp. 4 (C) This rule is necessary as allowed by Minn. Stat. 129D.04 subd. 1. to
stimulate and encourage the creation, performance and appreciation of the arts in the state. It is
20 necessary and reasonable to clearly communicate to potential applicants and the general public
that the Board's grant making decisions consider access and education by examining the factors
22 of approachability, availability, audience assessment, community understanding and

awareness, commitment to education and the organization's arts leadership. It is reasonable to
2 consider these specific elements in order to distinguish these elements from any others.

4 1900.1510 subp. 5 Item (A) is necessary because there are a wide variety of organizational
entities that engage in activities which are directly and indirectly related to the arts. It is
6 reasonable that the Board clearly communicate to all potential applicants and the citizens of
Minnesota that there are distinctions between organizational entities. Item (B) is necessary and
8 reasonable because there are limits on resources available to the Board to make grants. This has
required the Board to focus specifically on those organizations with a financial standing that
10 demonstrates stability and permanence. For example, in Fiscal Year 1996, the financial standing
is determined by a minimum Operating Expense budget of \$106,000 for Group III; \$531,000 -
12 \$3,183,999 for Group II; and \$3,184,000 and above for Group I. It is reasonable to break the
applicant pool into comparable clusters to provide for an administratively efficient process. It is
14 necessary and reasonable to use a consumer price index determined by the Board because it is
allowed in Minn. Stat. 129D.06 subd. 2 (1). Furthermore it is reasonable because the public has
16 access to the figure through the Bureau of Labor Statistics monthly news release, monthly
periodical CPI Detailed Report available in the government documents section of the public
18 library, by phone at 612/290-3996 or electronically on the internet FTP access at: stats.bls.gov;
Gopher accessat: gopher stats.bls.gov; or World Wide Web access at:
20 <http://stats.bls.gov/bishome.html>. Finally, this rule is reasonable because it clarifies the Board's
program intent and serves as a screening tool to ensure that the Board meets its policy objectives
22 and maintains fairness to all potential applicants. Items (C) and (D) are necessary and

reasonable because a substantial history of existence in the state and a professional staff
2 demonstrate likely permanence and ongoing contributions to the citizens of Minnesota.

4 1900.1510 subp. 6 This rule requiring certified audits is necessary and reasonable in order to
provide an objective and concise means of verifying the financial status and stability of the
6 potential applicant. This avoids inconsistent comparisons of fiscal information among
organizations.

8
1900.1510 subp. 7 This rule, requiring potential applicant participation in a site review, is
10 necessary to inform and allow panelists and staff a firsthand viewing of the potential applicant's
artistic product and discussion of the creative process and system that supports the artistic work
12 or service. This information is necessary and reasonable to enable panelists to supplement the
information in the application as they apply the review criteria to make their recommendations.

14
1900.1510 subp. 8 This rule is necessary to clarify for the potential applicant and the public that
16 the grant awards have a minimum and maximum level. It is important and reasonable for
potential applicants to know the range and basis for determining grant amounts.

18
1900.1610 subp. 1 (A) (B) (C) These rules are necessary and reasonable to clarify terms used
20 exclusively in section 1900.1610 of the rules because the terms have specific meaning which
must be established in order to accurately and consistently communicate with the public and
22 applicants. The formulaic methodology is necessary and reasonable as it is allowed by Minn.

Stat. 129D.06 subd. 2 and used to determine grant amounts. This methodology is necessary and
2 reasonable in order to avoid any misunderstanding or miscalculation of grant awards. Item (A),
“Current grant recipient,” is necessary and reasonable because it requires an “accountable review
4 process” to distinguish between grantmaking where an application is one of several which are
competing for a set amount of dollars, from any other mechanisms of awarding grant dollars that
6 may be used by a Regional Arts Council. Item (B), “Operating expenses” requires no further
justification because this term is used in part 1900.1510 subp. 1. Item (C), the definition of
8 “Organization” is necessary as allowed under Minn. Stat. 129D.01 (d). This definition of
organization is reasonable to clearly distinguish the groups which are eligible to secure funds
10 under this program from all other groups seeking grants from the Board.

12 1900.1610 subp. 2 and 1900.1610 subp. 3 These rules are necessary to inform the public clearly
of the intended purpose of the Formula Funds program and the activities supported by the grant
14 funds. It is reasonable because it is a program born out of legislative initiatives to provide new
funds to stabilize and ensure the long-term health of Minnesota's arts community with a
16 guaranteed and predictable source of state funding. This category of assistance is not for a
specific, time-limited, goal-oriented project, but rather for the overall, general operation of an
18 organization. Without this understanding, potential applicants would not be able to self-select
and apply to only those programs of their interest. If potential applicants were not self-selective,
20 an inappropriate and unreasonable administrative burden would rest with agency staff to
determine a potential applicant's program area interest.

1900.1610 subp. 4 This rule is necessary and reasonable to clearly inform potential applicants
2 and the public that the basis for evaluation is the continuation of meeting the criteria established
by the Board under section 1900.0610, and not the future promise or anticipation of meeting
4 those standards. These criteria are needed for the advisory panel members to make
recommendations based on distinctions between organizations. It is necessary to communicate
6 clearly to the public and all potential applicants the ranking of the criteria in order of importance
which reflects the policy and priorities of the Board. In addition, this rule is necessary to
8 distinguish this program as a competitive arts program rather than any misunderstanding that it is
a set-aside entitlement program.

10
1900.1610 subp. 5 This rule is necessary because there are a wide variety of organizational
12 entities that engage in activities which are directly and indirectly related to the arts. Limits on
resources available to make grants has required the Board to focus specifically on those
14 organizations with a substantial history, professionalism, and financial standing to demonstrate
the likelihood of permanence and ongoing contribution to the citizens of Minnesota; and
16 essentially, an exclusive commitment to the arts in the State of Minnesota. This rule is reasonable
because it serves to clarify the Board's program intent and as a screening tool to ensure that the
18 Board meets its policy objectives and maintains fairness to all potential applicants. Item (A) is
necessary as required in Minn. Stat. 129D.06 Subd. 1 (1) and it is reasonable because individual
20 artists may not apply. Item (B) is necessary as required in Minn. Stat. 129D.06 subd. 2 (2). It is
necessary and reasonable to distinguish between permanent and pilot programs of the Board
22 because the legislative intent of this program was to help stabilize qualified arts organizations

in Minnesota. It is reasonable that organizations receiving pilot program grants from the board be
2 excluded because the programs are by definition, experimental and temporary. This rule is
reasonable because some Regional Arts Council grants for a given fiscal year are awarded late in
4 the fiscal year and it would not be reasonable to administer the formula funds program in an
untimely manner. Furthermore, the Regional Arts Councils and the Board mutually agreed on the
6 definition of “current grant recipient” in order to comply with Minn. Stat. 129D.06 subd. 2(2)
and fairly administer the program. Item (C) is necessary under Minn. Stat. 129D.06 subd. 2. The
8 minimal qualifying operating expense amount requires no further justification because this term
is used in 1900.1510 subd. 5 (B). Item (D) is necessary under Minn. Stat. 129D.06 subd. 2 and it
10 is reasonable to exclude fiscal agents because the program’s purpose is to stabilize arts
organizations engaged in producing, presenting or providing services to artists and not fiscal
12 agent organizations with the primary purpose of providing fiscal management services to others.
Item (E) is necessary and reasonable because the Board intends the grant to help maintain a
14 stable organization. Furthermore, this rule is reasonable because the Board, as stewards of the
public trust, intends to avoid making grants to organizations not intending to continue operation.
16
1900.1610 subp. 6 Item (A) requiring unaltered complete certified audits is necessary and
18 reasonable to ensure the integrity and validity of the figures submitted. In addition, it is necessary
to eliminate any possibility of intentional or unintentional tampering and to permit a timely
20 processing of materials by the Board, or its designee, to determine the formula for making grant
awards. Item (B) is necessary and reasonable because it provides the Board with comparable
22 financial documents from all applicants.

2 1900.1610 subp. 7 This rule is necessary to inform the public and potential applicants clearly
that, unlike the majority of the Board's grant programs, this program does not consider
4 recommendations from a unique advisory panel. In addition, it is necessary to avoid any possible
misunderstanding that the review process includes the verification of the eligible average
6 operating expenses which is critical to the determination of the grant award. This rule is
reasonable because it would be duplicative to have another advisory panel review since all
8 eligible applicants have already successfully participated in a review panel either of the Board or
of a Regional Arts Council in order to be eligible for funds in this program.

10

1900.1610 subp. 8 This rule is necessary to clarify for the potential applicant and public that the
12 grant awards are a calculated amount based on verifiable expenses and legislative funds
available. It is reasonable for potential applicants to know that the basis for determining grant
14 amounts is a formula.

16 1900.1710 subp. 1 The definition "series" is necessary in order to clearly establish a uniformly
understood meaning to this word and to distinguish it from other possible interpretations. It is
18 reasonable because it conforms to industry standards established by The Association of College,
University and Community Arts Administrators, Inc. (ACUCAA) in Madison, Wisconsin, whose
20 phone number is (608) 233-7400, to describe a deliberate packet of event tickets. For example,
the term is used in the 1984 ACUCAA report "*The Professional Performing Arts: Attendance*
22 *patterns, Preferences and Motives,*" pg. 62.

2 1900.1710 subp. 2 and 1900.1710 subp. 3 These rules are necessary and reasonable to inform the
public clearly of the intended purpose of the Series Presenters program and the activities
4 supported by the grant funds. Without this understanding potential applicants would not be able
to self-select and apply to only those programs of their interest. If potential applicants were not
6 self-selective, an inappropriate and unreasonable administrative burden would rest with agency
staff to determine a potential applicant's program area interest.

8

1900.1710 subp. 4 This rule is necessary to describe clearly the specific criteria used by the
10 advisory panel to make Series Presenters recommendations to the Board. These criteria are
needed for the advisory panel members to make recommendations based on distinctions between
12 potential applicants. The criteria are reasonable because they focus the panel members and the
Board to examine critical factors that, when present, will likely result in an accountable and
14 rewarding arts experience for the citizens of Minnesota that is consistent with the purpose of the
grant program. Furthermore, it is reasonable that artistic excellence is the primary criterion
16 because with limited dollars, the Board's desire is to present the highest quality of the arts to
Minnesotans as allowed in Minn. Stat. 129D subd. 1. It is necessary to communicate clearly to
18 the public and all potential applicants the ranking of the criteria in order of importance which
reflects the policy and priorities of the Board. It is necessary to communicate to the public and
20 potential applicants that the highest priority is placed on the creative process. It is important to
distinguish the elements which are to be considered by the advisory panel members from all
22 other possibilities.

2 Item (A) (1) is necessary and reasonable because it allows the board to identify and encourage
that the most meaningful arts experiences are available to the citizens of Minnesota. Item (A) (2)
4 is necessary and reasonable because it is important to the Board that the resources of the state are
used to assist citizens of Minnesota experience artistic development and to avoid any decline in
6 the grant recipients constituency. Item (A) (3) necessary to reach a wide variety of interests
represented by the diversity among Minnesotans. It is reasonable because the Board intends to
8 offer the broadest choice in arts experiences to Minnesota's citizens. Item (A) (4) is necessary
and reasonable because the deliberate development of an artistic mission statement that builds on
10 past programming experiences serves as a key tool for internal and Board evaluation of the
grantee's ability to successfully meet objectives. Item (A) (5) is necessary and reasonable
12 because the Board wants to efficiently use grant resources by encouraging grantees to contract
with artists that provide the best artistic value for the funds available.

14

Item (B)(1) This is necessary because the Board intends to make grant only to organizations that
16 have a history of successful arts presentation experiences . This is reasonable in markets where
the competition for participation in leisure time activities and resources is strong. In these
18 conditions the marketing and evaluation are critical to achieve successful audience attendance.
Item (B)(2) is necessary and reasonable because the Board does not want to foster dependency on
20 public funds for these activities, but rather encourage broad based self-sufficiency. Item (B)(3) is
necessary and reasonable because the Board intends to direct the states resources to primarily
22 support artistic fees as allowed in Minn. Stat. 129D.04 subd. 1 and acknowledge that use of the

1 funds for administrative costs is not a priority. Item (B) (4) is necessary because decision making
2 based on planning and evaluation is more likely to result in meaningful arts experiences for the
citizens of Minnesota. Item (B) (5) is necessary because the Board has the responsibility of
4 protecting the public' financial interest when making grant decisions. This item is reasonable
because the success of a series requires that the infrastructure and experience of a grantee match
6 the complexities associated with the specific artists to be presented to the public.

