

1 **Minnesota State Arts Board**

2

3 **STATEMENT OF NEED AND REASONABLENESS**

4

5 Proposed Rules, and Amendments to Rules, of the Minnesota State Arts Board

6 Governing the Procedures and Criteria Followed in the Distribution of Grants and Other

7 Assistance in the Furtherance of the Arts in Minnesota, *Minnesota Rules Chapter 1900*;

8 **Revisor's ID Number R-04243**

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62 **I. INTRODUCTION**

63

64 The Minnesota State Arts Board (Arts Board) provides financial support and services to
65 encourage the creation, promotion, and appreciation of arts in the state. Arts Board
66 programs are intended to reach out to all Minnesotans, regardless of geographic
67 location, economic situation, age, racial/ethnic characteristics, or disability. Funding for
68 Arts Board programs and services is appropriated by the state of Minnesota, with
69 supplemental support from the National Endowment for the Arts (NEA) and the private
70 sector.

71

72 The Arts Board is governed by eleven private citizens who are appointed by the
73 governor. More than 250 volunteer advisory panel members are appointed each year to
74 review grant applications and make recommendations to the board. In addition,
75 Minnesota’s eleven regional arts councils provide grants for arts activities in their
76 regions. The Arts Board acts as fiscal agent to the councils, but each council has local
77 decision-making authority over the state funds it receives.

78

79 **History, Mission and Guiding Principles**

80 The Arts Board has existed in some form since 1903 when it was first established as the
81 State Arts Society, a privately funded organization. The organization was adopted as a
82 state agency called the State Arts Council in 1963, received its first block grant from the
83 NEA in 1966, and its first state appropriation in 1967. In 1975, the Legislature created the
84 agency, as it exists today, and directed the State Arts Board “to stimulate and encourage
85 the creation, performance and appreciation of the arts in the state” (Minn. Stat. 129D.04
86 subd. 1). The Arts Board adopted its first set of rules in 1977, which evolved into the
87 current rules that are found at Minn. Rules Chapter 1900.

88

89

90 Part 1900.0210 states the purpose of the Arts Board’s rules:

91
92 The purpose of parts 1900.0110 to 1900.2210 is to set forth procedures and criteria to be
93 followed by the board, advisory panels, all individuals, organizations, departments and
94 agencies of the state, and political subdivisions in receiving, considering, and reviewing
95 requests for, and distribution of, grants and other forms of assistance.

96
97 The Arts Board has created grant programs by which it receives, evaluates, and grants
98 requests for funds. In creating these programs, the Arts Board and the regional arts
99 councils have been guided by the following principles:

- 100 • Accountability and stewardship—public funds belong to Minnesotans. The Arts
101 Board and regional arts councils will use them in the most effective manner
102 possible and will routinely report the outcomes achieved through the uses of the
103 funds.
- 104 • Statewide approach—the needs and interests of the entire state will be
105 considered when determining how best to allocate funds.
- 106 • Transparency and public involvement—broad public input and engagement in
107 decision making will be vital to produce the outcomes that Minnesotans expect.
- 108 • Demographic and geographic fairness—Minnesotans of all types, and in every
109 community, will recognize and experience the tangible results of arts funding.
- 110 • Comprehensive—the full spectrum of arts providers and arts disciplines will be
111 considered when determining how best to serve Minnesotans.
- 112 • Sustainable—some arts activities are meant to be one-time or short-term; others
113 are meant to exist and thrive over time. All are valuable and will be eligible for
114 support. In the latter case, funds will be allocated strategically so that the activity
115 or organization funded can be successful into the future, beyond the life of the
116 arts and cultural heritage fund. Funds also will be used to create a sustainable
117 climate in which artists can live and work.
- 118 • Anticipatory and flexible—decisions about how best to allocate arts funds will be
119 reassessed on a regular basis and will adapt as needs and opportunities change.

120

121 **Summary of the Need for and Reasonableness of the Current Rulemaking**

122
123
124 This rulemaking has been undertaken by necessity, and the Arts Board has taken every
125 precaution in making the rules as reasonable as possible while achieving the purposes of
126 the rulemaking. The need and reasonableness of these rules is summarized here and
127 elaborated on in the sections that follow.

128
129 **Need**

130 The primary catalyst for this rulemaking is the 2008 Clean Water, Land and Legacy
131 Amendment, commonly referred to as the “Legacy Amendment”. This landmark
132 amendment greatly changed the amount of funds available to the Arts Board to fulfill its
133 mission. The amendment also set in motion two other factors that have had a significant
134 effect on the Arts Board’s grant programs and these proposed rules: new budgetary
135 constraints, and existing requirements in the Arts Board’s administrative rules, found in
136 chapter 1900.

137
138 On November 4, 2008, Minnesota voters approved the Legacy Amendment that was
139 intended to preserve and enhance those features of Minnesota that its citizens most
140 cherish: the health of the state’s natural resources, its opportunities for outdoor
141 recreation, and its arts and cultural heritage. This amendment to the Minnesota
142 Constitution increased the sales and use tax by three-eighths of one percent, from July 1,
143 2009, until June 30, 2034. These proceeds are directed into four funds, one of which is the
144 Arts and Cultural Heritage Fund (ACHF), which receives 19.75% of overall Legacy
145 funding. The Legacy Amendment mandates that the ACHF be used “only for arts, arts
146 education, and arts access and to preserve Minnesota's history and cultural
147 heritage.” (Minnesota Constitution, Article XI, Sec. 15). The Legislature has entrusted the
148 Arts Board with the task of distributing those funds earmarked for arts spending.

149

150 In order to manage the expanded grant-making responsibilities conferred by the
151 amendment, the Arts Board had to create seven new grant programs. These programs
152 have been created in accordance with the Arts Board's administrative rules, which
153 require the Arts Board to use a pilot-program system for introducing new programs.
154 The rules further direct the Arts Board to either make pilot programs permanent or
155 discontinue them within four years and make the programs permanent by rulemaking
156 thereafter (1900.1410). In 2013, the board determined that these programs achieved the
157 Legacy Amendment's purposes and have therefore commenced the present rulemaking
158 to make these pilot programs permanent.

159

160 Another factor driving this rulemaking is budgetary concern; with the new Legacy
161 funds came significant new budgetary challenges. Prior to the amendment, the Arts
162 Board operated with administrative costs that ran 7% to 10%. Beginning with the Legacy
163 appropriations, however, the Legislature has mandated that administrative costs be
164 capped at between 2.5% and 4.5%. This meant that the Arts Board needed to administer
165 200% more money in grants with a 3% to 5% reduction in overall administrative costs. In
166 order to meet these new requirements, it was imperative that the Arts Board not only
167 streamlined the administration of the new Legacy programs, but that it also made cuts
168 to existing program administrative costs. Some programs were combined, allowing
169 program officers to receive more applicants with less additional work. Some grant
170 periods were extended, decreasing the frequency of the work-intensive application years
171 and increasing the number of interim years where monitoring and evaluating grantees is
172 less expensive. Additional efficiencies have been instituted wherever possible to reduce
173 agency costs further.

174

175 In addition, as a small agency without frequent need for rulemaking, the Arts Board has
176 seen several years since its last significant rulemaking. As a result, there are many
177 important amendments that need to be made. For example, there are no references to the
178 Internet in the existing rules, and the public is directed to the Arts Board office for all

179 access to information. Anachronistic discrepancies such as these have been corrected
180 wherever possible.

181

182 Finally, in the spirit of the Governor's "unsession" initiative, the board has used this
183 rulemaking as an opportunity to clarify and simplify the existing rules as needed.

184

185 **Reasonableness**

186 The primary way that the Arts Board has insured that the requirements of this
187 rulemaking are reasonable is through the operation of its pilot program system. Each of
188 the grant programs that are being made permanent in this rulemaking have gone
189 through multiple grant cycles, which has allowed the Arts Board to receive feedback
190 from applicants and fine-tune the programs. This system has allowed the Arts Board to
191 insure that the programs are achieving the purposes of the Legacy Amendment and/or
192 are proceeding in accordance with the goals and guiding principles that have been set
193 by the board. For applicants, there has been time to become accustomed to the
194 requirements of the new programs and how they operate. There has also been an
195 opportunity to share their concerns with the Arts Board and to be heard on any
196 problems that applicants may be having with the programs. The pre-Legacy programs
197 have all been dormant for several years now; so all grants have been disbursed by way
198 of one of the pilot programs for at least the last three grant cycles. By the time these
199 programs become permanent, the provisions and requirements should come as a
200 surprise to no one who regularly deals with the Arts Board. First time or infrequent
201 applicants likely will not know there have been changes at all. These applicants will
202 benefit, nevertheless, from a system that has smoothed all rough edges.

203

204 The Arts Board has also sought reasonableness in the creation of these rules, by obeying
205 the will of the people of Minnesota and the Legislature, by strictly adhering to the text
206 and stated purposes of the Legacy Amendment. Additionally, the Arts Board has sought
207 and used public input on how Legacy funds should be used. In the wake of the

208 amendment, the Arts Board surveyed its clientele and conducted twelve public forums
209 around the state to gather input on the use of Legacy funds. The Arts Board also
210 collaborated with the Minnesota Historical Society and the Minnesota Humanities
211 Center, the two other ACHF fund stewards, in the creation of a planning committee
212 comprised of representatives of interested communities and organizations. This
213 committee traveled throughout Minnesota conducting listening sessions and solicited
214 comments online. The committee then memorialized their findings by creating a guiding
215 vision, framework, ten-year goals, and guiding principles (available at
216 <http://legacy.mnhs.org/achf-framework>). By allowing this rulemaking to be guided with
217 thoughtfulness, planning, adherence to the Legacy Amendment, and input from the
218 people of Minnesota, the Arts Board has created programs that will be neither arbitrary
219 in their application nor capricious in their requirements. These programs were created
220 with the goals of fairness and evenhandedness in the treatment of all Arts Board
221 applicants, and public transparency and accountability for the grant making processes.

222
223 Finally, as a result of the guiding principles that the Arts Board has created and operated
224 under, there has been an evolution towards a more performance-based grant-making
225 approach that focuses on measurable outcomes, rather than prescriptive procedures.
226 This gives applicants greater flexibility, as they may propose projects that achieve the
227 outcomes in the most cost-effective way they can find. The board recognizes that
228 because artists are the innovators of the arts, the role of the board should be more
229 adaptable and less prescriptive. New types of artistic expression are always emerging
230 and evolving; there have been many developments in digital art and computer graphics,
231 for example, which would not have been foreseen at the time of the last rulemaking. The
232 new approach is discussed in more detail in part IV, below. The point here is that this
233 new approach gives applicants more flexibility, which is a hallmark of reasonable
234 government processes.

235

236 For the reasons outlined above, the Arts Board is convinced that this rulemaking is both
237 necessary and reasonable.

238

239 **II. ALTERNATIVE FORMAT**

240

241 Upon request, this information can be made available in an alternative format, such as
242 large print, braille, or audio. To make a request, contact:

243 James Brailsford
244 Minnesota State Arts Board, Park Square Court, Suite 200
245 400 Sibley Street
246 Saint Paul, MN 55101
247 Phone: (612) 259-8600
248 Toll-free: (800) 866-2787
249 Minnesota Relay Service (TTY): 711

250

251 **III. STATUTORY AUTHORITY**

252

253 *Minnesota Statutes*, section 129D.04, subd.1 requires the Minnesota State Arts Board to:

254 (5) promulgate by rule procedures to be followed by the board in receiving and
255 reviewing requests for grants, loans or other forms of assistance; and

256 (6) promulgate by rule standards consistent with this chapter to be followed by
257 the board in the distribution of grants, loans, or other forms of assistance.

258

259 All sources of statutory authority were adopted and effective before January 1, 1996 and
260 have not been revised by the Legislature since then, and so Minnesota Statutes,
261 section 14.125, does not apply.

