

STATEMENT OF NEED AND REASONABLENESS
PERMANENT RULES RELATING TO FINANCIAL AID
as administered by
the Minnesota Higher Education Services Office

**In the Matter of the Proposed Adoption of Rules
Governing the Student Educational Loan Fund Program**

October 26, 1995

STATE OF MINNESOTA
Minnesota Higher Education Services Office

In the Matter of the Proposed Rule
Governing the Student Educational
Loan Fund Program (Minn. Rule
4850.0011-4850.0018).

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The Student Educational Loan Fund (SELF) Program provides educational loans to Minnesota post-secondary students who are unable to obtain sufficient funds from other non-loan financial aid programs to meet their financial need. The proposed modifications to the current rule relate primarily to the following issues: the school's certification responsibilities as they relate to the student borrower; definitions of "credit worthy cosigner, director, eligible school, eligible student, in-school period, loan forgiveness, office, SELF I bonds, and transition period;" what constitutes "maximum effort" for purposes of the SELF Program; the procedural steps involved in processing a SELF application; student withdrawal as it relates to SELF Program refunds; repayment procedures as responsibilities of the borrower and cosigner; and the filing of claims to the SELF bad debt reserve.

The proposed rule language was reviewed by agency legal counsel; members of the agency's financial aid advisory committee, which meets monthly to provide input to the Board on post-secondary financial aid matters relating to program policy and program operations; and the Student Advisory Council. Financial aid administrators representing the following Minnesota institutions: the University of Minnesota system, State Universities, Community Colleges, Technical Colleges, Private Colleges, and Private Proprietary Schools are members of the Minnesota Higher Education Services Office financial aid advisory committee. Students serving on the Student Advisory Council represent post-secondary students attending the following Minnesota post-secondary institutions: University of Minnesota (all campuses), State Universities, Community Colleges, Private Colleges, Technical Colleges and Private post-secondary schools. The Notice of Solicitation of Outside Information or Opinions was published in the *State Register* on August 7, 1995 to secure additional public comment or opinions prior to preparation of the proposed rule for publication in the *State Register* with the Notice of Intent to Adopt these permanent rules.

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

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

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

III. STATEMENT OF NEED

Minnesota Statutes Chapter 14 requires the Office to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Office must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Office is appropriate. The need for the rule amendments is discussed below.

THE STUDENT EDUCATIONAL LOAN FUND PROGRAM.

A number of the amendments to the Student Educational Loan Fund (SELF) Program are made for clarification and to avoid confusion by borrowers and eligible participating schools. Some language is amended to more accurately reflect statutory language governing this program. Certain amendments to the rule language clarify which requirements relate only to those loans made with proceeds from the SELF I bonds rather than all bonds issued for this program. In addition, new technological advances have changed the manner in which some participating schools can fulfill their institutional responsibilities. This has made it necessary to modify the language in some subparts of the agency rules to permit participating schools with differing levels of computer capabilities to fulfill SELF responsibilities as participating institutions. The deletion of the language relating to correspondence or external degree programs reflects the impact that telecommunications is making to the methods of program instruction within post-secondary institutions participating in the SELF Program. Other rule amendments ensure that the SELF Program continues to be responsive to the changing needs of Minnesota residents pursuing higher education credentials. In addition, the statutory language relating to this agency and its responsibilities was changed during the 1995 legislative session [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Sections 17 and 18]. Sections of the SELF permanent rule referencing the agency have been amended to reflect the 1995 legislative changes.

IV. STATEMENT OF REASONABLENESS

The Office is required by *Minnesota Statutes* Chapter 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Office's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

Some amendments to the SELF rules more adequately and correctly reflect the current statutory language governing this program. Some amendments clarify current program operations, or permit future changes in operational procedures to better serve students and post-secondary institutions participating in this loan program. In addition to these programmatic amendments, the identity and responsibilities of this agency were changed during the 1995 legislative session. The Office felt it appropriate to also amend the rules to reflect statutory changes in references to the agency with the other rule amendments being pursued at this time for consistency, completeness and to avoid confusion.

B. Reasonableness of Individual Rules

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

4850.0011 DEFINITIONS

Subp. 3. Board. This subpart is repealed to reflect the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 32]. The deletion is for correctness and consistency with the statutory language.

Subp. 6. Certification. The add/delete language in this subpart is to provide more flexibility for participating schools to fulfill the certification responsibilities. Some post-secondary institutions have the capability to perform the responsibilities specified in this subpart via computerized student information records, while others continue to provide written certifications. The amended language is to clarify acceptable methods of certification and to provide additional efficiency in fulfilling institutional responsibilities while ensuring the continued integrity of the program.