8 Items (C) (1), (2), and (3) are necessary because the Board wants to make grants that are of
interest to the community served by the organization. Continued development is necessary and
10 reasonable in order to ensure future audiences and a continued impact for the community. The
consideration of demand in terms of meeting the community's artistic needs is necessary and
12 reasonable because successful presenters offer the community a perceived relevant artistic
product that is often unique and not readily available elsewhere in their community.

14

Items (4) and (5) are necessary as allowed by Minn. Stat. 129D.04. subd. 1. These items are
16 necessary and reasonable to clearly communicate to potential applicants and the general public
that the Board's grant making decisions consider activities that support the arts and provide
18 education that contributes to the community understanding and awareness of works of art.

20 1900.1710 subp. 5 Item (A) is necessary because there are a wide variety of organizational
entities that engage in activities which are directly and indirectly related to the arts. It is
22 reasonable for the Board to clearly communicate these distinctions for the public and potential

applicants. Item (B) is necessary because there are limited resources available to make grants. It
2 is reasonable for the Board to focus specifically on those organizations with a substantial history
and an exclusive commitment to the arts in the State of Minnesota. It is reasonable to consider
4 professionalism and financial standing as indicators which demonstrate the likelihood of
permanence and ongoing contribution to the citizens of Minnesota. Item (C) is necessary because
6 there are limited resources available to make grants. It is reasonable for the Board to focus on
those organizations with larger programs in order to provide the citizens of Minnesota with a
8 multi-event series arts experience that is not readily available otherwise. Items (A) through (C)
are necessary and reasonable because they serve to clarify the Board's program intent and be a
10 screening tool to ensure that the Board meets its policy objectives and maintains fairness to all
potential applicants. Item (D) is necessary and reasonable to clearly communicate expectations
12 with potential applicants. Item (E) is necessary to communicate with the public and potential
applicants that larger presenting activity programs are the focus in this granting program. This
14 number is reasonable because five events are likely to demonstrate the strength of an
organization's administrative ability which is critical to its success and five events provide a
16 range of artistic experiences for the audience. Furthermore, it is reasonable that the
administrative and artistic success of five events is more complex and challenging than fewer
18 events. Item (F), restricting an applicant that has received funding in the Operating Support
program or for the same activity or fiscal year of funding in the Folk Arts Sponsorship, is
20 necessary and reasonable to avoid the Board's duplicate funding of activity or the administrative
costs associated with the activity with its limited resources. Item (G), the rule restricting funding
22 of single events, fairs, festivals or touring intended to serve primarily elementary or secondary

school students, is necessary and reasonable to avoid the Board's duplicate funding of activities
2 eligible for funding in other Board grant programs, such as Folk Arts and Arts in Education.

4 1900.1710 subp. 6 This rule is necessary to clearly inform the public and potential applicants that
at the discretion of the Board, or designee, there is a means to supplement or clarify information
6 presented in a submitted application. Since there is a wide range of experience in writing grant
applications, it is important that the advisory panel have clear and comparable information with
8 which to make its recommendations to the Board.

10 1900.1710 subp. 7 This rule is necessary and reasonable to clarify for the potential applicant and
the public that the grant awards have a minimum and maximum level.

12
1900.1810 subp. 1 This rule is necessary in order to define each term to avoid misunderstanding
14 for the public and the Board. The language is specific to the Board's Folk Arts grant programs so
that the goals unique to the arts discipline can be met. It is reasonable because the Board wants to
16 avoid any misunderstanding which would leave potential applicants in the difficult and
unfortunate position of not seeing the relevancy of this program to their artforms.

18
1900.1810 subp. 2 and 1900.1810 subp. 3 These rules are necessary to inform the public clearly
20 of the intended purpose of the Folk Arts Sponsorship and Apprenticeship programs and the
activities supported by the grant funds. It is reasonable for the Board to fund these kinds of
22 activities because they are considered by the Board to be of significant value to the arts

community of Minnesota and need to be preserved, maintained, encouraged and celebrated. It is
2 reasonable to avoid any misunderstanding where potential applicants would not be able to self-
select and apply to only those programs of their interest and artistic ability. If potential applicants
4 were not self-selective, an inappropriate and unreasonable administrative burden would rest with
agency staff to determine a potential applicant's program area interest.

6

1900.1810 subp. 4 (A) This rule is necessary to inform the public and potential applicants about
8 the criteria used by folk arts advisory panels for making their recommendations to the Board and
to distinguish the criteria from other characteristics, such as social, political, or economic needs
10 of the community. It is necessary to inform the public that the Folk Arts Sponsorship panel relies
on four review criteria. Items (1) and (2), the primary criteria, are program specific and include
12 traditionality of the folk art and feasibility of the folk arts component. They are necessary and
reasonable to meet the stated purpose of the program projects. Merit is necessary and reasonable
14 because the funded activities need to have interpretive value for the audience to ensure
communication about the underlying features of the folk arts experience. Traditionality is a
16 reasonable element because it is used to distinguish the art form as a folk art from other possible
classifications, such as craft or hobby. Item (2), merit and feasibility of the folk arts interpretive
18 component, is necessary for the potential applicant to be successful. This is reasonable because
the interpretive component is a critical element to help the attending public understand the
20 cultural foundation of the event which may otherwise be unfamiliar. Item (3) and (4), the
secondary criteria, are necessary to meet the agency's goals for the program. It is reasonable that

the program enhance an existing program and meet a community need because the folk arts are
2 so closely tied to cultural traditions that are enhanced by recognition within that community.

4 1900.1810 subp. 4 (B) This rule is necessary to clearly inform the public and potential applicants
about the criteria used by the folk arts advisory panels for making their recommendations to the
6 Board and to distinguish the criteria from other characteristics, such as social, political, or
economic needs of the community. It is necessary to inform the public and potential applicants
8 that the Folk Arts Apprenticeship panel relies on three review specific criteria. The criteria
identified as primary or most important are the quality and traditionality of the folk art in the
10 context of an apprenticeship. Item (1) is reasonable because the program intends to encourage
that the highest quality of a folk arts form be passed on to others, rather than a form of a
12 mediocre quality. The work samples are necessary and reasonable to demonstrate the capabilities
and artwork of the individuals involved in the proposed application. The appropriateness is
14 necessary and reasonable to verify that the proposed activities are indeed folk arts. Items (2) and
(3), pertaining to merit of plan and impact, are necessary and reasonable to judge the potential
16 success of the project and meet the stated program purposes. It is reasonable to ensure that the
activities described in the plan enable the transmission of the folk arts skills between the
18 participants and that the participants have the ability to benefit from the experience. It is
reasonable to ensure that the budget allow for meaningful support of the proposed activities so
20 that financial constraints do not diminish the experience. It is reasonable to ensure that the
structure of the experience enhance and support a positive experience for the participants. It is

necessary and reasonable that the experience meet a community need because the folk arts are so
2 closely tied to cultural traditions that are enhanced by recognition within that community.

4 1900.1810 sup. 5 (A) This rule is necessary to inform the public and potential Folk Arts
Sponsorship applicants of the characteristics of a potential applicant and any additional
6 limitations of the use of funding as set forth in section 1900.10 of the rules. This rule is
reasonable as it serves to clarify the Board's program intent and to screen potential applicants so
8 that the Board meets its policy objectives and maintains fairness to all potential applicants. Items
(1) and (2) are necessary to issue a grant contract with an accountable legal entity in the event the
10 potential applicant is funded. Item (3), requiring of at least one Minnesota folk artist, is necessary
and reasonable to promote the growth of Minnesota artists and arts organizations. It is reasonable
12 to prohibit non-Minnesota entities, or events excluding Minnesota artists from benefiting from a
Minnesota public agency grant program. Item (4) is reasonable and necessary because of the
14 limited grant resources, the Board does not intend to provide duplicate funding for the same
activity. Since Operating Support is an organization wide general support program and a Series
16 Presenters event could potentially include folk arts activity, it is reasonable to clearly inform the
public and potential applicants of this prohibition. Item (5) is necessary to expand the list of
18 ineligible activities, conditions, or use of funds as set forth in section 1900.1010 of these rules as
they apply to folk arts programming. Research is prohibited, because the program's purpose is
20 programming and not research. This is not to say that folk arts research is not an important
endeavor, but only clearly to inform the public that it is not the intent of this program. Similarly,
22 K-12 events presented during the school day are prohibited with funding from this program,

because the Board intends to meet its K-12 programming goals in the Arts in Education program.

2 It is necessary and reasonable to exclude funding student and school groups because these
activities are funded in other grant programs of the Board. It is reasonable to avoid any confusion
4 for the public or potential applicants by funding activities in two program areas. It is also
reasonable to avoid funding activity in more than one program when the Board has limited
6 resources.

8 1900.1810 subp. 5 (B) This rule is necessary to inform the public and Folk Arts Apprenticeship
potential applicants of the characteristics of a successful applicant and any additional limitations
10 of the use of funding as set forth in section 1900.1010 of the rules. This rule is reasonable as it
serves to clarify the Board's program intent and to screen potential applicants so that the Board
12 meets its policy objectives and maintains fairness to all potential applicants. Items (1) and (2) are
necessary to inform the public and potential applicants about circumstances which are relatively
14 unique to the folk art traditions of several cultures. It is reasonable for the Board to permit the
unusual circumstances of in-family apprenticeships and apprenticeships with an apprentice who
16 is younger than 18 years of age, under specified conditions in order to preserve the folk art form.
Item (2) is necessary and reasonable to describe the required permission statement required for
18 the Board to establish an accountable and legal relationship in the event the potential applicant is
awarded a grant. Item (3) is necessary and reasonable so that the limited funding in the programs
20 which fund individual artists can be distributed to a wider group of qualified artists without
setting a wait period which would present a hardship. Item (4) is necessary because the resources
22 available to fund individual artists are limited. It is reasonable to have a one-year waiting

period when individuals have already received significant support from the Board in order to
2 broaden the distribution of funds to more individuals in order to encourage individuals to
participate in the program. This rule is necessary and reasonable, so that the limited funding in
4 the programs which fund individual artists can be distributed to a wider group of qualified artists
without setting a waiting period which would present a hardship. Item (5) is necessary to restrict
6 the use of funds specific to expenses associated with the proposed activity. It is reasonable to
avoid the use of program funds to pay for meals when individuals are close to home.

8

1900.1810 subp. 6 This rule is necessary and reasonable to clarify for the potential applicant and
10 the public that the grant awards have a minimum and maximum level.

12 1900.1910 subp. 1 This rule is necessary to clarify the use of the word collaboration in the
context of the Board's programs in order to avoid misunderstanding for the public and the Board.
14 This rule is reasonable to define for the public and potential applicants those instances when
individuals may work with other artists to meet the goals of the program.

16

1900.1910 subp. 2 and 1900.1910 sup. 3 These rules are necessary to clearly inform the public of
18 the intended purpose of the Fellowship, Career Opportunity Grant, and Cultural Collaborations
programs and the activities supported by the grant funds. Without this understanding, potential
20 applicants would not be able to self-select and apply to only those programs of their interest and
artistic ability. If potential applicants were not self-selective, an inappropriate and unreasonable

administrative burden would rest with agency staff to determine a potential applicant's program
2 area interest.

4 1900.1910 subp. 4 This rule is necessary to clearly inform the public and potential applicants. It
identifies that the artistic excellence or quality criteria, as described in section 1900.0610 of these
6 rules, is used by all Artist Assistance advisory panels as the first and most important review
criterion. This is reasonable because it distinguishes this criterion from other characteristics, such
8 as social, political, or economic needs of the community.

10 1900.1910 subp. 4 (A) This rule is necessary to inform the public that in addition to the artistic
quality criteria described in 1900.0610, the Fellowship panel relies on one additional review
12 criterion, "Merit of the proposed plan and its feasibility," which is secondary in order of
importance. This criterion is reasonable because the scope of a Fellowship plan may vary from a
14 specific, detailed project to an opportunity for uninterrupted creative time to work. The
secondary criterion permits the advisory panel to evaluate the application in the context of the
16 individual proposal, rather than against any other requirements. This rule is reasonable because it
is consistent with the program purpose and nature of the creative process.