262

263 **IV. REGULATORY ANALYSIS**

264

265 Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that
266 must be included in this SONAR.

267

268 **“(1) A description of the classes of persons who probably will be affected by the**
269 **proposed rule, including classes that will bear the costs of the proposed rule and**
270 **classes that will benefit from the proposed rule”**
271

272 There are three general categories of classes of persons who will be directly affected by
273 the rules. These are listed and described in the following paragraphs. All of the classes
274 are either government entities, government employees, or are applicants, a self-selecting
275 group who have voluntarily chosen to participate in the Arts Board’s programs.

276 1. Individual artists, arts organizations, and other organizations or affiliates across the
277 state of Minnesota that are engaged in either presenting artists, touring companies, or
278 exhibitions; or associated with the conception or creation of artistic work for production,
279 performance or exhibition will be affected by the rule as potential program applicants.
280 There will not be any significant ways that the process of application will be different in
281 the new programs versus the old. There are no application fees or any other charge for
282 applicants.

283 Of course, applicants will bear the incidental cost of applying such as employee time
284 and preparing art samples. However, as noted previously, applicants as a class are self-
285 selecting and voluntarily choose to participate by applying to these programs.
286 Moreover, because they are applying for a grant, applicants must have made a
287 determination that the costs are acceptable in comparison to the possible benefits that
288 would be derived from the grants.

289 2. The eleven regional arts councils and the Arts Board itself will be affected, although
290 not significantly. This rulemaking makes some minor changes to the ways that these
291 organizations administer grant programs, interact with applicants, and interact with
292 each other. There will be no fundamental changes for the regional arts councils under
293 the new programs as opposed to the old programs.

294
295 3. Finally, this rulemaking affects governmental units that choose to participate in the
296 Percent for Art program. While the responsibility for a state agency to care for and

297 maintain public art located on its grounds has existed since the program was created,
298 this rulemaking makes such responsibility explicit.

299

300 Indirectly, all Minnesotans who pay taxes will also be affected. But while the cost of this
301 rulemaking will be borne by the taxpayer, this rulemaking itself is not the cause of any
302 additional tax burden. It is true that the majority of the funds dispersed by the Arts
303 Board are collected from the Minnesota taxpayer (although other sources include federal
304 entities such as the National Endowment for the Arts and the private sector). However,
305 this rulemaking will have no impact on the amount that Minnesota citizens are taxed.
306 This rulemaking affects only how the Legacy funds that have previously been collected
307 by the state and appropriated to the Arts Board will be disbursed. The amendment is
308 clear that money from the arts and cultural heritage fund “may be spent only on arts,
309 arts education and arts access and to preserve Minnesota’s history and cultural
310 heritage.” It is the role of the Arts Board, and this rulemaking, to insure that the
311 taxpayer’s money is spent responsibly, transparently, and for the purpose for which it
312 was collected.

313

314 The beneficiaries of this rulemaking will be all Minnesotans. Minnesota artists who
315 successfully apply for grants will see increased stability and career possibilities, as
316 grants enable them the to worry less about survival and concentrate more on creating
317 art. The Minnesota arts lover will benefit, as there will be more opportunities to engage
318 with high quality artistic programming. Minnesotans who may have not valued art as
319 highly in the past will increasingly become converts as the arts are incorporated into
320 more and more of day-to-day life in Minnesota. Finally, all Minnesotans will benefit
321 from the fiscal responsibility and transparency with which the Arts Board operates
322 while getting the best return for arts funding dollars possible.

323

324 **“(2) the probable costs to the agency and to any other agency of the implementation**
325 **and enforcement of the proposed rule and any anticipated effect on state revenues”**

326

327 Apart from the cost directly associated with drafting the rules and executing the
328 rulemaking process, this proposed rulemaking would not increase costs to the Arts
329 Board in any appreciable way. When the Legacy Amendment passed and the board was
330 charged with disbursing the arts portion of the Arts and Cultural Heritage fund, its costs
331 did rise, as is the case in any instance when an agency is asked to increase its workload.
332 Of course, the increased costs are offset by the increase in funds allocated to the Arts
333 Board. In addition, the Legacy funds have come with caps on the amounts the board
334 may use for operating expenses. As a result of many cost saving initiatives, such as
335 streamlining the application and application review process and reorganizing the grant
336 cycles that are codified in the present rulemaking, the overall effect will be a net
337 decrease in the operating costs percentages of the Arts Board.

338
339 This rulemaking will have no effect on state revenues. Everything in this rulemaking is
340 contingent on receiving appropriations from the Legislature. The operation of the Arts
341 Board only effects how and to whom these funds are distributed.

342
343 There will, however, be a cost associated with the Percent for Art in Public Places
344 program: maintenance of the art. It is the position of the Arts Board, and the Department
345 of Administration, that this is not a new cost; this has been an existing obligation that
346 had not been sufficiently met in some cases. For some agencies and some works of art,
347 these expenses were not paid and works have been lost or have needed extensive
348 renovation. There have always been maintenance costs for public art that is on
349 government grounds, and these costs were due by the agency responsible for the
350 maintenance of those grounds. Indeed, the program itself is not new and the need for
351 maintenance of the art installations is as old as the program itself, which was
352 legislatively created in 1972.

353
354 In some cases these costs may be bourn by the custodial agency for the first time, but it
355 would be inaccurate to say that they are new expenses. This obligation to maintain art

356 on public grounds is no different than the obligation to maintain any government
357 property. An agency must maintain, in good condition, the state property for which it is
358 responsible. Therefore, at the request of the Minnesota Department of Administration,
359 the maintenance duties of the custodial agency are being more clearly defined in the
360 rules, agency program materials, and the contracts signed by participants in the Percent
361 for Art program.

362

363 **“(3) a determination of whether there are less costly methods or less intrusive**
364 **methods for achieving the purpose of the proposed rule”**

365 Because of its governing rules, the Arts Board may not operate any grant program
366 indefinitely, without adopting it by rule. The Legacy Amendment requires that the Arts
367 Board create new grant programs. Therefore, a rulemaking is inevitable. The Arts Board
368 has determined that the least costly method of revising all of its rules that need attention
369 is to make all revisions part of one rulemaking. The Arts Board is not aware of a lower
370 cost, less intrusive method of making these changes.

371

372 **“(4) a description of any alternative methods for achieving the purpose of the**
373 **proposed rule that were seriously considered by the agency and the reasons why they**
374 **were rejected in favor of the proposed rule”**

375

376 When considering alternative methods for achieving the purposes of the proposed rules,
377 there are two perspectives from which the alternatives can be considered: 1) a narrow
378 view – what are the immediate alternatives to conducting the present rulemaking that
379 are available to the Arts Board at this time? And 2) a more broad view – what other
380 policies and courses of action did the Arts Board consider before deciding on the
381 programs that it is choosing to make permanent in this rulemaking?

382

383 From the narrower view, the board does not have any other viable alternative to
384 conducting a rulemaking at this time. The board is required by its rules to make any
385 pilot programs permanent or discontinue them within four years and then write rules

386 governing the new programs (Minn. Rules 1900.1410). This is the course of action that
387 the board is engaged in at the moment. The Legacy Amendment was passed in 2008, the
388 board researched and developed the programs in 2009 and began to roll them out as
389 pilot programs in 2010. The board made them permanent in 2013, and commenced
390 rulemaking in the same year. If the rulemaking were abandoned at this point, all of the
391 new Legacy programs would have to be discontinued and new programs developed.
392 However, the board has conducted extensive research and analysis developing these
393 programs and found that these programs aligned with the priorities of Minnesotans,
394 were feasible economically, and substantially furthered the policies of the Arts Board
395 and the Legacy Amendment. To abandon these programs at this point would be a waste
396 of state work and of taxpayer dollars.

397
398 From the broad view, the board considered many alternatives when developing the
399 Legacy programs and the depth of the information gathering and policy analysis that
400 was involved lead the board to its commitment to the present programs. In preparation
401 for the Legacy programs, the board conducted numerous surveys and held forums with
402 constituents throughout the state. In 2009, the board held forums in the following
403 locations:

404

405	Bemidji	June 3
406	Duluth	June 18
407	Fergus Falls	June 24
408	Granite Falls	June 4
409	Little Falls	June 23
410	Mankato	June 8
411	Minneapolis	June 6
412	Mora	May 28
413	Rochester	June 1
414	Saint Cloud	June 2
415	Saint Paul	June 9
416	Thief River Falls	June 17

417

418 Here are some of the ideas that were considered for programs disbursing Legacy funds:

- 419
- 420 • Bringing artistic programming to community centers;
 - 421 • A packaged comprehensive arts experience that travels the state – exhibition,
 - 422 performances, classes, a market to buy art;
 - 423 • Free and reduced-price arts exhibitions, performances, events;
 - 424 • Need programs/support to address generational barriers;
 - 425 • Alternatives to Arts Access: provide programming, transport artists, ticket
 - 426 vouchers;
 - 427 • A jobs program engaging artists in part-time employment doing public work to
 - 428 support their creative work;
 - 429 • Healthcare for artists;
 - 430 • International exchange programs;
 - 431 • Arts programs at nature centers, support for artists/art work concerned with the
 - 432 natural world;
 - 433 • Create a traveling art exhibition that visits every school in the state, Develop
 - 434 curriculum, education materials for schools to use;
 - 435 • Teacher training, especially classroom teachers in schools that don't have an arts
 - 436 specialist.

437 While some of these are ideas that the board highly values, they were not adopted into
438 programs because the board ranked the current programs higher in terms of furthering
439 the goals of the Legacy Amendment, being consistent with the guiding principles of the
440 Arts Board, and reflecting the ideas shared by the people of Minnesota in surveys and at
441 the forums.

442

443 **“(5) the probable costs of complying with the proposed rule, including the portion of**
444 **the total costs that will be borne by identifiable categories of affected parties, such as**
445 **separate classes of governmental units, businesses, or individuals”**

446 The proposed rules will not lead to a significant increase in costs for any parties.

447 Applicants for Arts Board funding will bear the costs of application. However, these
448 costs are not new. The application costs for the pilot programs that are becoming

449 permanent are no higher than the costs for the programs that are being replaced.
450 Applicants for any grants incur some expense in the application process. Applicants do
451 this gladly because of the benefits that grantees can receive.

452

453 The Arts Board itself has incurred additional costs as a result of the Legacy Amendment
454 but not as a result of this rulemaking. As the funds appropriated to the Arts Board have
455 increased, so have the costs of distributing the funds. New programs result in new
456 program administration costs. However, these programs have been in place for several
457 years now. The overall percentage of Arts Board funds that go to grant administration
458 has actually decreased and is largely consistent across programs. The costs of the new
459 programs are not the result of this rulemaking. Rather, the new programs and the costs
460 of the new programs, including this rulemaking, are the result of the Legacy
461 Amendment.

462

463 **“(6) the probable costs or consequences of not adopting the proposed rule, including**
464 **those costs or consequences borne by identifiable categories of affected parties, such**
465 **as separate classes of government units, businesses, or individuals”**
466

467 There could be several negative consequences for the arts in Minnesota were the Arts
468 Board not to promulgate these proposed rules. First, there could be considerable
469 confusion to the public about either why the rules do not coincide with the current
470 funding programs operated by the Arts Board, or why the Arts Board discontinued the
471 pilot programs.

472

473 Second, not promulgating these rules would force the Arts Board to either violate its
474 own rules, which require pilot programs to be adopted by rule or discontinued, or
475 discontinue these pilot programs. Because the board believes these programs to be in the
476 best interest of the arts in the state, in accord with state grant making policy, and in the
477 spirit of the Legacy Amendment, to abandon these programs would be a dereliction of
478 the duty delegated by the Legislature.

479

480 **“(7) an assessment of any differences between the proposed rule and existing federal**
481 **regulations and a specific analysis of the need for and reasonableness of each**
482 **difference”**

483

484 The federal agency most comparable to the Minnesota State Arts Board would be the
485 National Endowment for the Arts (NEA). While both organizations grant funds for the
486 furtherance of the arts, there are also significant differences.