Subp. 7. Correspondence or external degree program. This definition of "correspondence or external degree program" was included in the current permanent rules because students are unable to receive SELF monies for such programs. The subpart is being deleted to permit the SELF Program to be responsive to changing technologies which permit students to complete coursework and programs through distance learning. Teaching

methods are evolving in post-secondary institutions given the ever-increasing telecommunications efforts. It is important that the SELF program continues to be responsive to the needs of its borrowers to achieve their educational goals. In the future, more coursework may be completed outside a traditional classroom setting as students seek access to quality educational programs offered in diverse geographic locations. This change is to ensure that eligible students are able to receive financial assistance through the Student Educational Loan Fund for programs that otherwise meet program eligibility requirements, but which may be offered via telecommunications, and through future technological advances.

Subp. 9. Credit worthy cosigner. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language. The added language in this subpart adds some degree of flexibility to the requirements for co-signers while protecting program integrity and the fiscal stability of the SELF program. Otherwise credit-worthy individuals have been prevented from acting as a co-signer on a SELF loan because they have past due accounts totaling more than five percent of the past due dollar amount, but the total amount past due is \$50.00 or less. The change is for clarity and to provide some controlled flexibility within program requirements.

Subp. 10. Cosigners. The first deletion in this subpart contains language that has been moved to a new subpart later in this section entitled “loan forgiveness” [subpart 24a]. This amendment was made to clarify under what specific circumstances the repayment obligations of the cosigner would not be enforced. The add/delete language in items A, B, and C of this subpart reflects the current situation relating to SELF cosigners. There has never been an eligible school acting in the capacity of a SELF cosigner. The current rule language was drafted early in the program’s inception, with the anticipation that a school may wish to act in this capacity. That has not been the case. The change is to reflect program operations and for clarification of cosigner requirements. Finally, the deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 12. Delinquency. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 12a. Director. The addition of this new subpart defines the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 13. Due diligence. The add/delete language in this subpart reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 32]. The change is for correctness and consistency with the statutory language.

Subp. 14. Eligible school. The amendment to Item A and the deletion of Item B of this subpart specify that an “eligible school” is one that meets the statutory definition of an “eligible institution” as defined in *MN Statutes 136A.15, subd. 6*. The amendments are to make the rule language consistent with the statutes governing this program, and for completeness and correctness. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 15. Eligible student. The deleted language in item B of this subpart is to provide greater access to the Student Educational Loan Fund Program by students. The educational methods of delivering course content will likely change significantly for some educational programs given the new technological changes occurring both on and off post-secondary institution campuses. The amended language will provide program flexibility and attempts to address the funding needs of students in the future. The addition in item H of this subpart clarifies which borrowers are affected by the anticipated graduation date specified in this subpart. The amendment is for clarity and to avoid confusion by borrowers, cosigners and schools participating in the SELF Program.

Subp. 16a. Executive director. This subpart is repealed in response to the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This deletion is for correctness and consistency with the statutory language.

Subp. 23. In-school period. The addition in this subpart specifies the enrollment status required to be considered as “in-school.” The amendment is for consistency with the requirements for an “eligible student” as defined in subpart 15 of this section (item B), to provide clarity and to ensure that all students are treated equitably for purposes of this program.

Subp. 24. Late charge. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 24a. Loan forgiveness. This new subpart clarifies the circumstances under which loan forgiveness applies to borrowers and cosigners. The rule language dealing with loan forgiveness is currently mentioned as part of the cosigner responsibilities (4850.0011, subp.10). The amended language also specifies the conditions under which the repayment obligations are forgiven. The change is for clarity, completeness, and to avoid confusion

regarding repayment obligations of the borrower and cosigner.

Subp. 26. Maximum effort. The amended language in this subpart clarifies federal student loan programs which a potential SELF borrower is not obligated to secure prior to applying for a SELF loan. Sometimes the names of federal programs change, so the federal citations for these programs have been added for clarity. The added language also permits a student borrower to secure a SELF loan prior to securing a federal subsidized Family Education Loan or a subsidized William D. Ford Direct Loan (formerly only referred to as a "subsidized Stafford Loan). In some cases, it can be more financially beneficial for the student to borrow from the SELF Program rather than securing a subsidized federal loan due to the way that interest rates are calculated. The Higher Education Services Office staff feel it is important for students to be allowed access to the most inexpensive source of educational funding that best meets their educational needs. This change is an attempt to provide increased flexibility in funding sources for student borrowers and to encourage students to seek the least expensive sources of educational funding that best meet their educational needs, and for completeness and correctness in referencing the federal loan programs.