18
1900.1910 subp. 4 (B) This rule is necessary to inform the public that in addition to the artistic
20 quality criteria described in 1900.0610, the Career Opportunity Grant review committee relies on
one additional review criterion, "Merit and feasibility of the proposed opportunity," which is
22 secondary in order of importance. This criterion is reasonable because the Career Opportunity

Grant program is specific to an event or activity that will enhance the potential applicant's artistic career. It is reasonable to fund activities that, as demonstrated by the provided materials are likely to be successfully accomplished. The secondary criterion permits the advisory panel to evaluate the application in the context of the individual proposal which addresses career impact and financial feasibility, rather than against any other requirements. This rule is reasonable because it is consistent with the program purpose.

1900.1910 subp. 4 (C) This rule is necessary to inform the public that in addition to the artistic quality criteria described in 1900.0610, the Cultural Collaborations advisory panel relies on two additional review criteria. "Merit of the proposed project and its feasibility" is secondary in order of importance. This criterion is reasonable because the Cultural Collaborations program is specific to a collaborative project involving the creative process between an individual and an organization. It is reasonable to expect that the proposed plan is likely to be carried out to the mutual satisfaction of both parties. This secondary criterion permits the advisory panel to evaluate the application in the context of the individual proposal which addresses specific program characteristics described in the rule rather than against any other requirements. The third criterion in order of importance is "That the collaboration involves an organization in the artist's respective community." This criterion is necessary and reasonable to fulfill the intent of the Board that individual artists of color and selected organizations have reciprocal learning opportunities to enhance both creative and administrative processes.

1900.1910 subp. 5 This rule is necessary to inform the public and potential applicants of the characteristics of an Artist Assistance potential applicant and any additional limitations of the use of funding as set forth in section 1900.1010 of the rules. This rule is reasonable as it serves to clarify the Board's program intent and to screen potential applicants so that the Board meets its policy objectives and maintains fairness to all potential applicants.

1900.1910 subp. 5 (A) It is reasonable to have a waiting period when individuals have already received significant support from the board in order to broaden the distribution of funds to more individuals which encourages individuals to participate in the program. This rule is necessary and reasonable, so that the limited funding in the programs which fund individual artists can be distributed to a wider group of qualified artists without setting a waiting period which would present a hardship.

1900.1910 subp. 5 (B) This rule is necessary and reasonable, so that the limited funding in the Cultural Collaborations program can be distributed to a wider group of qualified artists of color without setting a waiting period which would present a hardship to the artists. It is reasonable to have a waiting period when individuals have already received significant support from the board in order to broaden the distribution of funds to more individuals which encourages individuals to participate in the program. In addition, this rule requires that the potential applicant name a nonprofit entity as the collaborating organization as defined in part 1900.0310, sup. 9. This is necessary so that this program, though not a direct grant to an organization, is consistent with all other agency programs involving grants to nonprofit tax-exempt organizations (Minn. Stat. Ch.

129D). The exception in this rule, which allows radio and television stations to be collaborating
2 organizations, is necessary and reasonable to encourage the collaborative process in art forms
which have the ability to reach a broad and diverse public audience which is consistent with the
4 intent of this program.

6 1900.1910 subp. 5 (C) This rule is necessary and reasonable due to the specific goals of this
program. Any proposal which is common or usual would not qualify as unique, nor would a
8 proposal which was submitted in a prior review cycle. The prior submission would
unequivocally suggest that the event was not unique. In addition, this rule is necessary and
10 reasonable, so that the limited funding in the programs which fund individual artists can be
distributed to a wider group of qualified artists without setting a waiting period which would
12 present a hardship. It is reasonable to have a waiting period when individuals have already
received significant support from the board in order to broaden the distribution of funds to more
14 individuals which encourages individuals to participate in the program. Furthermore, it is
necessary in order to distinguish eligible events from those which would be more appropriately
16 suited to another individual artist grant program. This rule is reasonable because the purpose of
this program is to fund time-sensitive opportunities.

18
1900.1910 subp. 6 This rule is necessary in order to streamline the review process to respond to
20 the time-sensitive characteristic of the Career Opportunity Grant program. It is reasonable to use
agency staff to review the applications instead of a panel and have the award decision made by a
22 Board subcommittee so that the agency can reduce the timeframe from the application deadline

to the issuance of grant payment from approximately five months to two months, consistent with
2 the goals of the program.

4 1900.1910 subp. 7 This rule is necessary to inform the potential applicant and the public that the
Fellowship grant awards are a fixed amount of \$6,000. This rule is reasonable because the
6 Fellowship program is intended to promote the creative process and is not necessarily driven by a
project. The Career Opportunity Grant and Cultural Collaborations grants each have a minimum
8 and maximum level. The policy of a range of grant amounts is reasonable due to the project-
oriented focus of these grants. This permits the potential applicant the freedom to request an
10 amount which is consistent with the financial needs of the proposal as submitted in the
application.

12
1900.2010 subp. 1 This rule is necessary in order to define each term to avoid misunderstanding
14 for the public and the Board. The language is specific to the Board's Arts in Education grant
programs so that the goals unique to this program can be met. Without a clear understanding, the
16 public may have difficulty recognizing the relevancy of this program to their arts in education
programming.

18
1900.2010 subp. 1 (A) This rule is necessary to promote that only experienced candidates work
20 with children in primary and secondary level education and engage in artistic activities. This is
reasonable due to the educational goals set in this program.

22

1900.2010 subp. 1 (B) and 1900.2010 sup. 1 (C) These rules are necessary to encourage

2 successful outcomes from the funded activities. These rules are reasonable because the elements
of the residency model have demonstrated over ten years, to be key to the success of the Board
4 programs. The model is necessary and reasonable to ensure a sequence of continued deep
reaching development of knowledge in a logical manner that is meaningful and consistent with
6 the accepted educational developmental stages of learning. Furthermore, the model is necessary
to fully comprehend the process of an art form including production, analysis, experimentation
8 and critical review. These rules are reasonable because the Board intends to present the
opportunity for schools to promote arts as part of the basic K-12 curriculum and to avoid short
10 term experiences designated primarily for entertainment purposes.

12 1900.2010 subp. 2 and 1900.2010 sup. 3 This rule is necessary for potential applicants to self-
select and apply to only those programs of their interest. If potential applicants were not self-
14 selective, an inappropriate and unreasonable administrative burden would rest with agency staff
to determine a potential applicant's program area interest.

16
1900.2010 subp. 4 This rule is necessary to describe clearly the review criteria used by the
18 advisory panel to make Arts in Education School Support recommendations to the Board. These
criteria are needed for the advisory panel members to make recommendations based on
20 distinctions between potential applicants. It is necessary to communicate clearly to the public and
all potential applicants the ranking of the criteria in order of importance which reflects the
22 policies and priorities of the Board. It is necessary to communicate to the public and potential

applicants that the highest priority is placed on the "artistic quality and merit of the proposed residency." It is important to distinguish the elements which are to be considered by the advisory panel members from all other possibilities.

1900.2010 subp. 4(A) Item (1) is necessary to clearly identify those elements that pertain to artistic activity involving a school, or other similar educational setting. It is reasonable to inform the public of the factors which are necessary for a successful outcome. The involvement of parents and community is necessary to involve all persons who impact a child's education. It is reasonable to reach the Board's intended long term arts education goals. Item (2) is necessary and reasonable to inform the public and participating school of the critical factors which predominantly rest within the jurisdiction of the potential applicant. Item (3) is necessary to clearly identify the elements which are important for a successful outcome. This rule is reasonable because the Board's Arts in Education program is not intended to reduce or supplant a school's preexisting commitment to arts education. In addition, it is reasonable to expect that a potential applicant commit financial resources as a means of demonstrating interest and need for the residency. The cash commitment, or match, is necessary and reasonable to extend the Board's dollars that are available to the various school districts in Minnesota and to encourage schools to promote their desire to bring arts to their communities. Item (4) is necessary and reasonable to inform the public and potential applicants that the long term goal of enhancing arts curricula is important to the Board rather than limited benefits of a short term exposure to the arts. Item (5) is necessary to inform the public and potential applicants that potential applicants with experience in artist residencies are expected to build upon their own prior experience with the program. In

addition, it is necessary to clarify that this factor only applies to returning applicants. It is
2 reasonable that the Board direct its resources toward activities that improve and enhance the
residency experiences.

4

1900.2010 subp. 4 (B) Item (1) is necessary to clearly identify those elements that pertain to
6 artistic activity involving a school, or other similar educational setting. It is reasonable to inform
the public of the factors which are necessary for a successful outcome. It is necessary to consider
8 the methods of selection in order to determine the reasons why an artist or artists are selected. It
is necessary and reasonable to consider the reasons that the artist and artform are selected
10 because it is important that the relationship that they have to the overall educational and arts
curriculum goals established for the residency and all students is age, grade level and curriculum
12 appropriate. It is necessary to consider the preparation of service to artists including
compensation because it allows the expectations between the educational institution and the
14 artist(s) to be clear. It is reasonable to avoid misunderstandings such as scheduling problems
which would detract from the success of the residency experience. It is necessary and reasonable
16 to consider the overall schedule, length, publicity, teacher contact time because the residency
must effectively fit into the busy normal school day; enhance the arts curriculum for a long term
18 impact by informing and involving the wider community, including businesses and citizens,
along with the school's parents, students, teachers and administrators; develop an effective and
20 cooperative relationship between the artist(s) and classroom teacher who has a lesson plan which
might be altered by a residency. The involvement of parents and community is necessary to
22 involve all persons which impact a child's education. It is reasonable to reach the Board's

intended long-term arts education goals. It is necessary and reasonable to consider residencies
2 longer than five days because longer residencies permit the opportunity to reach more students,
to present a deeper understanding of the art form(s) and make a stronger and longer lasting
4 impact on the students and community. Item (2) is necessary and reasonable to inform the public
and potential applicant about the critical administrative factors. It is necessary and reasonable
6 that planning is thorough because there are a lot of details such as adjusting classroom schedules,
locations which must be smoothly carried out in order to avoid distractions from the actual
8 residency experience. It is necessary that the administrative personnel are qualified, have
previous experience in Arts in Education residencies, be realistic about the residency activities
10 because the coordination, scheduling factors and factors such as entering into a contract with the
artist(s) and payment to the artist requires a thorough knowledge of the internal administrative
12 procedures and requirement of the residency setting. It is reasonable to avoid errors and
inefficiencies that might occur in a variety of matters, such as contracting with the artist and
14 executing the contract and reporting required by the Board, when inexperienced or unprepared
planners are involved. Item (3) is necessary to clearly identify the elements which are important
16 for a successful residency outcome. It is necessary to inform the public and potential applicants
that the applicants must commit financial resources as a means of demonstrating interest, value,
18 and need for the residency along with the involvement the local community, and also address a
diverse and varied population. This rule is reasonable because the Board's Arts in Education
20 program is not intended to reduce or supplant a school's preexisting commitment to arts
education nor be considered as a resource replacement for funding arts education. In addition, it
22 is reasonable to expect that a potential applicant commit financial resources as a means of

demonstrating interest and need for the residency. It is reasonable to require the potential

2 applicants to partner with the Board to meet program goals including any circumstances which
encourage sole dependency on the Board for funding this type of arts education activity. Item (4)
4 is necessary and reasonable to inform the public and potential applicants that the long term goal
of enhancing arts curricula is important to the Board rather than limited benefits of a short term
6 exposure to the arts. It is reasonable because the effective use of artist-teacher contact provides
opportunities for the experience and expertise to pass between artist and teacher which are related
8 to the schools' curricula rather than an artist making a simple presentation in isolation from the
curricular activities directly with the teacher.

10

1900.2010 subp. 5 (A) Item (1) is necessary to comply with the laws of Minnesota, with U.S.

