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MINNESOTA DEPARTMENT OF

*Children,
Families &
Learning*

**Rules
Review
Report**

**Report to the
Legislature**

**As required by
Minnesota
Statutes
2000
Section 14.3691**

**COMMISSIONER:
CHRISTINE JAX, Ph.D.**

**Rules
Review
Report**

FOR MORE INFORMATION CONTACT:

Tammy L. Pust, Assistant Commissioner
Minnesota Department of Children, Families & Learning

T: (651) 582-8482

FAX: (651) 582-8814

E-MAIL: tammy.pust@state.mn.us

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**1500 Highway 36 West
Roseville, MN 55113-4266
TTY: (800) 627-3529 OR (651) 582-8201**

Upon request, this report can be made available in alternative formats.

ESTIMATED COST OF PREPARING THIS REPORT

This report provides information which is maintained and published as a part of the agency's normal business functions. Therefore, the cost information reported below does not include the cost of gathering the data but rather is limited to the estimated cost of actually analyzing the data, determining recommendations and preparing this report document.

Special funding was not appropriated for the costs of preparing this report.

The estimated cost incurred by the Minnesota Department of Children, Families & Learning in preparing this report is \$750.00.

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**Report on the Review of Department of Children, Families and Learning Rules
as Required by Minnesota Statutes, § 14.3691.**

EXECUTIVE SUMMARY

Minnesota Statutes, § 14.3691, subdivision 1, states in pertinent part:

"An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1 of the year before the legislative session in which the entity's rules are scheduled for review. The speaker of the house of representatives and the senate committee on rules and administration shall designate the appropriate committees to receive these reports."

Rules recommended for repeal. The Department of Children, Families and Learning (CFL) recommends the following rules for repeal:

- Part 3500.0600 – Teachers' Duty Free Lunch.
- Part 3520.0400 – Transportation Data Reporting Requirements.
- Part 3520.1400 – Regulations Relating To Equal Transportation.
- Part 3520.3300 – Transportation of Pupils with a Disability.
- Part 3530.1500 – Service for the Blind and Physically Handicapped and Institutions.
- Part 3530.2700 – School Lunch Program.
- Parts 3530.4400 to 3530.4500 – Disaster Plan.
- Part 3530.4700 – Civil Defense School Building Construction.
- Parts 3545.2100 to 3545.3020 – Capital Loan Program; Cooperative Secondary Facilities Grants.
- Chapter 3550 – Training and Experience Index.
- Parts 9565.5500 to 9565.5520 – Childcare Resource and Referral Grants.

The reasons for our recommendations are discussed in the body of this report.

Rules that should remain in effect. We recommend that the majority of CFL rules remain in effect. The rules and the rationale for our recommendations are listed in the body of this report.

Suggested rule changes. The agency suggests a number of improvements to CFL rules and discusses these changes generally in the body of this report. For some rules, CFL has identified a timeframe and process for effecting the suggested changes. With respect to rules for which a timeline and process is not specified, the agency is currently reviewing the available options for pursuing the suggested changes.

Organization of this report. This report contains a chapter-by-chapter analysis of the rules under the jurisdiction of the Department of Children, Families & Learning (CFL). The analysis of each chapter includes: (1) a description of any obsolete rules in the chapter that should be repealed; (2) a brief description of the rationale for rules in the chapter that CFL believes should remain in effect; and (3) an outline of any changes to the rules CFL believes will improve its ability to meet its regulatory objectives, while reducing any unnecessary burdens on regulated parties.

CHAPTER 3350 COMMUNITY ACTION PROGRAMS.

Pursuant to 1995 Laws of Minnesota, “[t]he powers and duties of the department of economic security with respect to...community action agency programs,” were transferred to CFL effective July 1, 1997. See 1995 Minn. Laws, Ch. 3, Art. 16, § 4. Since that time, the commissioner has been authorized to provide financial assistance through the Community Services Block Grant and the Minnesota Economic Opportunity Grant for community action agencies, Indian reservations, and migrant and seasonal farmworker organizations in accordance with Minnesota Statutes, §§ 119A.374 to 119A.376, and Minnesota Rules, chapter 3350, which contain the procedures necessary for the commissioner to exercise this authority.