487

488 First, it should be noted that the Minnesota State Arts Board predates the NEA. This
489 reflects a belief among Minnesotans about the importance of the arts to the quality of life
490 in Minnesota. In other words, Minnesotans wish to support the arts independently of
491 whatever national means of arts support are in place. Indeed, the Arts Board does not
492 consider NEA grants when reviewing its own grant applications.

493

494 Second, while the NEA operates grant programs of national applicability, the focus of
495 the Arts Board is specific to the needs of Minnesotans. Because the NEA selects grant
496 applications nation-wide and on a competitive basis, it cannot base any of its programs
497 on review criteria that are not applicable to all states. The Arts Board, on the other hand,
498 focuses in large part on the specific needs of the arts community of Minnesota and
499 therefore is more integral to the arts community of Minnesota, and serves primarily
500 those interests that the NEA cannot.

501

502 **“(8) an assessment of the cumulative effect of the rule with other federal and state**
503 **regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means**
504 **the impact that results from incremental impact of the proposed rule in addition to**
505 **other rules, regardless of what state or federal agency has adopted the other rules.**
506 **Cumulative effects can result from individually minor but collectively significant**
507 **rules adopted over a period of time.”**

508

509 Neither the Arts Board nor the NEA is a regulatory agency, but agencies to which
510 people voluntarily go to seek grants and other forms of assistance. The requirements of

511 both agencies, to the extent that they are “burdensome” are to ensure the applicant is
512 deserving of the grant and that no public dollars are being wasted. If the requirements
513 are duplicative, it is because the applicant is seeking duplicative benefit, which is
514 allowed. The board does not consider NEA funding when allocating its own funds. Any
515 “cumulative effect” would be undertaken voluntarily and any negative impact from
516 applying for more than one grant would be easily offset by the benefits of receiving
517 more than one grant. Much of any possible cumulative effect is avoided because a large
518 portion of the NEA money disbursed in the state is channeled through the Arts Board.
519 When this occurs, the Arts Board accepts the responsibility of ensuring that all federal
520 guidelines are met.

521

522

523 **IV. PERFORMANCE-BASED RULES**

524

525 One of the main themes or characteristic of the pilot programs is that they are more
526 flexible than the old programs. The new grant programs are more open ended and less
527 prescriptive, allowing artist to propose projects that might not fit with traditional, and
528 often limited expectations about how artists should operate. In the face of the world
529 becoming more complex and diverse, narrow and specific grant programs have become
530 less relevant. Instead of the Arts Board dictating what types of work should be funded,
531 the Arts Board states objectives and then accepts proposals and looks for merit in the
532 ability of the proposal to meet the objectives. The Arts Board no longer defines the
533 parameters in art, it looks instead at how the artist plans to engage Minnesotans and
534 evaluate that plan.

535

536 For example, in the old Artist Assistance program a fellowship allowed an artist,
537 “working in the visual, literary, and performance arts” to “purchase supplies and
538 materials.” (Minn. Rules 1900.1910, Subp. 3 (a)). In the new program, Artist Initiative,
539 Minnesota artists may use grants funds “to fund the creation and presentation of works

540 by Minnesota artists.” The artist is allowed to demonstrate in the application how his or
541 her activities will achieve to purposes of the program. The new programs allow for a
542 grant application process that is less complicated and prescriptive while being more
543 responsive to new forms and practices and relevant to a greater range of Minnesota
544 artists. The Art Board’s efforts to focus on performance are premised on a desire to
545 achieve the objectives of the Legacy Amendment and the board, while giving applicants
546 the flexibility to achieve those results in the most creative and/or cost-effective way they
547 can find.

548
549

550 **V. ADDITIONAL NOTICE**

551

552 Minnesota Rules, part 1400.2060, subpart 2, item A requires that the Arts Board describe
553 its proposed Additional Notice Plan and explain why it believes its Additional Notice
554 Plan complies with Minnesota Statutes, section 14.101, i.e., why the Additional Notice
555 Plan constitutes good faith efforts to seek information by other methods designed to
556 reach persons or classes of persons who might be significantly affected by the proposal.

557

558 A Request for Comments was published in State Register, Volume 38, Number 30 on
559 January 21, 2014. The proposed rules and a Dual Notice was published in the September
560 14 issue of the State Register. In addition, the Arts Board Notice Plan consists of the
561 following:

- 562 1. Notice and copy of proposed rules sent to the Governor’s office;
- 563 2. Notice and copy of proposed rules sent to the chairs and ranking minority
564 members of the legislative committees that oversee the Arts Board and Legacy
565 funds;
- 566 3. Notice and copy of proposed rules posted to the Arts Board’s Web site;

- 567 4. News releases with link to proposed rules sent electronically to a list of
568 18,596 people or organizations including those who have signed up to receive
569 rulemaking information, or have applied to the Arts Board for funding;
- 570 5. Notice and a link to the proposed rules sent to each of the eleven regional
571 arts councils with a request to include the notices in their newsletters;
- 572 6. News releases with link to proposed rules sent to 417 newspaper, radio,
573 television, magazine and electronic news organizations located throughout the state
574 of Minnesota;
- 575 7. Notice and a link to the proposed rules sent to Minnesota school districts,
576 charter schools, private elementary and secondary schools; and
- 577 8. Notice and a link to the proposed rules sent to private colleges and
578 universities.

579

580 The Arts Board believes its Additional Notice Plan complies with the statute because it is
581 a good faith effort to give notice to the class of people likely to be affected by the
582 rulemaking. The primary class of people affected by the proposed rulemaking is the staff
583 members of the Arts Board and the eleven regional arts councils. Both of these groups
584 have had an ample opportunity to contribute to the new drafts of rules. The next class of
585 people affected is artists, arts organizations, and other entities that may potentially
586 apply for funding. The above methods are the Arts Board’s best attempt to notify the
587 people who are most likely to apply for Arts Board funding. The majority of applicants
588 has applied before and will receive the mailed notices. Hopefully, the press release and
589 publication on the website and in the regional arts council’s newsletters will reach those
590 who will be applying for the first time.

591

592 The Notice Plan did not include notifying the Commissioner of Agriculture because the
593 rules do not affect farming operations per Minnesota Statutes, section 14.111.

594

595 **VI. CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

596

597 As required by Minnesota Statutes, section 14.131, the Arts Board will consult with
598 Minnesota Management and Budget (MMB). It will do this by sending MMB copies of
599 the documents that are sent to the Governor's Office for review and approval on the
600 same day they are sent to the Governor's office. It will do this before the Department's
601 publishing of the Notice of Intent to Adopt. The documents will include: the Governor's
602 Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Arts
603 Board will submit a copy of the cover correspondence and any response received from
604 Minnesota Management and Budget to the Office of Administrative Hearings (OAH) at
605 the hearing or with the documents it submits for ALJ review.

606

607 **VII. DETERMINATION ABOUT RULES REQUIRING LOCAL**
608 **IMPLEMENTATION**

609

610 As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has
611 considered whether these proposed rules will require a local government to adopt or
612 amend any ordinance or other regulation in order to comply with these rules. The Arts
613 Board has determined that it does not because the Arts Board's grant programs do not
614 rely on local governments for administration, or enforcement. The board works directly
615 with applicants and all agreements are supported by contracts.

616

617 **VIII. COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

618

619 Minnesota Statutes, section 14.127, requires the agency to determine if the cost of
620 complying with proposed rules in the first year after the rules take effect will exceed
621 \$25,000 for any small business or small city. A small business is defined as a business
622 (either for profit or nonprofit) with less than 50 full-time employees and a small city is
623 defined as a city with less than ten full-time employees. The Arts Board has determined
624 that no small business or city will be so affected.

625

626 If small businesses or cities apply to the Arts Board for grants, they will incur
627 application costs. These costs are primarily the time spent completing the application,
628 but also could include any expense related to preparing work samples or small
629 miscellaneous expenses such as photocopies and postage. But these costs are not
630 burdensome regulatory impositions but voluntary costs associated with receiving a
631 benefit from the Arts Board. The costs of applying for an Arts Board grant are necessary
632 for the Arts Board to be able to responsibly determine to whom and in what amount
633 grants should be awarded. These costs to applicants are incidental when compared to
634 the benefits. In no instance would these costs exceed \$25,000.

635

636 **IX. LIST OF WITNESSES**

637

638 If these rules go to a public hearing, the State Arts Board anticipates having the
639 following witnesses testify in support of the need for and reasonableness of the rules:

- 640 1. Ms. Sue Gens, Executive Director, will testify about the need for and
641 reasonableness of the policies and procedures of the Minnesota State
642 Board of the Arts.
- 643 2. Mr. James Brailsford, Rules Coordinator, will testify about the language
644 and form of the rules, the Statement of Reasonableness and Need
645 (SONAR), and all other related documents and all matters involving the
646 sufficiency of the rulemaking process.

647

648 **X. RULE-BY-RULE ANALYSIS**

649

650 The main purpose of the rules of the State Arts Board are to provide constituents with
651 clear guidance regarding the availability of agency programs and services, the
652 procedures and practices of the State Arts Board and the regional arts councils, and the
653 criteria and standards for review of applications for funding and other forms of
654 assistance. Because the demand for grants exceeds the availability of resources, it is of

655 paramount importance to the Arts Board that the methods used to disburse funds are as
656 fair as possible and are easily accessed and understood by the public.

657

658 In addition to the rules, the board publishes and provides program materials that
659 provide additional information about the agency, its programs, and the application
660 process. These materials do not contain any additional requirements or unpromulgated
661 rules, only further clarification and examples. By giving ample elaboration and
662 numerous examples, the board is able to make the application process as easy as
663 possible for the applicants. Furthermore, because the programs are contingent upon
664 biannual appropriations from the Legislature, it is necessary to make revisions to some
665 details, such as deadlines and dollar amounts available to the public. Publishing these
666 minor changes in the program materials instead of the rules allows for public access to
667 up-to-date information without the state incurring the cost of numerous rulemakings
668 every year.

669

670 As discussed in part I, above, the Arts Board believes these rules to be both necessary
671 and reasonable. The need and reasonableness of each requirement is included below
672 with a reference to the proposed rules for comparison:

673

674 **1900.0310 DEFINITIONS.**
675 (Line 1.3)

676

677

678 **Subpart (Subp.) 4. Application.**

679 The words "or forms" were added after "form" to reflect the fact that instead of one
680 form, applications often consist of the application plus other forms. This is not a new
681 requirement; rather it is an amendment to the language of the rule that more accurately
682 reflects the paperwork associated with an application for a grant program. The new
683 description is more precise and accurate.

684

685 **Subp. 4a. Artist Service Organization**

686 This definition of, “artist service organizations” includes those organizations that
687 provide essential services to artists. These are the type of services that many arts
688 organizations are able handle internally. However, in some Arts Board programs in
689 which individual artists are not eligible, such as Operating Support and Arts Access, the
690 organizations that provide individual artists with services that are essential to providing
691 arts programming may be eligible. Not all organizations that provide services of an
692 artistic nature are eligible, however, which is explained in the exclusions from the
693 definition that follow:

694 A) service or trade organizations that serve other organizations are excluded because
695 their clients, arts organizations, are themselves eligible for support in these programs. If
696 an arts organization chooses to engage with organizations that provide such services, it
697 may do so with its own grant funds. Allowing both the service recipient and provider to
698 apply for funding could result in double-funding the same services.

699
700 For similar reasons, the groups listed in B) and C) are excluded. The services provided
701 by these groups are too far removed from the actual providing of artistic programming
702 to be funded by the Arts Board. If the recipients of Arts Board general support funds
703 wish to spend them on such services they may, but these funds are designed to go only
704 to those groups directly providing or presenting the artistic programming or
705 organizations that provide essential services to individual artists who provide such
706 programming.