12 Constitutional law, and the conditions set forth in the Board's enabling legislation and the
purpose set forth of this program. Though there may be pre-kindergarten and post-secondary
14 benefits and needs in the community for arts education residencies, it is reasonable that this
program focus on K-12 in order to meet the existing goals of the Board with the resources that
16 are available. Item (2) is necessary and reasonable to maintain a Minnesota residency
requirement, consistent with other grant programs of the Board which involve individual artists.
18 This rule is necessary and reasonable to promote the participation of Minnesota artists. Item (3)
is necessary and reasonable to inform the public and potential applicants of a required set of
20 elements and a single expectation about the activities to occur in a classroom among the artist,
students, and the classroom teacher. This is reasonable to avoid misunderstanding and the
22 substitution of another set of program elements. Item (4) is necessary to inform the public and

applicants that there are a number of activities, conditions, or uses of funds specific to residency programs, and are in addition to section 1900.1010 of these rules, which are not eligible for Board support. Item (a) prohibits the use of state funds prior to or after dates of an executed grant contract. It is necessary and reasonable to exclude residencies from occurring in outside certain timeframes because the funds can only be legally issued by the Board to the grantee after the agency budget has been set up and funds from the state legislature and other sources have been administratively loaded into the state's financial system. It is necessary and reasonable that funds and activities not be used after the school year has ended because the funds are intended to be used in a specific school year that is consistent with the board's fiscal year of operation. Item (b) is necessary and reasonable to exclude residencies consisting exclusively of presentations by student organizations or student artists because the intent of the program is to introduce or present the experiences and expertise of professional adult artists to students as educational as well as vocational models for the students. Item (c) is necessary and reasonable to exclude funding residencies which are used exclusively for curriculum development because the purpose of the residency activity is to provide students with a direct experience with artists and arts organizations. Item (d) is necessary and reasonable that the residency is not funded by the board in an amount more than one-half of the total residency cost or without some cash match from the applicant because the board does not want to foster a school or other educational institution's dependency on public funds for these activities, but rather encourage self-sufficiency. Item (e) is necessary and reasonable that the residency exclude a major audience other than elementary or secondary students and faculty because the purpose of the program is specific to K-12 students and there are other programs offered by the board that serve the needs of other audiences. Item

(f) is necessary and reasonable to exclude a residency that takes place outside the State of

2 Minnesota because the board's purpose is to serve the citizens of Minnesota with its resources.

Item (g), (h) and (i) are necessary and reasonable to exclude paying solely for the production

4 costs associated with the creation of an arts event or to purchase or commission a work of art, or

to pay artistic fees to include an arts organization in the residency because these activities are not

6 the intent of the school support program and because the board has other programs, such as

Operating Support, Folk Arts Sponsorship, Percent for Art, and Arts in Education Organizational

8 Support which serve these purposes.

10 1900.2010 subp. 5 (B) Item (1) is necessary to clearly inform the public and potential applicants

and distinguish those groups and the nature of their activities that are intended to participate in

12 this program, from all other possible types of groups. Item (2) is necessary and reasonable to

require legal incorporation in the State of Minnesota for at least six months because the Board

14 intends to encourage Minnesota organization's participation in arts education residency activity

and to limit entities with a short term commitment to the State of Minnesota from the benefits of

16 State of Minnesota resources. Item (3) is necessary and reasonable because it is important to the

Board that the program offers professional and experienced residencies, rather than

18 demonstration of inexperienced residencies. These rules are reasonable because the Board

intends to encourage and enhance arts education residency experiences for K-12 students in the

20 State of Minnesota. Furthermore, it is reasonable to have a three-year record to demonstrate the

ability to successfully plan and implement a residency program. Item (4) is necessary to maintain

22 a professional wage scale that maintains parity with the potential applicant organization's other

employees. This is reasonable to avoid any competitiveness within an organization, or artificially
2 create a hierarchy of artistic activity which might be misunderstood by the public and possible
potential applicants. Item (5) is necessary and reasonable to inform the public and potential
4 applicants of a required set of elements and a single expectation about the activities to occur in a
classroom among the artist, students, and the classroom teacher. This is reasonable to avoid
6 misunderstanding and the substitution of another set of program elements. In addition, this is
reasonable to conform with the intended purpose of the Board's Arts in Education School
8 Support residency program. Item (6) is necessary to inform the public and potential applicants
that there are a number of activities, conditions, or uses of funds which are specific to this
10 residency program and are in addition to section 1900.1010 of these rules that are not eligible for
Board support. In addition, this item is necessary to distinguish appropriate budget expenses
12 from those which may be funded in other programs of the Board or expenses which are not
consistent with the goal of the program to promote arts residency activity for K-12 students. Item
14 (6)(a) is reasonable to be consistent with the other arts education residency programs which focus
on benefits to Minnesota students. It is necessary and reasonable to exclude a residency that takes
16 place outside the State of Minnesota because the Board's purpose is to serve the citizens of
Minnesota with its resources. Item (6)(b), that the residency exclude a major audience other than
18 elementary or secondary students and faculty, is necessary and reasonable because the purpose of
the program is specific to K-12 students and there are other programs offered by the Board that
20 serve the needs of other audiences. Item (6)(c), to exclude residencies also funded by the Board's
Arts in Education School Support program, is necessary and reasonable because there are limited
22 resources and it is the Board's intention to provide arts organization residency activity

experiences as an alternative for an individual school. For example, the arts organization's
2 planning of the residency and the development of materials may be a preferred option for some
K-12 educational environments. In addition, it is reasonable for the Board to not fund the same
4 residency from two of the Board's programs because of limited dollars. Item (6)(d), to exclude
funding residencies which are used exclusively for curriculum development is necessary and
6 reasonable because the purpose of the residency activity is to provide students with a direct
experience with artists and arts organizations. Curriculum development would not have the direct
8 impact on the K-12 students. Item (6)(e), to exclude residencies not coordinated by a paid,
professional administrator, is necessary and reasonable because the activities associated with
10 coordinating a successful residency require the planning skills of an experienced person who is
committed as an employee to the arts organization and has the authority to establish relationships
12 with residency sites. Item (6)(f), that residency activity is not funded by the board in an amount
more than one-half of the total residency cost nor where the applicant does not provide a dollar-
14 for-dollar cash match, is necessary and reasonable because the board intends to encourage
residency activities in existing arts organization by financially stimulating activities which might
16 otherwise be too costly or of a lower priority of interest to an arts organization. Item (6)(g), that
the residency budget not include more than 20% in administrative costs, is necessary and
18 reasonable because organizations are to be encouraged to adequately finance the artistic
endeavors associated with residency activities because the board has another program, Operating
20 Support, which is intended to assist arts organizations and allows for those funds to be used for
any operational expense. Item (6)(h), that the Board avoid funding any administrative costs for
22 organizations also receiving Operating Support is reasonable because it seeks to avoid funding

the same type of activity with its limited program resources. Item (6)(i), to exclude paying solely
2 for the production costs associated with the creation of an arts event, is necessary and reasonable
because these activities are not the intent of the School Support program and the Board seeks to
4 avoid funding this type of activity when other Board programs fund this type of activity. Item
(6)(h), to exclude a residency plan that does not involve multiple sites, is necessary and
6 reasonable because the Board intends that this program reach more than one site and a variety of
K-12 students.

8
1900.2010 subp. 6 (A) and 1900.2010 subp. 6 (B) These rules are necessary to inform the public
10 and potential applicants that the amount of a grant is dependent on the total cost of the residency
expenses. Furthermore, item (A) is necessary to inform the public and potential applicants that
12 the amount of a grant must be less than or equal to one-half of those costs. These rules are
reasonable to inform potential applicants in advance, so that additional sources of funding are
14 identified and secured. In addition, these rules are reasonable to promote the Board's policies that
arts in education grants are intended to supplement a commitment to arts education activities.
16 Finally, item (B) is necessary and reasonable to encourage schools to promote their desire to
bring arts to their communities.

18
1900.2110 subp. 1 (A) (B) These rules are necessary to clarify the meaning of the terms "juried"
20 and "paired artist" which are unique to these programs. These rules are necessary and reasonable
to avoid misunderstanding by the public, the Board, or potential applicants. These are reasonable
22 to clarify that the listings represent that a no-fee peer review process was used rather than any

other method of creating a listing, such as payment of a fee to guarantee inclusion on a listing. It is necessary and reasonable to clarify paired artist because the term was established by the board to allow for the circumstance when two artists work consistently together carry out a single artistic vision and creative product. It is reasonable for the pair to be considered a single entry in the juried process because the art work would not be possible if only one person was involved.

1900.2110 subp. 2 This rule is necessary for potential applicants to self-select and apply to only those programs of their interest. If potential applicants were not self-selective, an inappropriate and unreasonable administrative burden would rest with agency staff to determine a potential applicant's program area interest.

1900.2110 subp. 3 (A) This rule is necessary to inform the public and potential applicants clearly and to distinguish the criteria to be used by the Folk Artists Directory advisory panel for making its selection recommendations to the Board from other possible characteristics, such as social, political, or economic needs of the community. It is necessary to inform the public that the Folk Arts Directory panel relies on two review criteria, "quality" and "traditionality," which are equally important. This is reasonable to inform the public and potential applicants clearly that the primary criterion of quality is the consistent standard of all of the Board's programs as described in part 1900.0610. Traditionality is a reasonable element because it is used to distinguish the art form as a folk art from other possible classifications, such as craft or hobby.

1900.2110 subp. 3 (B) This rule is necessary to clearly inform the public and potential applicants
2 and to distinguish the criteria to be used by the Arts in Education Roster of Artists advisory panel
for making their selection recommendations to the Board from other possible characteristics,
4 such as social, political, or economic needs of the community. It is necessary to inform the public
that the Arts in Education Roster of Artists panel relies on two review criteria, "artistic quality,"
6 and "teaching and planning ability," which are equally important. These considerations are
reasonable to clearly inform the public and potential applicants that the primary criterion of
8 quality is the consistent standard of all of the Board's programs as described in part 1900.0610.
Item (1), (a) the artistic, (b) technical, and conceptual elements, are necessary and reasonable
10 because the Board intends to identify high caliber Minnesota artists because a primary purpose of
the roster artists is to assist schools in the selection of artists to participate in K-12 school
12 residency activities. Item (1) (c), the professional development, career commitment, and artistic
recognition elements are necessary and reasonable because the program is intended to provide
14 positive first-hand artistic role modeling for students, teachers and the public. The consideration
of item (2), "Teaching and planning ability" is necessary because the roster's primary purpose is
16 to be used by schools to identify artists to work in K-12 residency experiences or other K-12
activities and the success of these activities is dependent on the artist's skillful teaching and
18 planning. These elements are reasonable because they are consistent with effective educational
theory pertinent to the K-12 level and factors which are critical to successful residency
20 experiences. Item (2)(a) and (c), the consideration of the ability to express ideas clearly and to
relate art and ideas to students, is necessary and reasonable because the board intends to have
22 artists not only demonstrate their art, but to effectively communicate about their art form with

students. Item (2)(b), the consideration of past teaching experience, is necessary and reasonable
2 because it is important for a successful residency that the artist have skills to solve unexpected
classroom situations and meet the needs of the students. Item (c), to consider different age levels
4 and abilities, diversity and individuals with disabilities, is necessary because the artist is expected
to respond to a variety of educational needs respective of a range of cultural experiences that
6 impact students. Item (2)(d), the consideration of a residency plan that outlines a positive art
experience for participants and the consideration of planning ability to effectively organize and
8 coordinate a realistic residency, is necessary and reasonable because the Board intends that
residency experiences are successful and a plan, along with organizational skills are useful tools
10 to that end.

12 1900.2110 subp. 4 (A) This rule is necessary to conform to the Board's mission of serving the
citizens of Minnesota with its programs and services in those instances when the Folk Artists
14 Directory listing is a folk arts group, rather than an individual artist. It is reasonable to require
that a majority of the members of group be Minnesota residents rather than to totally exclude a
16 group that is determined to represent an important Minnesota folk arts tradition.

18 1900.2110 subp. 4 (B) Item (1) is necessary and reasonable to inform the public and potential
applicants that two individuals, rather than a single artist, who exclusively work together for a
20 single artistic vision and creative product are eligible because they meet the board's intent of the
program. Item (2) is necessary and reasonable to maintain the statewide scope of the Board's Arts
22 in Education programs. Item (3) is necessary and reasonable to maintain consistency with the

standards related to the residency model established in the Board's Arts in Education programs

2 which are described in part 1900.2010 subp. 5(A) Item (4) is necessary and reasonable because it
is the board's intent that non-grant programs are consistent with eligibility requirements of grant
4 programs which work with K-12 students.

6 1900.2110 sup. 5 (A) Item (1) is necessary to inform the public, potential applicants, and persons
who intend to use the Folk Artists Directory, that artists included in one printed edition of the
8 directory may be in a subsequent directory without additional review by a peer panel. This rule is
reasonable to distinguish the Folk Artists Directory juried listing from all others, specifically, the
10 other juried listing program of the Board, the Arts in Education Roster of Artists, which is year-
specific and based on the recommendations of a panel review process. This rule is necessary and
12 reasonable because artistic quality and traditionality are not attributes that, once attained, are
likely to be lost to an artist. Item (2) is necessary and reasonable to permit updating of the
14 directory for such reasons as changes in address, death, the acquisition of additional artistic
skills, or the identification of additional qualified folk artists in the State of Minnesota.