All of the rules in this chapter are necessary to provide program guidelines and procedures to grant funds to eligible entities, maintain recognition of eligible entities, and identify mechanisms for designation and recognition of new eligible entities. As a result, CFL recommends this chapter remain in effect. However, CFL believes some technical and substantive changes to Chapter 3350 are necessary to bring the rule into compliance with new federal law governing the Community Services Block Grant, to improve CFL’s ability to implement the community action agency programs in an efficient and effective manner, and to make the rule a better resource to the public. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

CHAPTER 3400 CHILD CARE FUND.

Minnesota Rules, chapter 3400, governs the administration of the Child Care Assistance Program. The Child Care Assistance Program helps to make quality child care affordable for low income families who are working, looking for work, or attending training, and the rules establish eligibility requirements and procedures applicable to the program. CFL is in the final steps of amending these rules and anticipates completion of this process by Fall, 2001.

CHAPTER 3500 PUBLIC SCHOOL REQUIREMENTS.

Part 3500.0550 Inclusive education programs.

Minnesota Rules, part 3500.0550, governs the inclusive education program plan that must be adopted by each school district. The rule is essential to the purpose of creating a mechanism for school districts to describe what the district is teaching and how the district’s curriculum reflects its inclusive education obligations. The rule is also necessary to define CFL’s monitoring and compliance responsibilities with respect to inclusive education program plans. As a result, CFL recommends this rule remain in effect. At the same time, CFL believes it would be better able to meet its regulatory objectives if both substantive and technical changes were made to improve the existing language, to provide a mechanism within which CFL may enforce this mandate, and to increase the review schedule to every two years to ensure that each district’s plan keeps up with the constantly changing dynamics of this issue. To the extent that these changes can be

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accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

Part 3500.0600 Teachers' duty free lunch.

Minnesota Rules, part 3500.0600 mandates that all teachers be provided with a duty free lunch period. The language in this part duplicates Minnesota Statutes, § 122A.51. As a result, CFL recommends this rule part be repealed as redundant. CFL will pursue legislation to this effect in the 2002 Legislative Session.

Part 3500.1000 Experimental and flexible school year programs.

Minnesota Rules, part 3500.1000, governs the implementation of experimental programs of study and flexible school year programs as authorized by Minnesota Statutes, §§ 124D.12 to 124D.127, § 125A.07, and § 127A.05. This part is necessary to establish the application process for approval for experimental programs of study and flexible school year programs and to provide guidelines for the creation of these programs. This part may also play an important role in the establishment of the pilot project regarding flexible learning year programs authorized by the 2001 Legislature. See 2001 Minn. Laws, Ch. 6, Art. 2, § 63. CFL recommends this rule remain in effect, and it recommends no amendments at this time.

Part 3500.1050 Definitions for pupil fees.

Minnesota Rules, part 3500.1050, defines the terms used in Minnesota Statutes, §§ 123B.35 to 123B.38 governing the fees a school board may and may not charge to students attending or participating in activities sponsored by the public school district. CFL recommends no repeals at this time. CFL believes some amendments are needed to assist CFL in meeting its regulatory objectives regarding student access to a free public school education. Specifically, CFL believes it is necessary to insert a definition of curriculum, clarify the definition of cocurricular activities, replace references to noncurricular activities with references to extracurricular activities, and clarify the definition of extracurricular activities. CFL also believes it is necessary to reference the statutory obligations of a standards-based educational program with regard to pupil fees as a result of the state law and rules governing graduation standards. See Minn. Stat. § 120B.02 and Minn. R. Ch. 3501. Until these changes can be made, CFL recommends this part remain in effect. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

Part 3500.3100 Issuance of secondary school equivalency certificate.

Minnesota Rules, part 3500.3100, defines the eligibility standards, application procedures, and minimum passing requirements for the secondary school equivalency certificate. All of the information included in this part is essential to CFL's ability to implement the secondary school equivalency certificate program. As a result, CFL

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recommends part 3500.3100 remain in effect in its entirety. However, CFL feels that several technical edits and clarifications are necessary to update the application process and minimum scores to make them consistent with the national GED Testing Service. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

CHAPTER 3501 GRADUATION STANDARDS.

Minnesota Rules, chapter 3501, governs three separate programs. Parts 3501.0010 to 3501.0180 govern the reading and mathematics standards that Minnesota public schools must require for a high school diploma for all students. Parts 3501.0200 to 3501.0290 govern the written composition standard for a high school diploma that Minnesota public schools must require of all students. Parts 3501.0300 to 3501.0469 establish the profile of learning requirements for a high school diploma.