707
708 **Subp. 4b. Arts affiliate.**

709 The idea of an arts affiliate is not new to this rulemaking; in the old rules it is defined in
710 the definition sections of each individual rule where it appeared. In this rulemaking, the
711 term is defined in the master definition section only. In the old rules, instances with
712 largely the same definition may be found at Minn. Rules 1900.1710 subp. 1(c) and at
713 1900.1510 subp. 1(a). These previous definitions contain more factors, but they are

714 elaborations on the essential ideas that are contained here. The critical criterion is that
715 the affiliate be a viable arts organization and that it operates with some autonomy from
716 the parent organization. The goal is to avoid funding an ineligible organization through
717 a puppet affiliate organization. If an affiliate is just an extension of the parent and has no
718 independent leadership with arts expertise and experience, then the applicant is
719 essentially the parent organization and must be eligible on its own accord.

720

721 **Subp. 4c. Arts organization**

722 In the existing Arts Board rules, the meaning of “organization” changes from program
723 to program. Sometimes an organization must operate in the arts (i.e. 1900.1510 subd.1(c))
724 and sometimes an arts-focused mission is not required (i.e. 1900.0310 subd. 11). This
725 rulemaking attempts to make definitions uniform across the chapter whenever possible.
726 Thus “arts organization” is defined here as distinct from “organization.” Although it is
727 not necessary to specifically exclude the organizations listed in items A through K
728 because they do not have arts-focused missions, they are specifically listed here because
729 such organizations frequently apply nonetheless.

730

731 **Subp. 6. Certified audit**

732 This section has been amended by removing information that was so specific that this
733 section would quickly go out of date (phone numbers and costs of publications) while
734 leaving the reader enough information to easily find the guide that has been cited.

735

736 **Subp. 6a. Community arts schools and conservatories**

737 The term “arts schools and conservatories” is defined here broadly so that arts
738 organizations who do not call themselves an “arts school” or a “conservatory” will
739 consider that they too might be eligible to apply. However, they must offer learning to
740 Minnesotans of all ages and abilities as is discussed in full in the Arts Schools and
741 Conservatories program section.

742

743 **Subp. 7. Equipment**

744 This section has been amended to remain consistent with Internal Revenue Service
745 definitions.

746

747 **Subp. 7a. Event**

748 The definition of event has been amended to be less prescriptive. An event now can
749 include more activities, including a workshop or class such as in the Arts Learning
750 program, among other things. Allowing applicants to describe how the proposed
751 activities will achieve the program purpose is an example of the outcome-based nature
752 of these proposed rules, as discussed above.

753

754 **Subp. 8. Fiscal agent**

755 This section has been amended for clarity. Both nonprofits and governmental units that
756 are agents are held responsible by the board.

757

758 **Subp. 9. Grant**

759 The amendments to this section have been made to make it explicit that no funds will be
760 given until a grant agreement is in place, which provides contractual protection to the
761 Arts Board, the state of Minnesota, and the Minnesota taxpayer.

762

763 **Subp. 11 Nonprofit organization**

764 As discussed in Subp. 4(c) above, “arts organization” has been defined separately from
765 “organization” in this rulemaking. In addition, organizations that are not arts
766 organizations are eligible for some Arts Board programs, such as Festival Support.

767

768 The word “nonprofit” has been added to the title to more accurately reflect the type of
769 organization described in this section.

770

771 The phrase, “this does not include radio and television stations” has been stricken from

772 this section because some radio and television stations are nonprofit, and the eligibility
773 of all groups is dealt with either in 1900.1010, or in the program specific sections on a
774 program-by-program basis.

775

776 Finally, this section has been edited for clarity.

777

778 **Subp. 13. Person of Color**

779 Person of color is a term of art that must be periodically updated. This definition has
780 been made current with other federal and state definitions, most notably the United
781 States Census Bureau.

782

783 **Subp. 14. Presenting activities**

784 This part was amended in the spirit of creating performance-based rules. Rather than
785 presenting a list of activities that the board declares to be presenting activities, the
786 requirement is stated as a general description of these types of activities to be funded
787 and a description of the purposes to be achieved by presenting activities. This allows the
788 applicant to explain why their activities would achieve the purposes stated in the rules.

789 Because this definition is less prescriptive, a specific exclusion has been stated for
790 owners of facilities who attempt to declare themselves presenters for providing space to
791 artists. Although property owners often apply as presenters, if they are not actively
792 engaged in presenting arts programming for Minnesotans they are not a funding
793 priority for the Arts Board.

794

795 **Subp. 15a. Professional artist.**

796 The definition of professional artist has been phrased in terms of the intent and
797 motivation of the creator of the art rather than the monetary return they are able to
798 receive for their work. For various reasons, the creator of a significant and important
799 body of work may be unable to support themselves financially solely on the sale of their
800 work. What is more important is the dedication to the creation of art on the part of the

801 artist, and the value of the artistic experience that the artist is able to provide for
802 Minnesotans.

803

804 **1900.0410 AGENCY ADVISORY PANELS.**

805 (Line 5.4)

806 **Subp 2. Nomination and appointment to advisory panels**

807 The words “during regular business hours” have been stricken from the requirements
808 for nominations to panels in paragraph one. In the past, when it was necessary to contact
809 a staff member in order to submit a nomination, this was a reasonable requirement.
810 However, now that most, if not all, nominations are submitted electronically, it is not
811 necessary that the submission occur at a certain time. Indeed, many nominations are
812 more easily submitted after normal business hours precisely because people are not
813 bound by work schedules. Dropping this requirement allows for broader participation
814 and greater convenience to potential panelists.

815

816 In paragraph two, the phrase, “one panel specific fiscal year term” has been replaced
817 with, “on a panel within one grant program.” This language more clearly expresses the
818 idea that an individual may be a panelist for more than one term, at the pleasure of the
819 board, as long as it is not for a third consecutive year in the same grant program. It is in
820 the third year when many of the same applicants are likely to be considered for the
821 second or third times. The risk is that a panelist may become, or seem to become,
822 inclined to award a panelist based on past performance, familiarity, or reputation rather
823 than the contents of the current application.

824

825 In the third paragraph of subpart 2, a section of language has been dropped because it
826 was confusing and unnecessary. The reason it is unnecessary is that, at present, there is
827 only one program with a two-year grant cycle: Community Arts Schools and
828 Conservatories. It is anticipated that soon this program will join the other programs in a
829 four-year grant cycle. Having each program on a four-year cycle with staggered

830 application dates allows greater efficiency in grant program administration and is also
831 easier for applicants. Periodic visits and reviews by staff ensure grantee compliance with
832 proposal and contract terms. New applicants are able to apply in interim years.

833

834 Also, because of the uniformity of the grant cycles, it is easier to have uniformity of the
835 advisory panel terms as well. Now, every panel is treated as a one-year panel, and no
836 panelist may serve longer than three years in any one program. Again, this simplified
837 system allows for greater efficiency in managing and appointing panelists and allows
838 the Arts Board to be a better steward of public funds.

839

840 In the final paragraph of subpart 2 the language, “[N]o member of an advisory panel
841 may serve on a panel which would review an application from that member for a grant
842 or other form of assistance from the board,” has been replaced by, “[A] panel member
843 may not serve on a panel for a program from which the panel member is seeking funds,
844 either as an individual applicant, or as current employee or board member of the
845 applicant.” This wording more clearly expresses the idea that conflicts of interests can be
846 avoided when an applicant for a program cannot also be a panelist for that same
847 program.

848

849 **Subp. 3. Member qualifications.**

850 While the substance of this subpart has not been changed, the language has been
851 revised to focus more on the skills and knowledge that potential panelists should
852 possess rather than what their title is, or what their specific role in the arts is. The idea
853 here is to broaden the pool of potential Minnesotans who could serve on advisory
854 panels to more broadly represent Minnesotans as a whole, while maintaining a baseline
855 level of expertise among the panelists.

856

857 **Subp. 3(a) Member Application.**

858 The word “read” has been replaced with “reviews” to more accurately describe the

859 activity of interacting with art samples that are often not read, but are seen or heard.
860 The other changes to this subpart have been made for clarity and organizational
861 purposes only and do not constitute any substantive changes.

862

863 **Subp. 5. Conflict of interest of member.**

864 This section has been amended to exclude panelists who have been employed by, served
865 as a consultant to, or served on the board of an applicant within the last two years. The
866 former rules only excluded panelists serving concurrently. This requirement was made
867 more stringent because the Arts Board strives to be as objective as possible, and for this
868 reason its policy on conflicts of interest is more stringent than the state's conflict of
869 interest policies. The Arts Board seeks to avoid not only actual conflicts but also the
870 appearance of conflicts. In addition, potential conflicts of interests were a chief concern
871 of the Minnesota Office of the Legislative Auditor's in its 2011 report on the Legacy
872 Amendment (available at: www.auditor.leg.state.mn.us/ped/pedrep/Legacy.pdf).

873

874 **Subp. 6. Exclusion of member.**

875 The changes to this subpart reflect the changes above in subpart 6 and state policy. The
876 board will report appearances of conflicts of interests in addition to actual conflicts of
877 interest.

878

879 **Subp. 7. Artistic advisors.**

880 Many Arts Board grant programs use an artistic visit to evaluate the art or artistic
881 programming provided by grantees. Advisory panelists have traditionally conducted
882 these artistic visits. However, because of the number of applicants and the increased
883 amount of application materials that need to be reviewed by the panelists, there have
884 been concerns about the levels of stress placed on these volunteers. For this reason,
885 artistic advisors were introduced. These are people skilled in an artistic discipline who
886 can conduct artistic visits. Artistic advisors may or may not also be advisory panelists.
887 The nomination, appointment, and service terms are the same as for advisory panelists.

888

889 **Subp. 8. Artistic advisor qualifications.**

890 The required qualifications for artistic advisors are less rigorous than those for advisory
891 panelists because they are evaluating only the quality of the artistic experience and do
892 not evaluate administrative, economic or managerial skills of the applicant. This casts a
893 wider net for candidates and allows for more opportunities for participation by
894 Minnesotans.

895

896 **1900.0610 REVIEW CRITERIA USED BY ADVISORY PANELS**

897 (Line 8.1)

898

899 While artistic excellence may be an important criterion for most of the Arts Board's
900 programs, it is no longer accurate to say that it is the most important criterion for all
901 programs. This change is reflected in the language of the Legacy Amendment, which
902 instructs that funds may be directed towards education, arts access, and for the
903 preservation of cultural heritage. Thus it is easy to imagine a scenario where the benefits
904 of artistic programming for the audience is more important than that the art be of the
905 highest quality. For example, art that is presented for the first time to an underserved
906 community, art that has a therapeutic effect, or artistic expression of a dying folk art
907 form should be funded even if the art itself is not of the highest artistic quality, because
908 the exposure of a particular form to a particular audience furthers the purposes of the
909 Legacy Amendment.

910

911 Most of the changes to this part are for organization, clarification or elaboration. There
912 are, however, three new ideas introduced here. First, while it has long been true that the
913 panels will rely only on the application materials, and not outside information, this
914 guideline has not been included in the rules previously. This is an important idea that is
915 made explicit in this rulemaking because it ensures a more level playing field for
916 applicants that are small, less established, or outside of the metro area and pitted against

917 well-known organizations with strong reputations. The Arts Board wants panelists to
918 make decisions based solely on the applications and work samples as opposed to
919 reputation of the artist.

920

921 Second, it is also true that advisory panel meetings are open to the public. It is thought
922 that this should be stated explicitly in the rules. It is a cornerstone of good government
923 that its activities are open to the public, which is why this provision is included in this
924 subpart. However, applicants cannot address the panel for several reasons. If
925 presentations were allowed, it would greatly increase the time application reviews take,
926 which would be inefficient and take up even more time of the volunteer panels and Arts
927 Board staff. Furthermore, it is difficult to imagine something that can be said in person
928 that could not have also been stated in the application. Finally, allowing presentations
929 would provide an unfair advantage to applicants who live in the metro area, where the
930 panels meet, and would find it easier to get to the Arts Board office than applicants
931 living in rural Minnesota.