16

1900.2110 subp. 5 (B) Item (1) is necessary to clearly inform the public, potential applicants, and
18 persons who intend to use the Arts in Education Roster of Artists that the advisory panel process
includes the use of the mathematical tool of rating and ranking in order to make
20 recommendations to the Board that conform to the Board's mission of statewide geographic and
population distribution of its programs and services. It is reasonable and consistent with agency
22 program rules to have the advisory panel members collectively express their priority of one

artist over another in their ability to meet the established criteria, rather than rely on any other possible method. Item (2) is necessary to clearly inform the public, potential applicants, and persons who intend to use the roster that experienced and well qualified roster artists have the option of participating in a streamlined application and review process. This is reasonable because the Board is able to maintain all standards of the program while reducing administration for this category of potential applicant.

1900.2210 subp. 1(A) and 1900.2210 subp. 1 (B) The definitions "commission or commission award" and "purchase award" are necessary to clarify for the public and potential applicants the two options for acquiring artwork in this program. These rules are necessary to distinguish all other possible meanings and are reasonable because other interpretations of the word "commission" would be inaccurate such as the reference to the financial practice whereby a gallery takes a percentage of the sale of an artwork or the reference to a group of citizens meeting to study an issue.

1900.2210 subp. 1 (C) The definition "site or project" is required by Minn. Stat. 16B.35. In addition, it is necessary and reasonable to clarify the public's understanding of the role of the Minnesota State Commissioner of Administration as intended by the statute.

1900.2210 subp. 1 (D) The definition "site selection committee" is necessary to inform all interested parties clearly that recommendations on artwork are made by a specific group of

people. This is reasonable because it is necessary to distinguish this type of committee from
2 other committees of the Board, such as advisory panels.

4 1900.2210 subp. 1 (E) The definition "slide registry" is necessary to clearly identify and inform
the main source for artwork to be considered for acquisition. This is reasonable to distinguish
6 these sources from any others.

8 1900.2210 subp. 1 (F) The definition "work of art or artwork" is necessary and reasonable to
clearly identify the subset of all possibilities from those which are meaningful and critical to
10 meeting the established purpose of this program. It is necessary and reasonable to inform the
public that the intent of the board to exclude the use of funds for such items as reproductions,
12 mass produced articles and signage.

14 1900.2210 subp. 2 This rule is necessary and reasonable because it is required by Minn. Stat.
16B.35 and it is necessary and reasonable for persons to self select and apply to only those
16 programs of their interest. If individual were not self selective, an inappropriate and unreasonable
administrative burden would rest with agency staff to determine an individual's program interest.

18
1900.2210 subp. 3 This rule is necessary because it is required by Minn. Stat. 16B.35. In
20 addition, it is necessary and reasonable to clearly identify for the public, potential participating
artists, and public officials, the characteristics of the public art program in the State of
22 Minnesota. This is reasonable to avoid confusion with any other possible interpretation such as

public art program managed by other public bodies within the state including the University of
2 Minnesota, the City of St. Paul, and the City of Duluth.

4 1900.2210 subp. 4 This rule is necessary to clearly inform the public and any potential
participant about the process used to select artwork for a site. Furthermore, it is reasonable
6 because good public policy identifies contingency processes for unexpected circumstances. If
such circumstances arose, there would be an alternative process to comply with the statute.

8
1900.2210 subp. 5 (A) This rule is necessary to describe clearly the specific criteria used by the
10 site selection committee when it makes recommendations to the Board. These criteria are needed
for the committee members to make recommendations based on distinctions. It is necessary to
12 communicate clearly to the public and all potential program participants the ranking of the
criteria in order of importance that reflects the policy and priorities of the Board and the specific
14 conditions associated with each project. It is necessary and reasonable to communicate to the
public and program participants that the highest priority is placed on the artistic product for the
16 project because it not the intent of the Board to use public funds to place mediocre art in state
buildings. Items (1) and (2) are necessary and reasonable because they identify specific creative
18 elements which the committee considers when making its recommendation. It is reasonable
because the work sample is used to demonstrates the artist's abilities. Adequate experience is
20 necessary and reasonable because it shows the level of commitment to produce a consistent body
of work considering the physical complexities of a site and the public nature of the art. It is
22 necessary and reasonable to demonstrate evidence of working within a budget because funding

is a specific amount and because it is good public policy to properly manage public funds. It is
2 necessary and reasonable to consider aesthetic compatibility with the architecture because the
board intends to avoid artwork that clashes with the style of the building. It is necessary and
4 reasonable to consider the medium or artistic form because the program intends to enhance an
environment and not impede the public use of the space. Item (3) is necessary and reasonable due
6 to the requirement that the artwork has a life expectancy which is the same or longer than the
expected life span of the specific project. For example, some buildings have a 50-year life span
8 and others have a 100-year life span.

10 1900.2210 subp. 5(B) This rule is necessary to describe clearly the specific criteria used by the
site selection committee when it makes recommendations to the Board. These criteria are needed
12 for the committee members to make recommendations based on distinctions. It is necessary and
reasonable to communicate clearly to the public and all program participants the ranking of the
14 criteria in an order of importance which reflects the policy and priorities of the Board and the
goal and purpose of the Minnesota Percent for Art in Public Places program. It is necessary and
16 reasonable to communicate to the public and program participants that the second priority is
placed on the need for the program to acquire diverse types of artwork with a range of
18 viewpoints. Item (1) is reasonable in order to reflect this range of characteristics identified in
Minnesota's society because the board want to avoid the predominance of any one aesthetic
20 medium, style, theme, or subject from appearing in all works funded by this program. i.e.
painting, sculpture; abstract, realistic; nature, still-life; etc. Item (2) is necessary and reasonable
22 to consider artwork which recognizes and fosters diverse social, cultural, and historical values

because it is important to the board that a cross-section of Minnesota's citizens identify with the artwork. Item (3) is necessary and reasonable to consider artwork which is memorable, thought-provoking and enduring because the board intends to avoid art work that is merely decorative or trendy.

1900.2210 subp. 6 Items (A) and (B) are necessary to clearly inform the public and program participants that the Minnesota Percent for Art in Public Places program has the additional requirement for unique experience and expertise. In addition, the designation of slots is to guarantee representation and input from identified critical categories of stakeholder viewpoints.

This rule is reasonable and critical to ensure the successful evaluation of artwork whose creation is intended solely for the Minnesota general public and is located in Minnesota public spaces.

Item (C) is necessary to clearly inform the public and program participants of the requirement that a simple majority of the committee members must be Minnesota residents. This is necessary to inform the public and program participants that it is appropriate for non-Minnesotans to participate on a committee when the project has a regional or national value. These rules are reasonable because the State of Minnesota views itself as a regional and national leader in all aspects of its public governance and programs.

1900.2210 subp. 7 This rule is necessary to clearly inform the public and program participants that non-Minnesota artists may be considered for projects. Since all other grant programs of the Board are limited to Minnesota residents this rule is necessary to avoid misunderstanding which might result in artists eliminating themselves, which is not the intent of the Board. These rules

are reasonable because the State of Minnesota views itself as a regional and national leader in all aspects of its public governance and programs. In addition, this rule is reasonable to conform to an established practice of reciprocity among the other 25 state public art programs.

1900.2210 subp. 8 This rule is necessary and reasonable so that available dollars can be distributed to a wider group of qualified artists without setting a waiting period which would present a hardship. In addition, this rule is necessary to foster diverse types of artwork and viewpoints that are needed for a successful public art program. This is reasonable based on analysis of other states' public art programs which found that the artwork was not always broadly representing the state's artists and artistic traditions.

1900.2210 subp. 9 This rule is necessary to clearly inform the public and program participants of the processes which are used to identify artists to participate in the program and to contract with the selected artist(s). This is necessary to distinguish appropriate methods from all other possibilities. This is reasonable so that individual artists know what to expect and committee members know what options are available to them. In addition, it is reasonable for all participants to know the required administrative procedures.

1900.2210 subp. 10 This rule is necessary and reasonable to clearly inform the public and program participants that only projects and use of funds which comply with Minn. Stat. 16B.35 are to be considered and to distinguish these projects from all other possibilities.

1900.2310 These rules are necessary and reasonable in order to define each of these terms to
2 avoid misunderstanding for the public, the Board and Regional Arts Councils. The terms related
to financial matters are included to ensure common understanding and interpretation of words
4 which may be used in other contexts or which may be unfamiliar to the arts community or the
general public. The series of terms related to arts administration are necessary to ensure common
6 understanding and avoid misinterpretation of those words used in other contexts. The series of
terms related to the Board and Regional Arts Councils are unique to the arts, Regional Arts
8 Councils or have specific meaning in these rules.

10 1900.2310 subp. 2 The definition of "allocation formula" is necessary for three reasons: 1) to
clarify that it is the Regional Arts Council Forum's responsibility to devise such a funding
12 allocation formula, 2) to distinguish the term as one relating to the overall distribution of the
legislative arts allocation to the eleven Regional Arts Councils from any other term that might be
14 used in other documents pertaining to how an individual Regional Arts Council allocates its
resources, and 3) to avoid any confusion with any other use of the term "allocation" or "formula"
16 which may exist in the arts community of Minnesota or the general public.

18 1900.2310 subp. 3 The term "arts advisory council" is specific to this document and the arts
granting process of regional development commissions which are the designated Regional Arts
20 Councils in some of Minnesota's eleven regions. It is necessary to define this term to distinguish
it from other similar terminology which has meaning to the Regional Arts Councils and the arts

community in general, such as advisory panel, advisory committee or arts council and to avoid
2 confusion and misunderstanding.

4 1900.2310 subp. 4 The term "arts services" is specific to this document and its definition is
necessary to differentiate it and avoid confusion with any other use of the term "arts services"
6 which may exist in the arts community of Minnesota, or the general public. It is necessary to
include this term in the rules because it helps to define the breadth of legitimate Regional Arts
8 Council activity and differentiate the grant making portion of a Regional Arts Council's
programming from other activities it may undertake to assist in the arts development of the
10 region. It is reasonable that a Regional Arts Council provide arts services to its constituents
because such services help to ensure that the legislature's allocation is accessible to all interested
12 constituents and because such services can be invaluable to the growth, development and
stability of artists, arts activities and arts organizations in communities throughout Minnesota
14 and frequently the Regional Arts Council is the only entity in a region with the capability of
providing such services to the arts community and the general public.

16
1900.2310 subp. 5 The term "biennial plan" is specific to this document and its definition is
18 necessary to clarify for the arts community of Minnesota and the general public, the purpose and
components of the document. Its definition is also necessary to distinguish this document from
20 other written material prepared by a Regional Arts Council such as application materials, grant
guidelines, brochures, and policy statements which might include information intended to inform
22 the reader of one or more of the Regional Arts Council's plans, programs or policies. The

definition is necessary and reasonable because Minn. Stat. Ch. 129.D.04, subp. 2 (d) requires a
2 biennial plan and the definition explains what a biennial plan contains.

4 1900.2310 subp. 6 The term "designated Regional Arts Council" is specific to this document and
its definition is necessary to differentiate that organization in each region which is entitled by
6 these rules to receive and administer legislative funds through a Regional Arts Council block
allocation from any other organization that uses the term "Regional Arts Council" as part of its
8 self-definition, and to avoid confusion on the part of the Minnesota arts community and the
general public. This differentiation is reasonable to determine whether or not a Regional Arts
10 Council is eligible to receive a legislative arts allocation.

12 1900.2310 subp. 7 The term "direct programming" is specific to this document and its definition
is necessary to clarify and differentiate arts activities initiated by a Regional Arts Council on
14 behalf of its constituents from other programs and activities in which a Regional Arts Council
might engage, as well as to differentiate it from the activities or programs initiated by the
16 Regional Arts Council's constituents or the arts community's programs in general. It is reasonable
to include production, sponsorship and presenting in the definition so that the public has a greater
18 understanding of the scope of programming that might be initiated by a Regional Arts Council. It
is reasonable that a Regional Arts Council might initiate programs in its region if there is a need
20 for such programs and the Regional Arts Council is in the best position to provide it.