The reading and mathematics standards and written composition standards described in parts 3501.0010 to 3501.0290 are relatively new, and the language describing the requirements, standards, and elements of these two programs are essential to a district's ability to understand their obligations and to CFL's ability to appropriately implement the reading and mathematics, and written composition standards. As a result, CFL recommends these parts remain in effect, and it does not recommend amendments at this time.

With regard to parts 3501.0300 to 3501.0469, CFL is actively reviewing the language governing the profile of learning and intends to propose modifications to these rule parts during the 2002 Legislative Session. As a result, CFL believes it would be premature at this time to propose the repeal of any of these rules, rationalize the existence of other provisions within these rules, or define how the rules could be improved to assist CFL in meeting its regulatory objectives.

CHAPTER 3505 SECONDARY VOCATIONAL EDUCATION.

Minnesota Rules, chapter 3505, governs the administration of career and technical education programs, formally known as secondary vocational education programs, as authorized by the Carl D. Perkins Vocational and Technical Education Act. See 20 U.S.C. §§ 2301 et seq. All of the rules included in this chapter are essential to that objective. As a result, CFL recommends no repeals at this time. However, CFL believes it would be in a better position to meet its regulatory objectives with respect to career and technical education programs if some amendments were made to ensure that the language of Chapter 3505 is consistent with changes in relevant state and federal law. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

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CHAPTER 3512 QUALIFICATIONS AND LICENSURE OF SCHOOL PERSONNEL.

Minnesota Rules, chapter 3512, governs the education and experience requirements for individuals seeking licensure as a school district superintendent, school principal, director of special education, and director of community education. Pursuant to Minnesota Rules, part 3512.1700, in April of 2000, CFL convened a rule advisory committee to review these rules and make recommendations to the commissioner regarding any improvements that should be made to the chapter. The advisory committee made multiple suggestions, and CFL proceeded to request legislative authority to make amendments to the chapter. However, during the 2001 Legislative Session, the Legislature created the new Board of School Administrators and granted it authority to adopt rules governing the licensure of school administrators. As a result, CFL feels it would be inappropriate to recommend the repeal of obsolete rules, rationalize other rule provisions, and describe improvements to the rules that would assist CFL in meeting its regulatory objectives in licensing school administrators when this chapter will no longer be under CFL's jurisdiction as of September 1, 2001.

CHAPTER 3517 SECONDARY VOCATIONAL LICENSES.

Minnesota Rules, chapter 3517, governs the issuance of secondary vocational licenses. During the 2001 Legislative Session, the Legislature created the new Board of School Administrators and granted it authority to adopt rules governing the licensure of supervisory personnel, including secondary vocational administrators. As a result, CFL feels it would be inappropriate to recommend the repeal of obsolete rules, rationalize other rule provisions, and describe improvements that would assist CFL in meeting its regulatory objectives in licensing secondary vocational administrators when this chapter will no longer be under CFL's jurisdiction as of September 1, 2001.

CHAPTER 3520 STUDENT TRANSPORTATION.

Minnesota Rules, chapter 3520, governs student transportation data reporting requirements, the distribution of transportation aid, equal transportation requirements for students attending nonpublic schools, and the transportation of pupils with a disability.

CFL recommends several rules parts be repealed as obsolete. First, part 3520.0400 outlines the data a district must report to receive transportation aid and part 3520.1400 governs the calculation of transportation aid for students attending nonpublic schools. The requirements described in these parts are now governed under Minnesota Statutes § 123B.92. As a result, CFL recommends parts 3520.0400 and 3520.1400 be repealed as obsolete. Second, part 3520.3300 governs the transportation of pupils with a disability, and these requirements are now governed by the rules of the Minnesota Department of Public Safety at Minnesota Rules, parts 7470.1600 and 7470.1700. As a result, CFL recommends part 3520.3300 be repealed as redundant. CFL will pursue legislation to this effect in the 2002 Legislative Session.

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Part 3520.1500 governs the free and equal transportation of students attending nonpublic schools. This part is necessary to clarify the requirements set out in Minnesota Statutes, § 123B.86, and CFL recommends this part remain in effect. However, CFL believes it would be better able to meet its regulatory objectives with respect to free and equal transportation of nonpublic schools if technical amendments were made to update statutory references and improve the clarity of this rule part. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

CHAPTER 3525 CHILDREN WITH A DISABILITY.