932

933 **1900.0710 BOARD ACTION AND AGENCY ADVISORY PANEL**
934 **RECOMMENDATIONS**

935 (Line 9.3)

936

937 The second line in this part has been added to explain the use of ranking as a means of
938 prioritizing the panelist's recommendations. The Minnesota Department of
939 Administration's Office of Grants Management requires the ranked scoring of applicants
940 against review criteria in all competitive grant processes (See policy 08-02, available at:
941 http://mn.gov/admin/images/grants_policy_08-02.pdf).

942

943 The phrase "proposal description" has been replaced with "application" for the purpose
944 of uniformity across this chapter. The remaining changes to this part are editorial in
945 nature and do not constitute any substantive changes.

946

947 **1900.0810 PROCESS FOR OBTAINING GRANTS AND OTHER FORMS OF**
948 **ASSISTANCE**
949 (Line 9.12)

950

951 **Subp. 1. Application materials for grants and other forms of assistance**

952 This part has been amended because it is important that applicants comply with all
953 federal, state, and board requirements for applicants. The former language was too
954 narrow and is believed to have been an oversight.

955

956 **Subp. 3. Application.**

957 The phrase “in the form of typed attached pages” has been omitted for being
958 technologically outdated.

959

960 **Subp. 4. Applications screening**

961 This subpart has been amended for clarity only and does not constitute any substantive
962 change.

963

964 **Subp. 5. Applicants notified of board decisions.**

965 This subpart was highly confusing and has been reworded for clarity. No substantive
966 changes have been made.

967

968 **1900.1010 ELIGIBILITY REQUIREMENTS FOR APPLICANTS REQUESTING**
969 **GRANTS OR OTHER FORMS OF ASSISTANCE**
970 (Line 11.1)

971

972 **Subp. 1. Eligibility requirements**

973 The word “kinds” has been removed because it was unnecessary and confusing.

974

975 **Subp. 2. All applicants**

976 This subpart has been amended for clarity. In addition:

977

978 In item F, “or more” has been added to be more specific. It was not clear from the
979 previous language whether equipment costing \$5,000 was included, or if it had to cost
980 \$5,000.01 to be included.

981

982 In item G, “date” has been removed because it was redundant.

983

984 Item J previously included two requirements: that events are open to the public and that
985 an admission fee is charged. These have been separated into items J and K.

986

987 Item L. The Arts Board seeks to engage Minnesotans by funding artistic projects,
988 programs and activities rather than infrastructure or infrastructure improvements. It is
989 expected that artists and organizations funded at the statewide level (as opposed to
990 through the regional arts councils) are established and able to provide the programming
991 proposed in their application. An organization that has needs as basic as bricks and
992 mortar is too risky a venture to warrant the state’s investment for providing artistic
993 value to the taxpayer.

994

995 Item M. There are three primary sources for the requirement that activities take place in
996 Minnesota, and the restriction has become more absolute over time. Taken together, the
997 Arts Board now sees this restriction as absolute. First, the mission of the Arts Board is to,
998 “stimulate and encourage the creation, performance and appreciation of the arts *in the*
999 *state.*” (Minn. Stat. 129D.04, emphasis added). The Arts Board’s interpretation of this
1000 provision had allowed for some funding of activities that were not located in the state
1001 but had a positive effect on the appreciation of arts in the state, such as funding arts
1002 groups in border communities. There were also some professional development projects
1003 that might take an artist outside of the state for the study of an art form. This
1004 interpretation was applied to general funds only. The Arts Board interpreted the
1005 directive in the Legacy Amendment that Legacy funds be spent “for the benefit of
1006 Minnesotans” (Minn. Const. Art. XI § 15) more narrowly. Because funding activities in

1007 border communities could be interpreted as being for the benefit of non-Minnesotans,
1008 the Arts Board has restricted Legacy funds from such uses. Finally, the Legislature, in its
1009 last appropriation to the Arts Board, specified that the funds should only be used for
1010 “projects located in Minnesota” (2013 Minnesota Session Laws Chapter 142, Art. 1 § 24).
1011 In accordance with this direction from the Legislature, the Arts Board has discontinued
1012 the use of any funds outside of the state for any purpose.

1013

1014 **Subp. 3. Organizations**

1015 A (1). The Arts Board has an obligation to ensure that public funds are used only for the
1016 benefit of the public. Nonprofit and governmental units operating for public or
1017 charitable purposes operate with a similar responsibility, which gives some reassurance
1018 that the funds will be spent only for the benefit of the public. Organizations that operate
1019 for profit, on the other hand, have an interest in generating profit that could be at odds
1020 with providing arts programming to the public for the best return on public dollars. This
1021 provision is designed to ensure that a nonprofit arts affiliate does not use funds for the
1022 benefit of a for-profit host organization at the expense of the taxpayer. Requiring that
1023 applicant organizations have tax-exempt status with the Internal Revenue Service (IRS)
1024 is an efficient way to identify an organization that operates in the public interest without
1025 incurring additional administrative or applicant resources because the IRS only grants
1026 tax-exempt status to nonprofit or charitable organizations.

1027

1028 A (2). Since units of state, local or tribal governments are public entities that act on
1029 behalf of their constituents; they have a responsibility to spend funds on the public’s
1030 behalf and are therefore, for application purposes, rebuttably presumed to be
1031 accountable to the public.

1032

1033 A (3). Many potential applicants are organizations that are not operated for a profit, but
1034 are not 501(c)(3)s. Organizations that are eligible in every way other than having tax-

1035 exempt status may apply if they have a Minnesota 501(c)(3) agree to act as a fiscal agent
1036 on their behalf. The fiscal agent ensures that the grant is spent according to Arts Board
1037 requirements and according to program purposes.

1038 B (1). The mission of the Arts Board is to, “stimulate and encourage the creation,
1039 performance and appreciation of the arts *in the state.*” (Minn. Stat. 129D.04, emphasis
1040 added). In addition, the Arts Board has been directed in the Legacy Amendment, to only
1041 spend funds “for the benefit of Minnesotans” (Minn. Const. Art.XI § 15) and in its last
1042 appropriation to fund only “projects located in Minnesota.” (2013 Minnesota Session
1043 Laws Chapter 142, Art. 1 § 24).

1044
1045 B (2). This requirement is intended to channel more professional and established artists
1046 to funding at the state board level. Newer and less experienced organizations would be
1047 funded at the local level through the regional arts councils. Stable and established arts
1048 organizations tend to have at least one paid employee with a defined skill set, someone
1049 who curates, produces, or otherwise guides the artistic activities of the organization. A
1050 less experienced organization would have volunteers, each of whom likely wear
1051 multiple hats.

1052
1053 C (1). Affiliates are required to be hosted within a Minnesota parent organization for the
1054 same reasons cited for B (1) of this subpart, which discusses the requirement that
1055 organization applicants be located in Minnesota. The board wishes to discourage non-
1056 Minnesotan for-profit companies from applying for state arts funding by establishing
1057 local affiliates. Allowing such arrangements could violate the “for the benefit of
1058 Minnesotans” provision of the Legacy Amendment, because the for-profit host
1059 organization would derive a benefit, even if only good will, on the back of the taxpayer.
1060 Moreover, it would be too difficult, if not impossible, for the Arts Board to track the
1061 funds to ensure they were only used for projects in the state.

1062
1063 C (2) through C (9). These requirements are what the board considers to be essential

1064 characteristics of an arts affiliate that is sufficiently distinct from the parent organization.
1065 A distinct public identity, a qualified staff, a full season, support from the community,
1066 an independent board and budget, charitable support, and programming that is for the
1067 public are all indicators that the affiliate is distinct enough to justify being a separate
1068 entity and applicant from the parent. The goal is not only to select more qualified
1069 providers for arts programming, but also to thwart ineligible organizations that create
1070 arts subsidiaries in an attempt to qualify for public funds.

1071

1072 **Subp. 4. Fiscal agent duties**

1073 "Before the application deadline" was added to prevent the practice of organizations
1074 claiming that an individual will be hired once the grant is received. First, it is important
1075 that there be an individual to manage the project from conception to completion in order
1076 to achieve maximum benefit and to guarantee a certain level of professionalism to the
1077 project. Second, it is a matter of fairness that all applicants are subject to the same
1078 requirements at the time of the application.

1079

1080 **Subp. 5 Individual Artists**

1081 5 (a). The changes to item A in this subpart have, with two exceptions, been
1082 reorganization and simplification.

1083

1084 "Applying as an individual" has been added because individual artists are often also
1085 members of collectives, companies or groups, and the board wants to emphasize that
1086 these roles must be kept distinct.

1087

1088 Because a cross-reference to the statute on the determination of residence is included, it
1089 is believed that a partial recitation of the content of the statute is unnecessary and has
1090 therefore been removed. The Arts Board's program materials are able to explain the
1091 requirement thoroughly and with examples. Therefore, it is thought sufficient that the
1092 rules state the requirement and allow the program materials explain it more thoroughly.

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5 (b). The language in this item of the subpart has been amended for clarity, not substance. The phrase “any type of nonprofit or for-profit” replaces “an arts organization” to be more explicit only. The idea remains that the applicant needs to be an individual or an individual trying to become an organization.

1900.1110 APPEAL PROCESS
(Line 16.10)

Subp. 1. Basis for an appeal.

Some appeals involve complaints about Arts Board staff or advisory panels. This change makes it clear that decisions can be appealed on the basis of actions taken by Arts Board staff or advisory panels, not just the governing body of the Arts Board.

Subp. 2. Appeal procedure.

This section has been amended to reflect the changes above to Subp.1 and for clarity. In addition:

A. The language “applicant must submit” has been changed to “board must receive” and “45 days” was changed to “30 business days in order to reflect” in order to make the time requirement more specific and possible to calculate. The previous language was not specific whether calendar or business days were meant. Also, sometimes it is claimed that by some “glitch” a document is submitted yet never received. This change reflects the fact that while the Arts Board has no way to reliably determine when an appeal was submitted, it knows precisely when it was received and therefore is better able to determine whether an appeal is timely.

B. In order for Arts Board staff to adequately investigate the appeal and give an informed and relevant response to the appellant, the Arts Board must know what the nature of the complaint is and why the appellant believes this to be the

1123 case. The appellant is the only party with the particular knowledge of the basis
1124 for the appeal. Requiring that the applicant share this information with the Arts
1125 Board encourages a fair and timely resolution of the appeal.

1126
1127 C. This sentence has been added so that it is clear to the appellant that while the
1128 governing body of the Arts Board will make the final decision, the Arts Board
1129 staff will conduct the majority of the investigation. This has always been the case
1130 and is necessary due to the geographic and time limitations that the board
1131 operates under.

1132
1133 D. Because Arts Board grants are awarded on a competitive basis, all grants and
1134 the grant amounts are contingent on, and based upon, the funds available being
1135 divided by the total number of grantees. As a consequence, no grant can be
1136 awarded until the pool of grantees has been finalized. Therefore, while the
1137 appellant needs adequate time to make an appeal, time is of the essence for an
1138 appeal to be considered and resolved. The amendments to the subsection are
1139 intended to keep the appeal process moving along while also ensuring that the
1140 applicant and the Arts Board have adequate time to prepare and conduct the
1141 appeal.

1142
1143 E. This subsection has been revised and reorganized for clarity only. The only
1144 substantive change was the insertion of "or more," allowing for the possibility
1145 that one part of an appeal might be upheld while another might be rejected.