1900.2310 subp. 8 The definition "fiscal agent" is necessary to clarify the authority and responsibilities of the board as fiscal agent for the Regional Arts Councils. In addition it is necessary to clarify the authority and responsibilities in relationship to a Regional Arts Council and the organization or entity carrying out a grant activity. A definition is necessary to distinguish the use of the term "fiscal agent" as it varies according to context, and to avoid confusion and misunderstanding between the Regional Arts Councils, the Board, the Minnesota arts community and the general public.

1900.2310 subp. 9 The term "legislative arts allocation" is specific to this document and the Regional Arts Councils. Its definition is necessary to avoid confusion and misunderstanding on the part of the board, the Regional Arts Councils, the Minnesota arts community, and the general public. It is reasonable to acknowledge the legislature's intent that funds be allocated directly to Regional Arts Council and this definition helps to distinguish the Regional Arts Councils' receipt of legislative funds which are funneled to them through the Board as fiscal agent from grants which the board makes with other legislative funds.

1900.2310 subp. 10 The term "local/regional arts development" is specific to this document and the Regional Arts Councils. Its definition is necessary to clarify for the Minnesota arts community and the general public how the term is used and to differentiate it from other similar terms. It is reasonable to include this definition because it is integral to the mission of each of the Regional Arts Councils.

1900.2310 subp. 11 The term "obligated funds" is a term that is specific to this document and it
2 is necessary to clarify it in order to avoid confusion and misunderstanding between a Regional
Arts Council and the Board and to distinguish such moneys from other Regional Arts Council
4 funds that are not a part of a Regional Arts Council's block allocation. It is reasonable to define
obligated funds because they part of the legislature's arts allocation and the public deserves the
6 highest level of accountability for these funds.

8 1900.2310 subp. 12 The term "preliminary biennial plan" is a critical part of the biennial
planning and designation process and it is necessary to define in order to differentiate it from the
10 term "biennial plan" to avoid confusion and misunderstanding between a Regional Arts Council
and the board. Since Minn. Stat. Ch. 129D.04, subp. 2d prohibits the Board from modifying a
12 Regional Arts Council's biennial plan it is reasonable to have a preliminary biennial plan which
is reviewed by the Regional Arts Advisory Committee as part of the biennial planning process
14 because it enables a Regional Arts Council to get feedback on its plan from the arts community
and its peers. Although each Regional Arts Council is autonomous, there is general agreement
16 among the councils that individual councils should meet industry standards and the feedback
from the Regional Arts Advisory Committee provides the council this opportunity.

18

1900.2310 subp. 13 The definition "regional arts council block allocation" is necessary to clarify
20 part of a specific process for distributing the legislature's arts appropriation and to avoid
misunderstanding on the part of the Regional Arts Councils, the Board and the Minnesota arts
22 community.

2 1900.2310 subp. 14 The term "Regional Arts Council Forum" and its abbreviated term "RAC
Forum" are specific to this document and the Regional Arts Councils. Its definition is necessary
4 to clarify the purpose of this association, its relationship to the Regional Arts Council system,
and its roles and responsibilities to the Minnesota arts community and the general public.

6

1900.2310 subp. 15 The term "Regional Arts Council/Minnesota State Arts Board Fiscal Agent
8 Agreement" refers to a document that is a critical part of the relationship between the Regional
Arts Councils and the Board. It is necessary to clarify the term to avoid confusion and
10 misunderstanding between one or more of the Regional Arts Councils and the Board.

12 1900.2310 subp. 16 The term "Regional Arts Council Service Boundaries" is specific to this
document and the Regional Arts Councils. The definition is necessary to provide a history of
14 how the geographic boundaries for Regional Arts Councils were established, to avoid confusion
or misunderstanding on the part of the Board, Regional Arts Councils and the Minnesota arts
16 community about the specific geographic areas which each Regional Arts Council is mandated to
serve. The exception that 6E, 6W, and 8 are combined into one region is necessary reasonable
18 because the arts council serving this combination of regions preexisted the formation of the
Regional Arts Council system and any change to this would not be beneficial to the arts
20 communities of these regions.

1900.2310 subp. 17 The term "regional development commission" is necessary to clarify the relationship between the term as used in this document and as it is defined in Minnesota statutes and to avoid confusion.

1900.2410 This rule is necessary to clarify the processes and procedures which must be used to change the boundaries Regional Arts Councils or the number of Regional Arts Councils. The boundaries of the Regional Arts Councils were established in the 1970's and there may be an occasion when one or more regions might find it prudent to merge for economic or service delivery reasons or for one region to separate into two regions because its population, size or other factors make it difficult to manage, or to make boundary changes for unforeseen reasons.

Changing the boundaries or the number of Regional Arts Councils would have an impact on the regional and statewide arts community, on other Regional Arts Councils, and on the Board. It is necessary that a process be in place to guide a Regional Arts Council that is contemplating boundary changes and to avoid misunderstandings or confusion. The process defined in the rule is reasonable because it shares the responsibility for such a critical decision between the Board and the Regional Arts Councils, it provides for input from the general public and all interested parties and it requires that there is support from both the Board and Regional Arts Councils for such a change.

1900.2510 This rule is necessary to clarify the different governance structures which an organization may have to serve as a Regional Arts Council and to distinguish those structures from all other possibilities. This rule is also necessary because it defines specific requirements

that a regional development commission must follow in its grant making to ensure that the region's arts community has direct involvement in arts programming and grant decision making.

This rule is necessary because it provides guidance to groups that might wish to consider applying for designation as the Regional Arts Council and it provides a standard for the board to apply when assessing the governance eligibility issues. This rule is reasonable because a purpose of legislative arts funding is to provide quality arts programs and services and the rule ensures that decision making about arts funding must include the input of people who have expertise in the arts, it embraces the two structures which govern all current Regional Arts Councils (501(c)3 and regional development commission) and provides for the use of a fiscal agent during a time of a transition of a Regional Arts Council's governance structure or during the time of transition of one designated Regional Arts Council to another, and it ensures that all Regional Arts Councils' governance structures conform to generally accepted standards for arts grant-making agencies.

1900.2610 This rule is necessary so that the Board and the Regional Arts Councils have the same clear expectations that a submitted document referred to as the biennial plan is necessary for receiving a Regional Arts Council block allocation and that the biennial plan is the Regional Arts Council's publicly documented basis for receipt of funds through a Regional Arts Council block allocation. This rule clarifies the different documents which must be submitted and the process which must be completed each year of the biennium for a Regional Arts Council to receive its block allocation, and it ensures that other factors will not play into the Board's decision to release the block allocation and that legislative funding will be distributed in a timely manner. Subp. 2 is reasonable because it provides the Board with all necessary documentation to assess whether

1 a Regional Arts Council has adhered to its approved biennial plan and whether the council's
2 financial and administrative management meets defined standards. It is also reasonable because it
3 does not overburden the Regional Arts Councils by requiring documents or information that is
4 not germane to assessing adherence to biennial plan and financial accountability.

6 1900.2710 The biennial plan is referenced throughout parts 1900.2310 - 1900.4110 and it is a
7 Regional Arts Council's most critical planning, public information, and agency accountability
8 document. This rule is necessary because it clarifies and standardizes the steps that each Regional
9 Arts Council must go through for the development and submission of a biennial plan. This rule
10 avoids any misunderstanding or confusion on the part of the Board, Regional Arts Councils, the
11 Minnesota arts community, arts organizations seeking designation as a Regional Arts Council,
12 and the general public. This rule is reasonable because it defines a process and documents which
13 have been standard operating procedure by the Regional Arts Councils for over 10 years, has a
14 proven record of success and satisfaction by the Regional Arts Councils, board and the
15 Minnesota arts community, provides for a required level of input from each region's arts
16 community, and provides for a level of accountability for the Regional Arts Councils
17 commensurate with the public trust that has been given them through the designation process.

18
19 1900.2710 subp. 1. This rule is necessary and reasonable because it clarifies what is needed in a
20 biennial plan.

21 1900.2710 subp. 2 This rule is necessary because it provides the Minnesota arts community an
22 opportunity to understand the philosophy of the group that serves as their designated arts

council and helps to provide a context for understanding all of the plan's components. This rule is
2 reasonable because it is good public policy that an organization that is distributing public funds
provide its constituents and the general public with information about its overall philosophy and
4 its basis for planning and decision making.

6 1900.2710 subp. 3 This rule is necessary to ensure an open and public process, to ensure that the
needs of constituents, the arts public and the general public will be heard, and to define for
8 Regional Arts Councils a range of assessment instruments and methodology which may be used
in gathering and assessing community arts needs, and the required frequency for such
10 assessments. It is reasonable because it clarifies what has been standard operating procedure for
Regional Arts Councils for more than ten years, because it is accountable to the Minnesota arts
12 community and the general public, because it provides a range of assessment instruments which
a Regional Arts Council may use depending on its particular financial, staff, or programmatic
14 resources or on the specific needs or issues of its region.

16 1900.2710 subp. 4 This rule is necessary because it requires that a region's biennial plan will
clarify the planning process it used and the participants who were involved in the planning, thus
18 assuring the region's arts community that a fair and open process was used, that a diversity of
voices and opinions were sought and that the plan is reflective of the community input gathered
20 and the overall process that was used. This rule is necessary because it ensures that the public is
fully apprised of a Regional Arts Council's biennial process and that the public can make an
22 informed evaluation of the plan. This rule is reasonable because it clarifies what has been

standard operating procedure for Regional Arts Councils for more than ten years, because it is highly accountable to Minnesota's arts community and the general public and because it does not require an excessive or unreasonable amount of paperwork for Regional Arts Councils.

1900.2710 subp. 5 This rule is necessary because it clarifies for the Minnesota arts community what programs and services it can expect from a Regional Arts Council during the biennium and it demonstrates to the arts community that a reasonable and well thought out plan is in place for using the legislature's arts allocation. It is also necessary because it prohibits the Regional Arts Council from changing its programs or goals during a two year period which provides stability for the arts community and the general public, and prevents willful or capricious behavior on the part of a Regional Arts Council. This rule is reasonable because it defines a process which has been standard operating procedure by the Regional Arts Councils for over 10 years, has a proven record of success and satisfaction by the Regional Arts Councils, Board and the Minnesota arts community, and provides for full disclosure of the agencies plan for a two year period insuring a level of accountability for a Regional Arts Council commensurate with the public trust that has been given them through the designation process.

1900.2710 subp. 6 This rule is necessary because it clarifies for the Minnesota arts community what programs, grants and services a Regional Arts Council will offer during the biennium, what criteria and eligibility requirements will be applied in awarding grants, and what process will be used in reviewing, awarding and paying grants. This rule is necessary because it requires that the plan demonstrate to the arts community that a reasonable and well thought out process is in

place for distributing Regional Arts Council block allocation funds. It is also necessary because it
2 prohibits the Regional Arts Council from changing its programs or goals during a two year
period thus providing a measure of stability for the arts community and the general public, and it
4 prevents willful or capricious behavior on the part of a Regional Arts Council. This rule is
reasonable because it defines a process which has been standard operating procedure by the
6 Regional Arts Councils for over ten years, has a proven record of success and satisfaction by the
Regional Arts Councils, Board and the Minnesota arts community, and provides for full
8 disclosure of the agencies policies for a two year period insuring a level of accountability for a
Regional Arts Council commensurate with the public trust that has been given them through the
10 designation process.

12 1900.2710 subp. 7 This rule is necessary because it ensures that information important and
helpful for the arts community and general public in assessing the Regional Arts Council's board,
14 policies and governance in relation to its plan will be included in the planning document. It is
necessary that the organization have an identified mechanism that ensures that it has qualified
16 board members and advisory members and that those members are representative of the diversity
and geography of the region. The plan components outlined in this rule are necessary to ensure
18 an open, informed and effective public process. This rule is reasonable because it defines a
process which has been standard operating procedure by the Regional Arts Councils for over ten
20 years, has a proven record of success and satisfaction by the Regional Arts Councils, Board and
the Minnesota arts community, it provides for the inclusion of documents and the full disclosure
22 of the agency policies regarding board and governance insuring a level of accountability for a

Regional Arts Council commensurate with the public trust that has been given them through the
2 designation process.