Subp. 26a. Office. This new subpart is necessary to reflect the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 32]. The change is for correctness and consistency with the statutory language.

Subp. 27. Repayment period. The addition to item A of this subpart specifies that the date indicated in this item only applies to loans made with SELF I bond proceeds. This addition is for clarity, completeness and correctness.

Subp. 28. The SELF bonds. The amendments to this subpart qualifies which bond issue is being referenced. Other bond issues have occurred since this initial issue to fund the SELF Program. The amended language is for clarity, completeness, and to avoid confusion.

Subp. 29. Transition period. The add/delete language in this subpart makes a distinction (for purposes of the "transition period") between borrowers with loans made from the proceeds of SELF I bonds and those with loans made from other funding sources. The amended language is for clarity, to avoid confusion by borrowers and correctness.

4850.0012. SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. Institutional loan participation agreement.

Subp. 2. Termination.

The deleted word "executive" in the above two subparts reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. The deletion is for correctness and consistency with the statutory language.

Subp. 3. **Application, guarantee, and promissory note.** There is no trustee or agent currently approving loans made from the SELF Program. There also is no guarantee fee attached to these loans. The amended language is for correctness and to reflect current program operating procedures and requirements. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This deletion is for correctness and consistency with the statutory language.

4850.0014. AMOUNT AND TERMS

Subp. 2. Two loans in one year. The add/delete language in item A(3) of this subpart is consistent with the minimum loan amount specified in 4850.0014, Subpart 1. The change is for consistency with program operating procedures.

Subp. 3. Interest rate. The addition to the language in this subpart specifying which bonds are being referenced is for clarity and to avoid confusion or misinterpretation by participants in the SELF Program. The deleted word "executive" in this subpart reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. The deletion is for correctness and consistency with the statutory language.

4850.0015. LOAN DISBURSEMENTS.

Subpart 1. Disbursement scheduling. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. The amendment is for correctness and consistency with the statutory language.

Subp. 2. Disbursement when ~~check~~ loan proceeds arrive before loan period.

Subp. 3. Disbursement when ~~check~~ loan proceeds arrive during loan period.

Subp. 4. Disbursement when ~~check~~ loan proceeds arrive after loan period.

The add/delete language in these three subparts is to allow the future use of electronic funds transfers to disburse SELF loan proceeds to schools. Language is added to provide specific procedures for schools to follow whether a SELF borrower's loan proceeds arrive at the school via check or electronic funds transfer. This amended language provides disbursement flexibility of loan proceeds so the SELF Program can continue to meet the continually changing needs of student borrowers and participating schools while at the same time protecting the fiscal integrity of the program. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. The amended language is for correctness and consistency with statutory language.

4850.0016. NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. Nonenrollment. The add/delete wording change in this subpart, pertinent to the return of loan funds, is made to allow the future use of electronic funds transfers of SELF monies in addition to the current procedure utilizing hard-copy checks. This change is for flexibility, to be able to meet the changing needs of student borrowers and participating schools, and to protect the fiscal integrity of the SELF Program. The deleted word "executive" in this subpart reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 2. Withdrawal and transfer to another eligible school. The add/delete language in this subpart is consistent with the minimum loan amount specified in 4850.0014, Subpart 1. The amended language is for consistency and correctness. The deleted word "executive" in this subpart reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 3. Withdrawal. The amended language in this subpart more clearly identifies the point at which a refund is due to the SELF Program. The amended language is for clarity and to avoid confusion by schools participating in the SELF Program. The deletion of the word "board" and the addition of the word "office" reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 32]. The change is for correctness and consistency with the statutory language.

Subp. 4. Reduction of enrollment to less than half-time status. The deleted word "executive" in this subpart reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

4850.0017. REPAYMENT PROCEDURES.

The language in this subpart is amended to include cosigners in this section of the rule addressing SELF loan repayment. The addition is for clarity and completeness since a SELF cosigner is held jointly responsible with the borrower for payments of principal and interest. The deletion of the word "board" and the addition of the word "office" reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 32]. The change is for correctness and consistency with the statutory language. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for*

1995, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

4850.0018. CLAIMS.

Subpart 1. When filed. The add/delete language in this subpart specifies how SELF Program claims are handled. The amended language is for completeness and correctness. The deleted word “executive” reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

Subp. 2. When paid. The deleted word “executive” in subparts 1 and 2 of this section reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 33]. This change is for correctness and consistency with the statutory language.

IV. Costs to Local Bodies

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


V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

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

VI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rule pt. 4850.0011-4850.0018 is both needed and reasonable.

Dated: Oct. 26, 1995



JOSEPH P. GRABA
Interim Director