1146

1147 **Subp. 3. Disputed decision.**

1148 This subpart has been expanded in order to more clearly define the appeal process and
1149 ensure that it happens in a timely manner. As noted above, the grants of all other
1150 applicants to the same program are affected by the outcome of the appeal. It would be
1151 unfair to those grantees to prolong the appeal process more than necessary. The existing

1152 rules have no deadlines or triggers to advance the dispute to the next stage. In the past,
1153 appellants have asked the board to reconsider several times, bogging down the appeal
1154 process and expending unnecessary public resources. A different outcome is rare when
1155 the same body reviews the same facts a second time. If a dispute between the board and
1156 an applicant persists, it is in the best interest of both parties and all other applicants to
1157 have the matter go forward to OAH in a timely fashion.

1158

1159 **1900.1210 LEGAL RELATIONSHIP BETWEEN APPLICANT AND BOARD**

1160 (Line 18.7)

1161

1162 The provision allowing the board to make current and future funding contingent on
1163 satisfying existing contract provisions was included not as a punitive measure, but as a
1164 way to make grantees more accountable to the state. There were some provisions that
1165 while very important for public accountability, like using the Legacy logo on published
1166 materials, or completing a final report, might not be severe enough on their own to void
1167 an entire contract. By allowing the board to consider contract fulfillment as a factor in
1168 future funding decisions, the board has another tool to make arts funding grantees more
1169 accountable to the state, as required by the Office of Grants Management policies.

1170

1171 **1900.1210 PUBLIC ACCESS TO RULES AND PROGRAM INFORMATION**

1172 (Line 18.16)

1173

1174

1175 The changes to this part are updates that reflect current records accessibility and
1176 retention practices. Rarely, if ever, does anyone come to the Arts Board's office to review
1177 its rules; usually, people expect to access information on the Internet. Thus a link to the
1178 location of the Arts Board's rules on the Office of the Revisor of Statutes Web site is
1179 provided. For the same reasons, a link to the Arts Board's Web site is provided for
1180 public access to current program information. References to "the offices of the board"
1181 and "regular business hours" are no longer necessary because Internet access has no
1182 such time or place restrictions. The other minor changes to this part are not substantive

1183 and were made for clarity only.

1184

1185 **1900.2210 ADDITIONAL REQUIREMENTS AND PROCESSES FOR MINNESOTA**
1186 **PERCENT FOR ART IN PUBLIC PLACES PROGRAM**

1187 (Line 18.24)

1188

1189 **Subp. 1 Definitions.**

1190 A. "Artist" is limited to practitioners of the visual arts in this program because the
1191 legislation requires, "works of art to be exhibited in areas of a building or its grounds
1192 accessible, on a regular basis, to members of the public." (Minn. Stat. 16B.35 sub. 1). The
1193 Arts Board has interpreted this to mean that the art is permanent and visible to the
1194 public at all times. Other forms of art: music, theater, dance etc. ... cannot be reasonably
1195 presumed to be accessible to the public on a regular basis. This interpretation is
1196 reasonable considering that the art is intended to be "public."

1197

1198 C. The idea of a custodial agency has been introduced at the request of the Department
1199 of Administration, which indicated that it would be helpful if the agency receiving the
1200 art could be defined and if the responsibilities of all of the parties could be more clearly
1201 delineated. There have been problems with maintenance and care of the artwork. The
1202 Percent for Art program allows agencies to use 1% of construction or renovation budget
1203 to purchase art. The decision to accept any art is voluntary. The Arts Board acts as a
1204 curator, helping the custodial agency select an appropriate piece for the space. The Arts
1205 Board helps select art that is reasonably easy to maintain and the custodial agency
1206 receives care instructions from the artist. The art is, in effect, owned by the state but held
1207 in trust by the custodial agency. The statute does not specify who is to pay to maintain
1208 the art, but both the Arts Board and the Department of Administration believe that the
1209 art should be treated like other government property held by an agency. The art is
1210 essentially incorporated into the building or grounds and should be maintained along
1211 with the building and grounds.

1212

1213 E. Because photographic slides are no longer the accepted method for presenting work
1214 samples, “slide registry” has been replaced with “artist registry.”

1215

1216 F. The phrase “unless it is the desire of the tenant or managing agency to proceed with
1217 the approval from the commissioner of administration” has been removed because it is
1218 the opinion of the Arts Board that to place a piece of public art in a location where it
1219 cannot be regularly seen by the public would violate Minnesota statute 16B.35 with or
1220 without the approval of the commissioner.

1221

1222 G. This section has been revised to make it more explicit when a five member committee
1223 will be used as opposed to a seven member committee.

1224

1225 **Subp. 3. Activities the program supports.**

1226 The last sentence of this subpart has been revised to reflect current public administration
1227 realities. The Arts Board is voluntarily reducing this amount. At one time, twenty
1228 percent may have been a realistic figure, but in actuality the Arts Board operates at a
1229 much lower percentage and in no foreseeable circumstance would exceed ten percent.

1230

1231 **Subp. 4 Processes Used to Select Artwork for Site.**

1232 A site selection committee is the preferred method of selection of works of art because it
1233 involves members of the public, and introduces a mechanism of impartiality and
1234 fairness in the selection process. For this reason the word “generally” has been struck
1235 from the rule. The only time a selection committee would not be used is if the money
1236 available to purchase a work was so small that it did not warrant the assembling of a
1237 committee. For instance, if a work of art were to be purchased for \$500, it would be more
1238 cost effective for the Arts Board and custodial agency to make a selection rather than
1239 assemble a committee.

1240

1241 **Subps. 6 and 7**

1242 The changes to these subparts are for clarity only and do not make any substantive
1243 changes.

1244

1245 **Subp. 8. Waiting Periods for Subsequent Awards**

1246 “Percent for Art” has been added to make it clear that there is only a waiting period for
1247 Percent for Art funds. Grantees may still apply to other Arts Board programs.

1248

1249 **Subp. 9. Processes to Identify Applicants for Consideration**

1250 B(1) Has been amended to adhere to the modern practice of a digital request for
1251 proposal as opposed to a bulk mailing.

1252

1253 The other changes to this subpart are for clarity only.

1254

1255 **Subp. 10. Projects Not Eligible**

1256 “Proposal” is a more accurate term than “project” because at the application stage there
1257 is not yet a project, there is only a proposal. The other changes to this subpart are for
1258 clarity only.

1259

1260 **Subp. 11. Responsibilities of the Arts Board and Custodial Agency after acceptance of**
1261 **the artwork**

1262 As mentioned above, The Minnesota Department of Administration, requested that the
1263 rights, responsibilities, and duties of all parties participating in the Percent for Art
1264 program be more clearly defined. This subpart attempts to delineate these rights,
1265 responsibilities, and duties.

1266

1267 A. Because the Arts Board has expertise in artwork and has helped in the selection of all
1268 projects in this program, it is the best choice for giving uniform oversight to all of the
1269 works being held in trust for the state by the custodial agencies. If each custodial agency
1270 were solely responsible for monitoring the condition of the artwork, it would result in

1271 uneven treatment of the state's collection and would inevitably lead to neglect in some
1272 instances. The Arts Board is in the best position to monitor the condition of the state's
1273 collection of public art work.

1274

1275 B. The state must put human life and safety above art and therefore must have an
1276 exception where it may modify or remove the art if it creates an imminent harm.

1277

1278 C. The state is the owner of the work and therefore is not required to contact the artist in
1279 order to perform maintenance. Such maintenance will not affect the appearance of the
1280 art or the reputation of the artist. In addition, the artist will have had an opportunity to
1281 provide instructions for how such routine maintenance should be conducted.

1282

1283 D. The duties outlined in this item reflect the idea that the artwork is part of the
1284 property and the agency with possession is therefore responsible for its upkeep. The
1285 responsibilities here outlined are consistent with the responsibilities of an agency for any
1286 government property. As the state agency with expertise in public art, the administrator
1287 of the program that supplied the artwork, and the curator of the state's art collection, the
1288 Arts Board reserves the authority to ensure that steps be taken to protect and preserve
1289 any art on behalf of its owners, the people of Minnesota.

1290

1291 **Subp. 12 Rights of the Artist After Acceptance of the Artwork**

1292 Because of the close relationship between the reputation of an artist and the reputation
1293 of his or her art, the Arts Board has posited that the artist should retain certain rights in
1294 a work even though the state may own the work. These considerations are entirely
1295 voluntary, it should be noted, because the artwork has been purchased and is owned by
1296 the state.

1297

1298 A. The Arts Board and the custodial agency will assume a voluntary consideration to the
1299 artist to leave the art as the artist intended it. A custodial agency, for example, may not

1300 think that it would be significant to move a work to a new location. The Arts Board
1301 realizes that the any change to a work, including placement, could significantly alter the
1302 artist's vision.

1303

1304 B. Because any changes to a work could potentially alter its adherence to the artist's
1305 vision, the Arts Board agrees to seek the consent of the artist before any substantial
1306 changes are made to a Percent for Art artwork. These would be changes beyond the
1307 scope of any care instructions supplied by the artist.

1308

1309 C. Also, the artist retains the right of disassociation. If an artist believes that a work of
1310 art, whether by natural deterioration, neglect, or any other reason, is in a state such that
1311 the artist no longer wishes to be associated with the work, the Arts Board agrees to
1312 remove the artist's name.

1313

1314 D. If it is possible, and the state will incur no additional costs, the artist will be given the
1315 opportunity to salvage a work that the Arts Board, in its role as curator of the state's
1316 collection, decides it no longer wishes to maintain. In practice, this is a very rare
1317 occurrence. Art that is disposed of in this manner will have greatly deteriorated and
1318 become too burdensome to maintain than would be justified considering what remains
1319 of its artistic value. This is a determination that will only be made by a vote of the board.

1320

1321 E. The Arts Board cannot guarantee that a work will be kept intact if it is affixed, or
1322 integrated into a structure. This provision puts the artist on notice that integrated work
1323 cannot in all cases be preserved.

1324

1325 **1900.2215 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE ARTIST**
1326 **INITIATIVE PROGRAM**
1327 (Line 25.1)

1328

1329

1330 **Overview**

1331 The Artist Initiative grant program is designed to support and assist professional
1332 Minnesota artists at various stages in their careers by encouraging artistic development,
1333 nurturing artistic creativity, and recognizing the contributions of individual artists to the
1334 creative environment of the state of Minnesota. Grants are awarded for career building
1335 and the creative development of artists. Each project must include a live, in-person,
1336 community component that will provide meaningful public engagement and draw
1337 visibility to the artist's work.

1338

1339 It is the policy of the Arts Board to award individual artist grants because giving
1340 individual artists general operating funds allows for the creation of superlative art and
1341 fosters artistic innovation. The Arts Board views these grants as investments in artistic
1342 research and development. Artist assistance programs are the origin of arts activity in
1343 Minnesota and they are the heart of artistic enjoyment for Minnesotans. Without
1344 successful individual artist, there would be no arts community.

1345

1346 **Background**

1347 Giving operational support to individual artists has long been a priority for the Arts
1348 Board. Historically, this has been done through four types grant programs: fellowships,
1349 grants for video documentation, grants for career opportunities, and cultural
1350 collaborations. These were collectively referred to as the Artist Assistance programs.
1351 With the exception of the cultural collaboration component, which has evolved into the
1352 Cultural Community Partnership program, this family of programs has been combined
1353 into the Artist Initiative program that the Arts Board hopes to make permanent with this
1354 rulemaking.

1355

1356 From early Arts Board programs, as far back as 1910, through the arts funding heyday of
1357 the 60s and 70s, and into the current century, individual grants in the form of
1358 fellowships have been the accepted method of arts grant distribution. In the last two
1359 decades, however, this model has changed towards a more project-based funding

1360 model, as is demonstrated in the majority of the current Arts Board grant programs,
1361 including Artist Initiative. In the Artist Initiative program, unlike in fellowships, the
1362 artist must propose a project for which outcomes can be measured. The grant is awarded
1363 for the purpose of meeting these outcomes, and the success of the grant will be
1364 measured by the artist's ability to meet the outcomes that have been proposed. This
1365 creates a more performance related grant structure where grant dollars are tied to
1366 performance and artistic excellence is rewarded.