4 1900.2710 subp. 8 (A) This rule is necessary because it ensures that in cases where the Regional
Arts Council is part of an organization whose primary function is not specific to the arts,
6 decisions about arts programming and funding using Regional Arts Council block allocation
funds will be made by individuals who have expertise in the arts and are qualified to evaluate the
8 merit, quality and need for arts activities. It ensures that legislative funds will be directed to
quality arts programming and it prevents capricious or willful decisions from being made. It is
10 reasonable because it provides for the Board and regional arts community's assurance through a
public document that the legislature's intent for use of its money will be followed and it ensures a
12 level of accountability for the Regional Arts Council and the entire Regional Arts Council
system.

14
1900.2710 subp. 8 (B) This rule is necessary because it clarifies the role and powers of a group
16 serving as the fiscal agent for a Regional Arts Council whose governance paperwork with the
IRS is in process. It ensures that the fiscal agent will not interfere with the Regional Arts
18 Council's distribution of legislative funds and it prevents the willful and capricious use of public
funds. This rule is reasonable because it provides for the Regional Arts Council, the Board and
20 the regional arts communities' assurance through a public document that the legislature's intent
for the use of public money will be followed and it ensures a level of accountability for the
22 Regional Arts Council and the entire Regional Arts Council system.

2 1900.2710 subp. 9 This rule is necessary because it provides the Board, the regional arts
community and the public at large a means of assessing the Regional Arts Council's financial
4 planning process and it gives the Board, the regional arts community and the public at large an
opportunity to review the agency's plan for and subsequent report of the use of its funds, thus
6 insuring the council's financial accountability. This rule is reasonable because it defines a process
which has been standard operating procedure by the Regional Arts Councils for over 10 years,
8 has a proven record of success and satisfaction by the Regional Arts Councils, Board and the
Minnesota arts community, provides for the inclusion of documents and the full disclosure of the
10 agency's financial and programmatic planning and reporting thus insuring a level of
accountability for a Regional Arts Council commensurate with the public trust that has been
12 given them through the designation process.

14 1900.2710 subp. 10 This rule is necessary because it ensures that the Regional Arts Council's
biennial planning document will include information which informs the Board, the regional arts
16 community and the general public of the policies and practices which the council uses in
evaluating, awarding and monitoring its grants. To ensure an open and public process, it is
18 critical that the public know how grants are evaluated and awarded, how committees and/or
panels are nominated and appointed and how an agency monitors and evaluates grantee's use of
20 funds to ensure that public funds are appropriately spent. It is necessary that Regional Arts
Councils include this information in their biennial plans to avoid confusion and
22 misunderstanding and to avoid willful or capricious behavior regarding use of public funds.

2 This rule is reasonable because it defines a process which has been standard operating procedure
by the Regional Arts Councils for over ten years, has a proven record of success and satisfaction
4 by the Regional Arts Councils, Board and the Minnesota arts community, provides for the
inclusion of documents and the full disclosure of the agency's grant making and monitoring
6 process, thus insuring a level of accountability for a Regional Arts Council commensurate with
the public trust that has been given them through the designation process.

8 1900.2710 subp. 11 This rule is necessary because it ensures that the Regional Arts Councils will
provide at least one opportunity for the regional arts community and the general public to review
10 and have input into each region's biennial plan prior to the plan's submission and review by the
Regional Arts Advisory Committee. This rule is necessary because it ensures that a Regional
12 Arts Council will engage in an open and public dialogue as part of its biennial planning process.

This rule is reasonable because it defines a process which has been standard operating procedure
14 by the Regional Arts Councils for over ten years, has a proven record of success and satisfaction
by the Regional Arts Councils, Board and the Minnesota arts community, provides for an
16 accountable process for Regional Arts Councils to engage in an open and public process and
ensures a level of accountability for a Regional Arts Council commensurate with the public trust
18 that has been given them through the designation process.

20 1900.2810 and 1900.2910 The rules describing procedures for review of the biennial plans are
necessary to inform the public and the participating parties that the biennial plan review process
22 is an accountable public and peer review process as well as a tool used by the Board to gather

information when considering Regional Arts Council designation as part of the process described
2 in Minn. Stat. 129D.01 subp. (e). Although the Board may not modify a biennial plan submitted
by a Regional Arts Council, the process used by the Regional Advisory Committee to comment
4 on a preliminary biennial plan and the Board to then reject or accept a biennial plan, allows the
practical alternative of modification, in what would otherwise be a limited accept or reject only
6 option. This rule is reasonable to allow for a meaningful biennial plan review process which was
jointly developed by the Regional Arts Councils and the Board.

8

1900.2810 This rule is necessary to clarify the processes and procedures that the Board will use
10 in evaluating a Regional Arts Council's biennial plan and to ensure an open and effective public
process, to avoid confusion and misunderstanding and to ensure that decisions are not made, or
12 do not have the appearance of being made, in an arbitrary or capricious manner.

14 1900.2810 subp. 1 This rule is necessary to ensure an open, fair and effective process and to
avoid confusion and misunderstanding. It is reasonable because it ensures that a Regional Arts
16 Council's biennial plan will be reviewed by a pool of individuals who can offer expert advice in
the areas of artistic excellence and regional arts development, and who can represent the
18 viewpoints of the Regional Arts Councils, the Board, and the statewide arts community. This rule
is further reasonable because it ensures an accountable process which safeguards the interests and
20 perspectives of the Regional Arts Council system and the Board as fiscal agent through the use of
a review body which consists of representatives from each group as well as representatives from
22 the general Minnesota arts community. It is reasonable because it provides a measure of

protection for the decisions made by the regional arts community and reflected in the plan, while
2 at the same time it ensures a level of accountability commensurate with the public trust that has
been given Regional Arts Councils through the designation process.

4
1900.2810 subp. 2 This rule is necessary because ensures that Regional Arts Councils are
6 informed of the committee's plans and are given advance opportunity to make plans to attend or
to speak before the committee, thus insuring an open, fair and public process. This rule is also
8 necessary because it clarifies under what circumstances a Regional Arts Council may participate
in the Regional Arts Advisory Committee's review of the plan. This rule is reasonable because it
10 provides an acceptable preparation period for a Regional Arts Council that wishes to attend the
committee's review and it provides an open and fair process for Regional Arts Councils by
12 including an opportunity for a Regional Arts Council to present information in person during the
review and to answer questions on the council's behalf.

14
1900.2810 subp. 3 This rule is necessary because it clarifies the process the committee must use
16 to make a recommendation to the board including a statement which explains the basis for the
committee's recommendation. This rule is reasonable because it provides a fair and open process
18 for the Regional Arts Councils and the general public, it avoids confusion and misunderstanding,
and it avoids capricious and arbitrary decision making.

20
1900.2810 subp. 4 This rule is necessary because it clarifies what decision making body has final
22 authority for approving, rejecting or deferring a Regional Arts Council's biennial plan; it

clarifies the circumstances under which a plan may be rejected; and it clarifies that the review

2 may not contain an evaluation of the actual performance, operations, programming or track

record of a Regional Arts Council or an evaluation of its compliance with the previous year's

4 biennial plan or fiscal agent agreement. This rule is necessary because it avoids confusion,

misunderstanding, capriciousness and arbitrary decision making; it ensures that a Regional Arts

6 Council has an opportunity to hear the concerns expressed by the regional arts advisory

committee and the board; and it ensures that a Regional Arts Council is allowed to provide

8 clarifying information or justification which might mollify the committee's or Board's concerns

about the plan, or to make adjustments or modifications to the plan; and it provides a time frame

10 in which the Board must inform the Regional Arts Council of its decision, thus avoiding

confusion and misunderstanding. This rule is reasonable because it provides an accountable

12 public process which has clear and consistent review standards and which provides information

about board decisions to the Regional Arts Council in a timely manner.

14 1900.2810 subp. 5 This rule is necessary because it provides a clear time frame in which a

16 Regional Arts Council must revise or clarify its plan and resubmit it to the board and it ensures

that the programming and grant funds which are intended to serve the region's arts community

18 will not be unnecessarily delayed and that the arts council's day to day operations will not be

unnecessarily impeded while the biennial planning process is completed. It is also necessary

20 because it clarifies the process that the committee will use to evaluate the resubmitted plan. This

rule is reasonable because it ensures that the Board and regional arts advisory committee will

22 follow the same standards and processes in reviewing a resubmitted plan as it does with all

other biennial plans and it includes clear time frames and deadlines which were agreed to by
2 representatives from all Regional Arts Councils and the Board, thus providing a measure of
accountability and protection for the regional arts community and the general public.

4

1900.2810 subp. 6 and subp. 7 This rule is necessary because it provides a means and time frame
6 for the Board to determine that it will cease discussions with a Regional Arts Council that has
been unable to provide an acceptable biennial plan and it enables the Board to begin the process
8 of designating a different arts council for the region. This rule is also necessary because it
ensures that legislative funding which was intended for distribution in the region and used for the
10 arts and public good can be distributed to the region in a timely and responsible manner, and it
protects the regional arts community from an unnecessarily prolonged public process. It is
12 reasonable because it ensures that the funds which were mandated by the legislature to be used in
a particular time period for the arts and public good will not be unreasonably withheld from the
14 arts community. It is further reasonable because it puts the interests of the arts community and
general public before the interests of a particular organization or Regional Arts Council.

16

1900.2910 This rule is necessary because circumstances and needs in a region may change over
18 the biennium and the Regional Arts Councils must be allowed the flexibility to adjust their plans
to reflect those needs and effectively serve constituents. This rule is necessary because it clarifies
20 the process and timetable that must be followed if a Regional Arts Council wishes to make
changes to its biennial plan and it clarifies the specific responsibilities of the Regional Arts
22 Council and the Board in this process. It is reasonable because it provides a clear and simple

process which the board must follow if the changes are clearly in keeping with the original

2 biennial plan, and it also provides for a more thorough review, if the changes are viewed to be
substantive, using methods that are consistent with the process used to evaluate the initial
4 biennial plan so that no undue paperwork or time will be required of the Regional Arts Council
requesting such changes.

6

1900.3010 This rule is necessary because it clarifies the process for releasing legislative funds to

8 Regional Arts Councils under varying circumstances to ensure that the board follows a clear and
accountable process for releasing legislative funds, and that the Regional Arts Councils may
10 continue to function without normal operations being impeded, insuring that the needs of the
regional arts community will be met. It is further necessary because it avoids confusion,
12 misunderstanding and capricious or arbitrary behavior. This rule is reasonable because it enables
the legislative appropriation to reach the intended public, the regional arts community and
14 general public in a reasonable amount of time and in a manner that requires a minimal amount of
paperwork for the Board and Regional Arts Councils, while at the same time insuring that an
16 appropriate and accountable process is followed for the release of public funds.

18 1900.3010 subp. 1 This rule is necessary because it clarifies the process and time frame the board
must follow to ensure that a Regional Arts Council whose plan has been approved receives its
20 Regional Arts Council block allocation in a timely manner and it avoids confusion and
misunderstanding. The rule is reasonable because it provides an appropriate amount of time for
22 the Board to complete its paperwork and to release the block allocation and it follows a

process and time frame that has been standard operating procedure for the Board and Regional Arts Councils for many years and has worked to the satisfaction of all parties.

1900.3010 subp. 2 This rule is necessary because it clarifies the process that the Board must follow to ensure that legislative funds are distributed to a Regional Arts Council that is in the process of having its biennial plan approved, it ensures that the normal operations of the Regional Arts Council in serving its arts community is not impeded, and it avoids confusion, misunderstanding and interrupted service to the regional arts community and general public. This rule is reasonable because it provides the Board with a means of distributing a portion of legislative funds to ensure that a council's work is not impeded, while the Board retains the balance of the funds until the council has met all conditions for receipt of funds as defined in these rules, thus insuring a fair and accountable process for the Regional Arts Councils, the regional arts community and the general public.

1900.3010 subp. 3. (A) This rule is necessary because it clarifies how a Regional Arts Council's block allocation must be distributed if the Board and Regional Arts Councils are in the process of negotiating a fiscal agent agreement and it ensures that the Minnesota arts community will continue to be served and the Regional Arts Councils' operations continued while the negotiation process proceeds. It is further necessary because it avoids confusion, misunderstanding and capricious or arbitrary behavior. The rule is reasonable because it provides the Regional Arts Councils with advance notification that fiscal agent agreements may not be completed, thus providing them with time to plan for the continuation of operations. It is further reasonable

because it ensures that the general public will continue to be served by Regional Arts Councils
2 while the agreement process is completed.

