

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 State Grant Program**

October 16, 1995

STATE OF MINNESOTA
Minnesota Higher Education Services Office

In the Matter of the Proposed Rule
Governing the State Grant Program
(Minn. Rule 4830.0300-4830.0700).

**STATEMENT OF NEED
AND REASONABLENESS**

I. INTRODUCTION

The State Grant Program provides financial assistance to Minnesota residents pursuing undergraduate post-secondary education at eligible Minnesota institutions. The proposed modifications to the current rule relate primarily to the following issues: out-of-state housing as it affects eligibility for a state grant, renewal award eligibility, the meaning of "Minnesota correctional institution for purposes of this program, the basis upon which a monetary award is determined, the method of payment for individual grant recipient awards at the school, and refunding unused portions of an award.

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 Office 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 authority of the Minnesota Higher Education Services Office 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.

STATE GRANT PROGRAM.

During the 1995 legislative session, several changes were made to *Minnesota Statutes* 136A.121 which affect the current permanent rule governing the State Grant Program. The basis upon which a grant stipend is determined was modified and the minimum financial stipend per academic year was increased [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 22]; how "cost of attendance" is determined, for purposes of the State Grant Program, was modified [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 23]; coursework that does not affect award eligibility was specified [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 24]; a new subdivision was added specifying how a state grant award must be calculated for a fourth quarter or third semester award [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 25]. The permanent rule must be consistent with the current statutory language governing this program. In addition, the statutory language relating to this agency and its responsibilities was changed during the 1995 legislative session [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Sections 17 and 18]. Since other rule changes were being pursued at this time, references in rule to the agency and executive staff are also included in this rulemaking process rather than waiting for the Revisor of Statutes to make such changes with the next publication of agency rules to avoid confusion by individuals referencing these agency rules routinely. Finally, other amendments to the permanent rule are made to reflect current operating procedures for the State Grant Program.

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

During the 1995 legislative session several statutory changes were made to the State Grant Program [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Sections 22-26]. Portions of the current permanent rules are not consistent with the revised statutory language. The agency rule must be consistent with statutes governing this program. Also, the identity and responsibilities of the agency were changed during the 1995 legislative session. The Office felt it appropriate to also amend the rule to reflect statutory changes in references to this agency with the other rule amendments being pursued at this time for consistency, completeness and to avoid confusion. Finally, some amendments to the rule have been made to clarify current program operations. It is important that the rule reflect current operational procedures.

B. Reasonableness of Individual Rules

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

4830.0300 ELIGIBLE SCHOOLS.

Subpart 1. Annual list. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 18]. This change is for correctness and consistency with the statutory language.

4830.0400 APPLICATION DATES AND STUDENT ELIGIBILITY

Subpart 1. Date. 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 9]. The change is for correctness and consistency with the statutory language.

Subp. 2a. Out-of-state housing. The amended language in this subpart is to reflect current procedural policy relating to Minnesota residency and state grant eligibility, and is

consistent with the language in *Minnesota Statutes* 136A.101, subd. 8 which defines "Resident student." The added language explains those circumstances under which a student or parent (applicable for dependent students) resides outside the state of Minnesota without the intention to establish residency in another state or country and the student meets State Grant eligibility requirements.

Subp. 5. Renewal awards. The added language in this subpart is to reflect the statutory language change affecting a student's state grant eligibility [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 24]. Coursework taken at institutions not participating in the state grant program and for which the student did not receive any transfer credit is not to be considered when calculating the student's remaining eligibility for a state grant award. The change is for correctness and completeness.

Subp. 7. Minnesota correctional institution. The statutory language regarding the elements to be taken under consideration when calculating a student's "cost of attendance" for state grant purposes was expanded to include students confined to a Minnesota correctional institution [*Laws of Minnesota*, Chapter 212, Article 3, Section 23]. This subpart has been added to clarify which students are affected by the addition to the statutory language pertaining to "cost of attendance." The addition of this subpart is to ensure equitable treatment of students, to avoid confusion (particularly for state grant decentralized schools that calculate students' state grant awards), and for consistency.