1367

1368 **Subp. 1. Purpose of the Program.**

1369 The purpose of the program is provided here to give context and orientation to the
1370 reader; it does not introduce any new regulatory requirements or Arts Board
1371 procedures.

1372

1373 **Subp. 2. Uses of Grants**

1374 The uses stated here limit Artist Initiative funds for use only by artists to subsidize their
1375 work or develop their careers. While other uses may be consistent with Arts Board
1376 funding, the Artist Initiative program is designed to support individual Minnesotan
1377 artists in specific arts and career projects that are tied to measurable outcomes.

1378

1379 **Subp. 3. Criteria used by advisory panel and board to make grants.**

1380

1381 The Artist Initiative program makes grants on a competitive basis from available funds.
1382 It is the policy of Minnesota state agencies, as expressed in Policy 08-02 of the Minnesota
1383 Department of Administration's Office of Grants Management, that competitive grant-
1384 making be conducted by scoring applicants in relation to review criteria that have been
1385 made available to the applicants. The Arts Board employs volunteer advisory panelists
1386 to score and rank applicants based on the extent to which they meet the review criteria
1387 for each program. For the Artist Initiative program, the rationales behind the review
1388 criteria are as follows:

1389

1390 *A. Artistic quality of work as demonstrated by the artist resume and work samples submitted*
1391 *with the application.* Arts experiences and artists that are of an established and high
1392 quality are more likely to provide better and more consistent arts experiences and are
1393 more likely to be effective uses of state funds. In addition, it stands to reason that artists
1394 with the highest achievement be rewarded with funding, because this serves as
1395 incentive to achieve artistic excellence. A resume and art samples allow panelists to
1396 review the work of artists from all over the state in a consistent, neutral setting that does
1397 not favor any applicant.

1398

1399 *B. Merit and feasibility of the proposal and its impact on the artist's creative development and*
1400 *professional growth.* No matter how talented an artist may be, he or she won't receive
1401 funding without a realistic proposal. Because Artist Initiative is project based, past
1402 achievement, while perhaps indicative of future performance, is not sufficient to secure
1403 funding. The applicant has to fully develop a proposal and convince the panelists that it
1404 is achievable and would be beneficial for the arts community in Minnesota. In addition,
1405 the proposal must expand the artist's development and not just be a newer version of
1406 old work. The idea is that rather than just support artists, Artist Initiative funds must
1407 subsidize new art and art experiences for Minnesotans.

1408

1409 *C. Ways in which the proposal will strengthen the creative community or the state.* The Arts
1410 Board does not seek to fund artists in isolation; there needs to be a plan for how the
1411 funded project will impact the arts community or have a positive impact in the state. A
1412 well-crafted proposal for a viable project has considered these impacts and will convince
1413 the Arts Board that the impact will be beneficial.

1414

1415 **Subp. 4. Additional requirements.** Because the Artist Initiative program is project based
1416 and is not general operational support, grantees are not eligible for consecutive grants.
1417 Similarly, Cultural Community Partnership awards can affect an artist's eligibility. The
1418 Arts Board wishes to spread grant money around for projects throughout the state, and

1419 avoid becoming monopolized by a limited number of repeating grantees. Restricting an
1420 applicant's ability to receive funds from certain programs simultaneously, or
1421 consecutively, is a measure to spread art support around throughout the state. Finally,
1422 many individual artists also belong to arts organizations, groups or collaboratives. If an
1423 artist is applying for Artist Initiative, it must be as an individual artist. Not only are
1424 there other programs more suitable for arts groups, it is also important in competitive
1425 grant processes to consider applicants in relation to other similarly-situated applicants.

1426

1427 **Subp. 5. Dollar amount of grants.**

1428 Establishing minimum and maximum amounts for grants helps artists and
1429 organizations plan their budgets because they know the parameters for best and worst
1430 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
1431 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
1432 possible to set minimum and maximum dollar amount levels too far in advance or on a
1433 long-term basis. For this reason, the board makes determinations for each grant cycle
1434 and makes them available to applicants in the application materials at the beginning of
1435 the application process. All applicants know that there will be minimum and maximum
1436 amounts set, but that the exact figures will not be known before the appropriation. This
1437 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
1438 give the applicants the exact figures as soon as possible.

1439

1440

1441 **1900.2220 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE ARTS**
1442 **ACCESS PROGRAM.**

1443 (Line 26.6)

1444

1445 **Overview**

1446 Arts Access is a program designed to broaden opportunities for Minnesotans to
1447 participate in high quality arts experiences. Grant funds may be used by arts
1448 organizations for strategic and organic engagement with an identified target group or

1449 community that is underserved by the applicant organization. In this program, a
1450 community may be a geographic entity or it may be a community of interest or identity.
1451 The applicant must work with the underserved group or community to identify the
1452 barriers to participation and work collaboratively with members of the underserved
1453 group or community to develop and implement strategies to reduce or remove those
1454 barriers to participation.

1455

1456 **Background**

1457 The Arts Access program had its genesis in 2001, when Minnesota was one of thirteen
1458 states chosen for participation in a program by the Wallace Foundation of New York to
1459 study participation in the arts. As a result, the board created the Strategic Audience
1460 Development Initiative (SADI) and did a series of grants to have arts organizations do
1461 strategic work on increasing participation in their work. The initiative showed better
1462 outcomes where achieved when arts groups fostered relationships with underserved
1463 communities and worked together to improve access to the arts than when arts groups
1464 did outreach on their own. When the board was later specifically charged with
1465 increasing arts access by the Legacy amendment, it took what it had learned from the
1466 SADI initiative and put it to work in the Arts Access program.

1467

1468 **Subpart 1. Definitions.**

1469 The definition of “community” provided here refers to the traditional sense of the word-
1470 meaning a geographic community- but also describes groups of people who share
1471 characteristics that lead them to being underserved by arts programming, such as
1472 cultural identities, age, or other demographical similarities.

1473

1474 **Subp. 2. Purpose of the program**

1475 The purpose of the program is provided here to give context and orientation to the
1476 reader; it does not introduce any new regulatory requirements or Arts Board
1477 procedures.

1478

1479 **Subp. 3. Uses of grants.**

1480 This program is intended to increase audience participation only; it is not intended to
1481 provide support to artists or arts organizations. There are other programs that artists or
1482 arts organizations may qualify for that provide operating funds. By limiting funding
1483 narrowly to only those activities that increase art experiences to underserved groups, the
1484 program is able to achieve its purpose and prevent multiple grants being awarded to
1485 fund the same activities.

1486

1487 **Subp. 4. Criteria used by advisory panel and board to make grants.**

1488 The Arts Access program makes grants on a competitive basis from available funds. It is
1489 the policy of Minnesota state agencies, as expressed in Policy 08-02 of the Minnesota
1490 Department of Administration's Office of Grants Management, that competitive grant
1491 making be conducted by scoring applicants in relation to review criteria that have been
1492 made available to the applicants. The State Arts Board employs volunteer advisory
1493 panelists to score and rank applicants based on the extent to which they meet the review
1494 criteria for each program. For the Arts Access program, the rationales behind the review
1495 criteria are as follows:

1496

1497 A. The quality of the arts experience in this program means more than just "quality of
1498 the art." It is the quality of the relationship between the art and the audience. In Arts
1499 Access, the importance of the project exists in the way the art is experienced by the
1500 audience rather than the quality of the art in and of itself. A flawless artistic performance
1501 is of little effect if the audience is from a group for whom the programming is not
1502 important or relevant. A less accomplished performance that provides information and
1503 context that helps the audience appreciate the performance would be of more value. The
1504 Arts Access applicant needs to have considered the relevance of its programming to the
1505 target audience and the barriers that may keep the target audience from being engaged
1506 with the work. The applicant must explain how the project will increase the accessibility

1507 of the programming for that audience. In other words, the applicant must explain how
1508 the project will accomplish the purposes of the Arts Access program.

1509

1510 B. The Arts Board only wants to fund activities that are relevant to the communities they
1511 serve. A good indicator of how relevant an individual or organization is to the
1512 community is the amount of interaction that exists between the arts group and the
1513 community. Things such as ticket sales, community members serving on boards, and
1514 efforts to make sure that the entire community has an opportunity to be involved
1515 demonstrate this community involvement, including those with disabilities.

1516 1) Direct community involvement in the project is perhaps the best indicator of this
1517 type of commitment and for the success of the proposed project and the future
1518 successes of similar projects. If members of the community are involved, it shows
1519 that the community has bought into the project.

1520 2) Likewise, projects that bring value, artistic or otherwise, to the community
1521 demonstrate a dedication to the community by the artist, which is conducive to
1522 future projects. Also, communities that receive benefits from arts projects will be
1523 more likely to support other art projects in the future in the hopes that they will
1524 again lead to similar benefits.

1525 3) Efforts to make the programming accessible for persons with disabilities
1526 demonstrate a commitment by the artist to the whole community and a sensitivity to
1527 the needs of the audience.

1528

1529 In the Arts Access program community involvement is perhaps the most important
1530 criterion. The underserved community must be a part of the planning. How is the
1531 community going to be engaged in identifying and solving the access problem? The
1532 organization must be engaged with the community in order to understand if there is a
1533 need for the art and whether the community wants the type of art in question.

1534

1535 C. The board looks at the capacity for effective project administration as a review

1536 criterion because competent operations and leadership are a crucial part of successful
1537 arts projects. No matter how good the art itself, without good administration—audience,
1538 venue and other practical and technical considerations-- a project will be far less likely to
1539 succeed in providing artistic value to the community.

1540 1) The qualifications of the staff, artists, and other collaborators to design and
1541 execute the proposed programming will be greatly reflected in the quality of the
1542 programming and the effectiveness of the delivery of the artistic programming. The
1543 more qualified the people involved in a project, the more accomplished the project
1544 will be.

1545 2) A promotion plan is also necessary for effective arts administration. In the Arts
1546 Access program in particular, there must be a concerted effort to reach the targeted
1547 underserved community in order for the project to be a success. A promotion plan
1548 reflects that thought and work have gone into the promotion of the project.

1549 3) The ability to create and follow a realistic budget that is consistent with the
1550 conception of the proposed programming is a reliable indicator for good
1551 administration and the success of the project. Creating a realistic budget is the first
1552 step towards carrying out a project successfully and under budget.

1553 4) Evidence of an ability to achieve consistent and measurable results is important
1554 because it demonstrates a history of effective project management and marks an
1555 individual or organization that would be a responsible recipient of state arts funding
1556 dollars.

1557

1558 D. Effective evaluation and assessment are important because individuals and
1559 organizations need to learn from their successes and mistakes. Self-evaluation and
1560 assessment are hallmarks of successful artists and arts projects and are therefore among
1561 the review criteria relied on by the board. This is why evidence of an outcome based
1562 plan that is fitted to the specific project, as well as evidence that the plan is valued,
1563 understood, and used, is a factor that the board will direct panels to consider when
1564 identifying grantees who are likely to execute quality programming. For the Arts Access

1565 program, the question is usually: was the problem solved? Do both the community and
1566 the arts organization behave differently? The answers to these questions will steer
1567 projects that would bring about the long-term change contemplated by the Arts Access
1568 program.

1569

1570 **Subp. 5. Additional eligibility requirements.**

1571 (A) Legacy funds are constitutionally limited to Minnesotans who create artistic
1572 programming “for the benefit of Minnesotans” Minnesota Constitution, Article XI,
1573 Section 15.

1574

1575 (B) Because the Arts Board is a state agency that is custodian to public dollars, it seeks to
1576 fund only those groups that act in the public interest. Because the IRS wishes to give tax
1577 benefits to those who work for the public interest, requiring that applicants qualify for
1578 tax free status is an efficient way to verify the status of a nonprofit entity without
1579 incurring additional administrative or applicant resources.

1580

1581 (C) Arts Access funds must go only to applicants who are directly responsible for
1582 providing the artistic programming because this is the entity that must work closely
1583 with the community if a long-term solution to the access problem is to be found.
1584 Presenters, producers and artist service organizations are in a position to directly help
1585 solve access problems.