Minnesota Rules, chapter 3525, governs the provision of special education services to pupils with a disability. The chapter is necessary to assist CFL in implementing the federal and state legislative directives that educational programs for pupils with a disability be available throughout Minnesota. See 20 U.S.C. §§ 1400 et seq. and Minn. Stat. § 125A.07. At present, all of the rules in Chapter 3525 are in use and should remain in effect. Further, CFL is in the final stages of amending these rules and has no suggestions for further repeals or amendments at this time.

CHAPTER 3530 LIBRARIES; SCHOOL DISTRICT AND COMMUNITY SERVICES.

Parts 3530.0200 to 3530.2600 Libraries.

Minnesota Rules, parts 3530.0200 to 3530.2600, govern the implementation of categorical aid programs for regional public library systems and multi-county library systems under Minnesota Statutes, §§ 134.32 to 134.354. The rules are necessary to provide for the application, disbursement, and reporting of these aids to Library Development and Services.

CFL believes these rules as a whole are adequate to ensure that CFL is able to meet its regulatory objectives with respect to regional public library systems and multi-county library systems, and it recommends that parts 3530.0200 to 3530.2600 remain in effect. However, CFL recommends the repeal of Minnesota Rules, part 3530.1500 as obsolete because this part governs the disbursement of grants under the Library Services and Construction Act, which no longer exists under federal law. CFL will pursue legislation to this effect in the 2002 Legislative Session. CFL also believes that several technical changes must be made to the remaining parts to update statutory and rule references and change the references to the Office of Public Libraries and Interlibrary Cooperation (OPLIC) to Library Development and Services (LDS). To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002.

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Part 3530.2700 School lunch program.

Minnesota Rules, part 3530.2700, outlines the guidelines for participation in the school lunch program. However, because much of the school lunch program is now governed by state statute and federal statute and regulation, this rule is no longer necessary, and CFL recommends part 3530.2700 be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

Parts 3530.3000 to 3530.4310 Early childhood screening.

Minnesota Rules, parts 3530.3000 to 3530.4310, govern the administration of the Early Childhood Screening Program. The purpose of the Early Childhood Screening Program is to assist parents and communities to improve the educational readiness and health of all young children in Minnesota through the early detection of children's health, development, and other factors that may interfere with a child's learning, growth, and development. Technical amendments must be made to the rules to replace outdated statutory, department, and program references. To the extent that these changes can be accomplished with existing rule-making authority, the agency anticipates commencing the necessary processes in 2002. CFL has no suggestions for further changes at this time, and CFL recommends that these rules remain in effect.

Parts 3530.4400 to 3530.4500 Disaster plan.

Minnesota Rules, parts 3530.4400 to 3530.4500, govern the development, review, and implementation of district disaster plans. The statutory authority for these rules, Minnesota Statutes, § 127A.66, was repealed in 1999, and CFL no longer requires the development or review of disaster plans. As a result, CFL recommends parts 3530.4400 to 3530.4500 be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

Part 3530.4700 Civil defense school building construction.

Minnesota Rules, part 3530.4700, governs civil defense in school building construction. School district construction is governed by Minnesota Statutes, § 123B.71, which does not mention the slanting techniques described in this part. Slanting techniques with regard to school building construction are not described elsewhere in state statute or rule, and CFL recommends part 3530.4700 be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

Parts 3530.5600 to 3530.6200 Community service programs.

Minnesota Rules, parts 3530.5600 to 3530.6200, govern the administration of the Community Education Program. The Community Education Program was created to make maximum use of Minnesota public schools by communities and to expand the use of community human resources by school districts. See Minn. Stat. § 124D.18. Community education is characterized by the development and implementation of lifelong learning opportunities for learners of all ages, backgrounds, and needs. The use

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of local advisory councils ensures that local residents help to develop and implement a Community Education Program. The rules establish administrative and financial requirements applicable to the program. Technical amendments must be made to the rules to change the term "community services" to "community education," and to the extent that these changes can be made with existing rule-making authority, the agency will commence the necessary processes in 2002. CFL has no suggestions for further repeals or amendments at this time, and CFL recommends these rules remain in effect.

CHAPTER 3535 EQUAL OPPORTUNITY IN SCHOOLS.

Minnesota Rules, parts 3535.0100 to 3535.0180, govern efforts to desegregate Minnesota public schools under the authority of Minnesota Statutes § 124D.86. These rules create a mechanism for CFL to identify racially isolated school districts and racially isolated buildings within a school district. The rules also outline a process for school districts to reduce racial isolation and concentrations of poverty. The rule operates in tandem with Minnesota Statutes § 124D.86, which provides for the disbursement of funds (integration revenue) to districts to assist with the costs of implementing their desegregation plans.