4830.0600 AWARDS.

Subpart 1. Monetary awards. Several language changes were made to the statutory language pertaining to "grant stipends" during the 1995 legislative session [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 22] which necessitate amendments to this subpart. The add/delete language in Item A of this subpart reflects the statutory language change relating to the student's portion of responsibility as it relates to the shared responsibility premise upon which state grant awards are determined. This change is for consistency with the statute and for correctness. The first add/delete language change in Item B results in a straight-forward statement of which type of applicant is being talked about in Item B (i.e., a "dependent" student) rather than alluding to such applicants by saying what they *are not*. The staff of the Higher Education Services Office feel this language change provides more clarity. The second add/delete language change in Item B reflects the statutory language specifying that the "federal" need analysis is applicable in determining the student contribution amount for a dependent student. This change is for correctness and consistency with statute.

Subp. 1a. Minimum. The add/delete language in this subpart reflects the statutory change raising the minimum award from \$100 to \$300 per academic year (*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 22). The amended language is for correctness and consistency with statute.

4830.0700 METHOD OF PAYMENT.

Subpart 1. Payments to schools. The deleted word "executive" reflects the 1995 statutory change in the title of the individual who serves as the executive head of the Higher Education Services Office [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 18]. This change is for correctness and consistency with the statutory language. The remaining add/delete changes to this subpart are to reflect changes in the manner in which student awards are calculated and disbursed. "Decentralized" institutions participating in the State Grant Program calculate individual student awards and disburse such awards to students from the institution's state grant funds which are disbursed to the institution by the Higher Education Services Office. "Centralized" institutions continue to have individual student awards calculated and disbursed by the Higher Education Services Offices. The modified rule language covers the procedures for both types of institutions. The change is for clarity and accuracy.

Subp. 2. Refunds. The first add/delete in this subpart modifies the language relating the period of time covered by a state grant award for a full academic year. The amended language specifies that the award for a full academic year is based on the number of academic terms during the state fiscal year rather than a nine month period of time. The language change is due to an addition to the statutes governing this program (i.e., *Minnesota Statutes* 136A.121, Subd. 9a) as specified in the *Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 25. The amended language is for accuracy and consistency with the statutes governing this 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 18]. This change is for correctness and consistency with the statutory language. The deletion of the word "board" and the addition of the word "office" reflect the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 9]. The change is for correctness and consistency with the statutory language.

The language in Item B of this subpart has been modified to specify the use of the federal Title IV program refund calculation in calculating a tuition refund. The current language permits institutions that do not participate in federal Title IV programs to use a less restrictive institutional refund calculation. The added language clarifies that the federal Title IV refund calculation is the one that must be used by *all institutions* participating in the State Grant Program. The change is for clarity and to ensure the equitable treatment of students no matter which post-secondary institution they attend.

Subp. 3. School accounting requirements. The add/delete language in this subpart relates to the state grant program refunds. The changes are to reflect current operating procedures for refund processing. The changes are for clarity and accuracy.

Subp. 4. Recovery of overpayments. The first add/delete in this subpart specifies that the *state grant program* must be reimbursed for overpayments. This language is applicable

to "decentralized" participating institutions that reimburse funds to the state grant fund account at the school and also to "centralized" participating institutions that return overpayments to the Higher Education Services Office for deposit into the State Grant account. The change is necessary to accurately reflect the current operating procedures relating to reimbursements for overpayments. The deletion of the word "board" and the addition of the word "office" reflects the 1995 statutory name change of the agency [*Laws of Minnesota for 1995*, Chapter 212, Article 3, Section 9]. The change is for correctness and consistency with the statutory language.

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 Minnesota post-secondary institutions. No expenditure of public money by local public bodies is pertinent to this rule.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

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

VI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rule pt. 4830.0300-4830.0700 is both needed and reasonable.

Dated: Oct. 16, 1995



JOSEPH P. GRABA
Interim Director