4 1900.3010 subp. 3 (B) This rule is necessary because it clarifies how a region without a
designated Regional Arts Council will be served. It is further necessary because it clarifies the
6 time period from the beginning of a fiscal year that a region may be without a designated
Regional Arts Council and it avoids confusion and misunderstanding. The rule is reasonable
8 because it provides a clear and appropriate time period for the Board to designate a new Regional
Arts Council, it ensures that the Regional Arts Councils will have an opportunity for input into
10 the interim governance of an undesignated region through the Regional Arts Advisory
Committee, and it ensures that the legislature's funds will be distributed in a timely manner to the
12 Regional Arts Council system and the Minnesota arts community.

14 1900.3110 This rule is necessary because it clarifies that the Board has the sole responsibility and
authority to designate Regional Arts Councils and under what circumstances a Regional Arts
16 Council's designation may be removed. This rule is necessary to avoid misunderstanding when
there is a question about the designation of a Regional Arts Council.

18
1900.3110 subp. 1 This rule is necessary because it clearly establishes that there will be only one
20 designated Regional Arts Council at a time in each of the state's eleven regions and it recognizes
the Regional Arts Councils that were serving as the designated Regional Arts Councils at the
22 time these rules were adopted and it clarifies that their designation continues with the

approval of the new rules. The rule is reasonable because it is appropriate that there only be one
2 council per region and because it enables the existing Regional Arts Councils to continue in their
designated role until such time as there is cause for their designation to be removed.

4
1900.3110 subp. 2 This rule is necessary because it clarifies for the Board, the Regional Arts
6 Councils and the general public the circumstances under which a Regional Arts Council's
designation may be discontinued and it avoids confusion and misunderstanding and capricious or
8 arbitrary changes in designation. It is reasonable because it ensures that the needs of the
Minnesota arts community will be served by providing a reasonable and orderly process for
10 Regional Arts Councils to begin and cease operation, whether such cessation is by the council's
choice, through the Board's intervention because of the council's lack of compliance with rules or
12 the terms of the fiscal agent agreement, or through the actions of individuals and the arts public
in a region that believes that the needs of its regional arts community are not being met
14 effectively.

16 1900.3210 This rule is necessary because it provides an opportunity and a clear procedure for an
organization wanting to receive Regional Arts Council designation through challenge of an
18 existing Regional Arts Council. It is further necessary because it clarifies the Board's role in the
process, it clarifies the time frames which must be adhered to by all parties, and it clarifies the
20 decision making process which the regional arts advisory committee and the Board must follow.
This rule is also necessary because it ensures that the public has active involvement in the
22 process of determining the arts needs of its region, and to protect the existing designated

Regional Arts Council from insincere challenges, thus insuring public accountability and

2 participation in the process. This rule is reasonable because it allows for the arts community and
general public to have recourse if they believe that their Regional Arts Council is ineffective
4 while, at the same time, it ensures that the Board will not undertake such challenges lightly, that
the ongoing activities of the Regional Arts Council will not be undermined during such a
6 process, and that the arts needs of the region will continue to be met during a challenge. It is
further reasonable because it provides realistic time frames for all parties to follow and ensures
8 an open and public process.

10 1900.3210 subp. 1 This rule is necessary because it clarifies the time period during which an
organization must declare its intent to challenge a Regional Arts Council for designation. This
12 rule is reasonable because it provides an opportunity each biennium for a Regional Arts
Council's designation to be challenged by one or more organizations and eliminates frequent and
14 unexpected interruptions in a Regional Arts Council's normal operation to answer challenges at
other times during the biennium. It is further necessary because it minimizes the number of
16 capricious or arbitrary challenges that might be filed against one or more Regional Arts Councils.
This rule is reasonable because it provides clear direction about the time frame that is appropriate
18 for challenging a Regional Arts Council's designation and it enables all parties to engage in
appropriate planning.

20

1900.3210 subp. 2 This rule is necessary because it clarifies and provides a time frame that the
22 Board must use to determine the appropriateness of a designation challenge and protects the

Regional Arts Council from insincere challenges. This rule is reasonable because it provides a
2 means for the Board to assess appropriateness of challenges and to dismiss those that are
insincere, thus reducing the Board and Regional Arts Council's time and paperwork as well as
4 the public's involvement which would be required if the board were to follow every challenge
through the entire process.

6
1900.3210 subp. 3 This rule is necessary because it defines a different biennial plan submission
8 date for Regional Arts Councils whose designation is being challenged and ensures that there
will be sufficient time between the plan submission date and the beginning of the next biennium
10 for the Board to evaluate all competing plans, engage in public discourse and make an informed
decision about the designation award. It is reasonable because it ensures public accountability
12 and participation in the process.

14 1900.3210 subp. 4 This rule is necessary because it clarifies all of the steps in the biennial
planning process which are required for an organization competing for Regional Arts Council
16 designation and avoids confusion and misunderstanding. It is reasonable because it requires that
the process for the existing Regional Arts Council and the competing organization are identical
18 and ensures a fair and publicly accountable process.

20 1900.3210 subp. 5 This rule is necessary because it clarifies the process that the Board and the
Regional Arts Advisory Committee must use in evaluating competing biennial plans and ensures
22 that individuals with expertise in the arts and the needs of Regional Arts Councils will be a

part of the advisory committee. It is also necessary because it gives the Board the authority to
2 include the input of the region's arts community and general public in its information gathering
and decision making process. This rule is further necessary to clarify for the Regional Arts
4 Councils, any organization seeking designation as a Regional Arts Council, and the general
public how the review body will be created and what process it will follow in making its
6 recommendation, thus insuring an open and effective public process. This rule is reasonable
because it ensures that the evaluation process to be followed is identical to the process for
8 evaluating all other Regional Arts Councils and ensures a fair and publicly accountable process.

10 1900.3210 subp. 6 This rule is necessary because it clarifies the Board's role in the designation
process, provides a time frame for notification of competing applicants and clarifies the terms of
12 the designation once it is awarded. It is reasonable because it provides an appropriate and
manageable time frame for the board to make an informed decision while, at the same time,
14 insuring that the process is completed as expediently as possible to ensure that the needs of the
regional arts community can continue to be served.

16
1900.3210 subp. 7 This rule is necessary because it clarifies the Board's role in evaluating the
18 newly designated Regional Arts Council's performance during the council's first year of
operation, which is considered a probationary year, thus avoiding confusion and
20 misunderstanding and insuring that the regional arts community's needs are effectively served by
providing a means to extend the probationary period or remove the organization as the
22 designated Regional Arts Council. This rule is further necessary because it avoids confusion,

misunderstanding and arbitrary changes in designation. Because a designated Regional Arts

2 Council remains the designated Regional Arts Council until such time as its designation is
officially removed according to part 1900.3110, this rule is reasonable because it provides an
4 accountable process for insuring that there will be an opportunity for the Board, members of the
arts community and general public to review and evaluate the work of a newly designated
6 Regional Arts Council, including the council's adherence to its biennial plan and its effectiveness
in serving the needs of its region's arts community, before the probationary period ends and the
8 council's designation is fixed.

10 1900.3310 This rule is necessary because it clearly defines a process which organizations must
follow if they dispute and wish to appeal the Board's decision regarding their plan. It is further
12 necessary because it clarifies what options the Board has when considering an appeal, the process
that an appellant must follow if it continues to dispute the Board's decision. It is reasonable
14 because it ensures an open, accountable and fair public process. It is further reasonable because it
provides the option for both parties to agree to a mediated settlement which would avoid a
16 prolonged and costly process.

18 1900.3410 This rule is necessary to clearly provide that the Regional Arts Council Forum has
sole responsibility for developing an equitable formula for distributing the legislative arts
20 appropriation throughout Minnesota. It is further necessary because it establishes a date which
must be adhered to in order to change the formula from one biennium to the next in order to
22 ensure that the Board can meet its obligation to distribute the legislative arts appropriation in

1 a reasonable and timely manner to the Regional Arts Councils for their use in local and regional
2 arts development. This rule is reasonable because it ensures that the Board adheres to Minn. Stat.
Ch. 129D.04 and that the Board is able to fulfill its fiduciary responsibility to disburse the
4 legislative arts appropriation. This rule is reasonable because it ensures that the Board can
execute fiscal agent agreements each year so that legislative arts appropriation will reach
6 Regional Arts Councils in a timely manner, the councils' normal operations will not be impeded,
and the needs of the regional arts community and general public will continue to be served.

8
1900.3510 This section is necessary because the Regional Arts Advisory Committee is a new
10 committee. Its purpose is very important in managing smooth operation of the Board functions
which relate directly to Regional Arts Councils, as well as helping to ensure a harmonious
12 working relationship between the two systems. It is further necessary because it clarifies that
three of the six regular committee members are appointed by the Regional Arts Council Forum
14 and provides that the Forum and its policy manual may defines the policies and procedures
regarding its appointees. This rule is also necessary because it clarifies that it is the Board's rules
16 that govern committee appointees beyond the required six members. This is reasonable because it
helps to ensure a positive relationship between the Board and the Regional Arts Councils, and it
18 helps to avoid confusion and misunderstanding.

20 1900.3610 This section is necessary because it clearly provides for the participation of the
Regional Arts Advisory Committee in disputes between the Board and the Regional Arts Council
22 Forum. This is necessary to include individuals who are not affiliated with either of the two

parties and to enhance communication among all parties. This rule is reasonable because it
2 clarifies what has been standard operating procedure for the Board and Regional Arts Council for
the past two years, and because it makes use of a committee that was specifically developed for
4 the purpose of facilitating discussions and developing cooperation and understanding between
the board and the Regional Arts Councils.

6

1900.3710 This rule is necessary to define a process that the Regional Arts Councils must use if
8 they wish to carry legislative funds forward to the second year of the biennium. It is further
necessary because it avoids misunderstanding and helps to ensure that legislative funds intended
10 for the arts will be used for that purpose. It is also reasonable because it ensures compliance with
standard accounting procedures for use of legislative funds, ensures financial accountability and
12 enables the Board to execute its duties and responsibilities as a fiscal agent.

14 1900.3810 This rule is necessary to differentiate the requirements and process for dealing with
legislative funds at the end of a biennium from the requirements for dealing with legislative
16 funds at the end of a fiscal year within a specific biennium. Furthermore, they are necessary to
avoid misunderstanding and help to ensure that legislative funds intended for the arts will be
18 used for that purpose. This rule is reasonable because it complies with Minn. Stat. Ch. 16A.2-8,
subp. 3 (1994), ensures the use of standard accounting procedures for use and accounting for
20 legislative funds, ensures financial accountability and enables the Board to responsibly execute
its duties and responsibilities as a fiscal agent.

22

1900.3910 This rule is necessary and reasonable because it is required by Minn. Stat. Ch. 16A2-

2 8.

4 1900.4010 This rule is necessary because it clarifies the authority and autonomy given to

Regional Arts Councils to define their own programming, grant making, administrative

6 structures, criteria and policies; to clarify that there are no limitations except those defined by

state law and these rules. In addition, the 50% total project cost limitation on the use of state arts

8 appropriated legislative funds is necessary because this is a new restriction for the arts

community in Minnesota and must be clearly understood. This limitation is necessary to ensure

10 that there is community financial participation in all funded arts activity. This rule is reasonable

because it adheres to and clarifies Minn. Stat. Ch. 129D subd. 2(d) which establishes the

12 autonomy of Minnesota's Regional Arts Councils and ensures that there is community financial

participation in all arts activity supported with legislative funds.

14

1900.4110 This rule is necessary because the required reports are different than previous

16 practices and contents, requirements and due dates of the various reports must be defined to

avoid confusion and misunderstanding. This rule is reasonable because it ensures that the Board

18 will receive information about the Regional Arts Councils' activities and expenditure of

legislative funds in a timely manner that enables the Board to fully execute its responsibilities as

20 a fiscal agent to the Regional Arts Councils and its responsibilities to the State of Minnesota.

MAR 18 1996

CONCLUSION

2 Based on the foregoing, the Board of the Arts rule proposed to be set forth in Minn. Rules
Chapter 1900 is needed and reasonable to establish procedures for receiving and reviewing
4 requests for, and standards for distribution of grants and other forms of assistance.

6 March 1, 1996


A handwritten signature in cursive script, reading "Sam W. Grabarski", is written over a horizontal line. The signature is positioned to the right of the date "March 1, 1996".

8

10

12 Sam W. Grabarski , Executive Director
Board of the Arts
14 State of Minnesota

16