Because parts 3535.0100 to 3535.0180 are fairly new, CFL has only been able to complete one yearly cycle of monitoring desegregation plans. As a result, CFL believes it would be premature at this time to make recommendations regarding whether the rule affects how CFL is able to meet its regulatory objectives. However, CFL believes that the existing language should be amended to make it clear that any funds received by a school district under Minnesota Statutes § 124D.86 are to be used to effect the intent of the rule. To the extent allowed, CFL will seek clarification of that issue in the 2002 Legislative Session.

Parts 3535.0230 to 3535.9910, govern the equal educational opportunity programs. The rules allow CFL to monitor districts for compliance with state and federal civil rights law and regulations, and CFL recommends that all of these rules remain in effect. However, CFL believes it would be better able to meet its regulatory objectives with respect to equal educational opportunity if several technical changes were made to update outdated statutory and rule references and to bring the rules into compliance with the Human Rights Act. See Minn. Stat. §§ 363.01 et seq. Finally, the rule allows for data collection and enforcement through the reduction of state aid, and CFL feels it could better implement the program and assure school district compliance if the rule allowed for progressive enforcement authority beyond the reduction of state aid.

CHAPTER 3540 NONPUBLIC SCHOOLS.

Minnesota Rule, chapter 3540, governs the provision of educational aids such as textbooks, standardized tests, and pupil support services to students attending nonpublic schools in accordance with Minnesota Statutes, §§ 123B.40 to 123B.48. Although many of the rules in this chapter reflect statutory language, the rules are necessary to clarify statutory language for the public and to assist CFL in administering state funds to eligible nonpublic schools. Overall this

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chapter is adequate to allow CFL to meet its regulatory objectives of ensuring that every student in the state will share equitably in educational benefits and assuring all Minnesota students and their parents freedom of choice in education. CFL does recommend some technical changes to update statutory references and to ensure the implementation of practical deadlines for the distribution of funds, and to the extent that these changes can be made with existing rule-making authority the agency will commence the necessary processes in 2002.

CHAPTER 3545 SCHOOL FINANCING.

Minnesota Rules, parts 3545.0600 to 3545.0900, govern and support the legislative mandate that all local educational agencies use a uniform financial accounting and reporting standards (UFARS) system when reporting their financial activity. See Minn. Stat. §§ 123B.75 to 123B.83. CFL is committed to maintaining a Generally Accepted Accounting Principles (GAAP)-based accounting system, which provides accurate and comparable data to policy-makers at the local, state, and federal level and to the public, while remaining an effective managerial tool for local education agency operations. CFL recommends these rules remain in effect. However, parts 3545.0600 to 3545.0900 may require some technical changes to update statutory and rule references and delete obsolete language. To the extent that these changes can be made with existing rule-making authority the agency will commence the necessary processes in 2002.

Parts 3545.2100 to 3545.3020 govern the requirements a district must meet in submitting an application for a capital loan for construction. The review and comment process is now governed by Minnesota Statutes, § 123B.71, and CFL no longer uses these parts to implement this process. As a result, CFL recommends parts 3545.2100 to 3545.3020 be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

CHAPTER 3550 TRAINING AND EXPERIENCE INDEX.

Minnesota Rules, chapter 3550, governs the calculation of the training and experience index for teachers. However, in 1997 the Legislature passed a law that froze the training and experience index for individual teachers at the level it was at during Fiscal Year 1997. See Minnesota Statutes, § 126C.11. As a result, CFL recommends part 3550.0100 be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

CHAPTER 9565 INDIVIDUAL AND FAMILY SERVICES.

Parts 9565.5500 to 9565.5520 Child care resource and referral grants.

Minnesota Rules, parts 9565.5500 to 9565.5520, govern the issuance of grants for child care resource and referral programs and child care services. These rule parts have been superseded by Minnesota Statutes, §§ 119B.189 to 119B.21. As a result, CFL recommends that these rules be repealed as obsolete. CFL will pursue legislation to this effect in the 2002 Legislative Session.

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1500 HIGHWAY 36 WEST
ROSEVILLE MN 55113 4266

T (651) 582 8200
TTY (651) 582 8201
<http://cfl.state.mn.us>