

STATEMENT OF NEED AND REASONABLENESS  
FOR PROPOSED RULES 5 MCAR § 1.0127

STANDARDS AND PROCEDURES OF SPECIAL EDUCATION INSTRUCTION  
AND SERVICES FOR CHILDREN AND YOUTH WHO ARE HANDICAPPED

Division of Special and Compensatory Education  
Minnesota Department of Education

BACKGROUND

Presently, 5 MCAR § 1.0127 A.5.e.(3). states that parents may "request that an independent assessment be conducted at public expense in which case the district has the option of denying such a request" ... and that "the parents may request a conciliation conference and due process hearing to resolve the disagreement."

The U.S. Department of Education, Office of Special Education, determined after review of Minnesota's P.L. 94-142 State Plan for FY '81-'83, that this rule is inconsistent with P.L. 94-142 Rules and Regulations, 45 C.F.R. § 121a.503 (Independent Educational Evaluation). The Federal Rule states that when a parent requests an independent evaluation (assessment) at public expense, it is the district which may "initiate a hearing ... to show that its assessment is appropriate." Then "(i)f the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense."

The State Board of Education proposes to amend 5 MCAR § 1.0127 A.5.e.(3) to bring it into compliance with the federal law. The amendment is needed to make federal P.L. 94-142 funds, which total approximately \$18,000,000 for fiscal year 1981, available for the State of Minnesota and its public school districts. If this current rule of the State Board is not amended, there will be no federal funds under P.L. 94-142 made available to Minnesota.

The proposed amendment is reasonable because it conforms with the federal law, particularly 45 C.F.R. § 121a.503(b). The amendment also clarifies the issue for the due process hearing and permits the school district to deny the parents' request for assessment at public expense only if the decision, made by an independent hearing examiner as required by Minn. Stat. § 120.17, subd. 3b (Supp. 1979), is that the school district's assessment is appropriate. It would be unreasonable to deny the parents' request for an assessment at public expense if the school district's assessment of the handicapped child was inappropriate.

Representatives for the Department of Education, Division of  
Special and Compensatory Education, will be:

Dr. Will Antell, Assistant Commissioner  
Wayne A. Erickson, Manager, Special Education Section  
Dr. Norena A. Hale, Assistant Manager, Special Education  
Section

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DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION SECTION