1586

1587 **Subp. 6. Dollar amount of grants.**

1588 Establishing minimum and maximum amounts for grants helps artists and
1589 organizations plan their budgets because they know the parameters for best and worst
1590 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
1591 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
1592 possible to set minimum and maximum dollar amount levels too far in advance or on a
1593 long-term basis. For this reason, the board makes determinations for each grant cycle

1594 and makes them available to applicants in the application materials at the beginning of
1595 the application process. All applicants know that there will be minimum and maximum
1596 amounts set, but that the exact figures will not be known before the appropriation. This
1597 system allows the Arts Board to adapt quickly to the ever-changing appropriation levels
1598 and give the applicants the exact figures as soon as possible.

1599

1600 **1900.2225 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE ARTS**
1601 **TOUR MINNESOTA PROGRAM**

1602 (Line 28.11)

1603

1604 **Overview**

1605 Arts Tour Minnesota is a program designed to provide Minnesotans greater access to
1606 high quality arts activities regardless of geographic location. Grants may be used to
1607 support performances, exhibitions, and other activities in Minnesota by professional,
1608 touring artists, and arts organizations or to support Minnesota presenters in hosting
1609 such professional tours. At its core, this program strives to connect Minnesota audiences
1610 with artists and artistic works to which they would not otherwise have access. The
1611 program specifically removes geography as a barrier to access to the arts, which allows
1612 for unique one-time opportunities such as bringing an international ensemble to a
1613 Minnesota community or exposing an artist from one community to audiences from a
1614 neighboring community. In all instances the program increases Minnesotan's access to
1615 art.

1616

1617 **Background**

1618 In 1997, Governor Arne Carlson signed into law a \$12 million increase in the state's
1619 biennial funding for the arts, the largest increase in public arts funding in the state's
1620 history at that time. He specified that some of those funds be used to support arts
1621 touring and festivals. To honor that request, the Arts Board created Arts Across
1622 Minnesota, a program to support arts touring and festivals throughout the state. This
1623 program operated until 2004, when as a result of extensive budget cuts the program

1624 had to be discontinued.

1625

1626 In the wake of the increase in funds from the Legacy Amendment, and in response to
1627 the results of subsequent polls and forums, the Arts Board decided to revive and
1628 expand these two prongs of the program. While the two aspects of the Arts Across
1629 Minnesota program—touring and festivals—both share the same goals of increasing
1630 arts opportunities within Minnesota, there was no good reason to keep them in the
1631 same program. The combined program could be confusing for applicants who were
1632 often not sure if they were applying to the correct program. Also, because Arts Board
1633 programs award grants on a competitive basis, presenters of touring arts programming
1634 and festival promoters, although engaged in distinctly different activities, were
1635 competing against one another. For these reasons, it was decided that it would be fairer
1636 to all applicants to compete against like artists and organizations for similar
1637 programming, and the two elements of the program were split into the Arts Tour and
1638 Festival Support programs.

1639

1640 Additionally, the Arts Tour program fits squarely within the Legacy Amendment’s
1641 mandate for expenditures for “arts, arts education and arts access.” Minn. Const. Art. XI
1642 § 15. Arts Tour increases access to varied arts programming for all Minnesotans.

1643

1644 **Subpart 1. Definitions.**

1645 A. "Touring artist" is defined as a professional artist or arts organization that is
1646 providing the artistic content in order to ensure a baseline of quality to the artistic
1647 offerings. The Arts Board, its staff, and advisory panels are able to review the touring
1648 artist’s body of work in order to determine whether a proposed project would satisfy the
1649 program goals.

1650

1651 B. "Touring" is defined as arts activity that "takes place in a geographic community
1652 other than the artist’s home community" and "draws or serves a significantly different

1653 audience than the audience the touring artist normally draws or serves” in order to
1654 ensure that the activities are for new audiences and provide new opportunities for art
1655 experiences. Art activity within the artist’s geographic community or for a regular
1656 audience may be funded through another program, but would not serve the purpose of
1657 the Arts Tour program.

1658

1659 C. A “geographic community” is defined as “a population center and its adjoining
1660 communities” in order to make a clear distinction between the geographic community
1661 addressed in the Arts Tour program and the use of “community” in other programs
1662 where the grouping may be for reasons other than geography, such as culture or
1663 heritage.

1664

1665 **Subp. 2. Purpose of the program**

1666 The purpose of the program is provided here to give context and orientation to the
1667 reader; it does not introduce any new regulatory requirements or Arts Board
1668 procedures.

1669

1670 **Subp. 3. Use of grants.**

1671 The use of grants listed here reflects that grants may be used not just for the direct costs
1672 of providing touring content in new communities, but may also be used to increase the
1673 skill set of artists and presenters to provide touring artistic content in the future. There
1674 are many administrative, practical, and technical skills that are unique to providing
1675 touring artistic programming that local arts producers may not possess. By providing
1676 opportunities for the acquisition of these skills, local presenters will be better able to
1677 provide touring content to the community in the future. Having an experienced
1678 producer in a community greatly increases opportunities for touring art and enhances
1679 the quality of the artistic experiences.

1680

1681 **Subp. 4. Criteria used by advisory panel and board to make grants.**

1682 The Arts Tour program makes grants on a competitive basis from available funds. It is
1683 the policy of Minnesota state agencies, as expressed in Policy 08-02 of the Minnesota
1684 Department of Administration's Office of Grants Management, that competitive grant
1685 making be conducted by scoring applicants in relation to review criteria that have been
1686 made available to the applicants. The State Arts Board employs volunteer advisory
1687 panelists to score and rank applicants based on the extent to which they meet the review
1688 criteria for each program. For the Arts Tour program, the rationales behind the review
1689 criteria are as follows:

1690

1691 *A. The quality of the arts experience.* Although it can be difficult to qualify the value of an
1692 arts experience, for most programs this is among the most important criteria if the board
1693 is to be a good steward of public dollars and bring valuable arts experience to the public.
1694 Arts experiences and artists that are of an established and high quality nature are more
1695 likely to provide better and more consistent arts experiences and are more likely to use
1696 funds effectively.

1697 1) The advisory panels judge the quality of the arts experience by evaluating work
1698 samples, an artist's resume, and other documents provided by the applicant.

1699 Advisory panels provide the board with the best method for evaluating artistic
1700 quality because of the subjective nature of arts evaluation. There is no more objective
1701 way to evaluate art than a panel of peers because the majority rules among a group
1702 that has specialized knowledge in the art form, making the process both fair and
1703 informed. Also, by rotating panels comprised of citizens who have experience in the
1704 arts, the board attempts to eliminate bias or the appearance of bias- the perception
1705 that the agency is beholden to any artist or arts organization.

1706 2) The board also considers the relationship between the proposed project, the
1707 applicant's mission, and the audience's needs. This is an important criterion because
1708 no matter how good the art, it will lose its effect before the wrong audience. There
1709 has to be sufficient need for the art among the audience or funding the project would
1710 be a poor use of public funds.

1711

1712 B. *Commitment to and from the community.* The Arts Board attempts to avoid providing
1713 one-time arts experiences whenever possible; the board hopes that its programs create
1714 long term relationships between artists and communities that foster additional
1715 interactions in the future. This is why the commitment to and from the community is an
1716 important review criterion: the stronger the support for the art among the community,
1717 and the more dedicated to the community the artist feels, the more likely future art is to
1718 result and be appreciated within the community.

1719 1) Direct community involvement in the project is perhaps the best indicator of this
1720 type of commitment and for the success of the proposed project and the future
1721 successes of similar projects. If members of the community are involved, it shows
1722 that the community has bought into the project.

1723 2) Likewise, projects that bring value, artistic or otherwise, to the community
1724 demonstrate a dedication to the community by the artist, which is conducive to
1725 future projects. Also, communities that receive benefits from arts projects will be
1726 more likely to support other art projects in the future in the hopes that they will
1727 again lead to similar benefits.

1728 3) Efforts to make the programming accessible for persons with disabilities
1729 demonstrate a commitment by the artist to the whole community and sensitivity to
1730 the needs of the audience.

1731 C. The board looks at the capacity for effective project administration as a review
1732 criterion because competent operations and leadership are a crucial part of successful
1733 arts projects. No matter how good the art itself, without good administration—audience,
1734 venue, and other practical and technical considerations--a project will be far less likely to
1735 succeed in providing artistic value to the community.

1736 1) The qualifications of the staff, artists, and other collaborators to design and
1737 execute the proposed programming will be greatly reflected in the quality of the
1738 programming and the effectiveness of the delivery of the artistic programming.

1739 2) A promotion plan is also necessary for effective arts administration. Unless the

1740 programming is targeted to a specific group or demographic, such as an
1741 underserved community, a promotion plan that draws the broadest public
1742 participation will have the most affect on Minnesotans and therefore be a priority for
1743 funding.

1744 3) The ability to create and follow a realistic budget that is consistent with the
1745 conception of the proposed programming is a reliable indicator for good
1746 administration and the success of the project.

1747 4) Evidence of an ability to achieve consistent and measurable results is important
1748 because it demonstrates a history of effective project management and marks an
1749 individual or organization that would be a responsible recipient of state arts funding
1750 dollars.

1751

1752 D. Effective evaluation and assessment are important because individuals and
1753 organizations need to learn from their successes and mistakes. Self-evaluation and
1754 assessment are hallmarks of successful artists and arts projects and are therefore among
1755 the review criteria relied on by the board. This is why evidence of an outcome based
1756 plan that is fitted to the specific project, as well as evidence that the plan is valued,
1757 understood, and used, is a factor that the board will direct panels to consider when
1758 identifying grantees who are likely to execute quality programming.

1759

1760 **Subp. 5. Additional Eligibility Requirements**

1761 Because of the Arts Board's duty to further the arts in Minnesota and Legacy funds may
1762 only be used for the benefit of Minnesotans, the Arts Board requires applicants be
1763 Minnesota artists or organizations.

1764

1765 A. Organizations

1766 Because the Arts Board is a state agency that is a custodian of public dollars, it seeks to
1767 fund only those groups that act in the public interest, or for charitable purposes, and not

1768 for the benefit of profit. Requiring that applicant organizations have tax-exempt status
1769 with the IRS is an efficient way to identify an organization that operates in the public
1770 interest without incurring additional administrative or applicant resources because the
1771 I.R.S. only grants tax-exempt status to nonprofit or charitable organizations. Units of
1772 state, local or tribal governments, because they are public entities that act on behalf of
1773 their constituents and have a responsibility to spend funds on the Minnesota public's
1774 behalf, may also be applicants for programs disbursing Legacy funds.

1775

1776 Many potential applicants are organizations that are nonprofit in fact but are not
1777 501(c)(3)s. Organizations that are eligible in every way other than having tax-exempt
1778 status may apply if they have a Minnesota 501(c)(3) organization agree to act as a fiscal
1779 agent on their behalf. The fiscal agent ensures that the grants are spent according to Arts
1780 Board requirements and according to program purposes.

1781

1782 Applicant organizations are required to be art-producing organizations in order to
1783 ensure a baseline level of competency that results from having an entity with experience
1784 with the proposed activity.

1785

1786 B. Individuals

1787

1788 For reasons similar to those noted above for applicant organizations, individual
1789 artists must have experience producing artistic work and propose to tour their own
1790 work. These requirements make the project more likely to be of a high quality because
1791 the artist has previously executed the same or similar programming. Also, advisory
1792 panels have an opportunity to review samples of the applicant's work that is of a similar
1793 type to the proposed project. Finally, because this grant program is intended solely to
1794 move arts experiences to locales where there are new audiences, it would run counter to
1795 the intention of the program if funds were used for the creation of new works.

1796

1797 **Subp. 6. Dollar amount of grants.**

1798 Establishing minimum and maximum amounts for grants helps artists and
1799 organizations plan their budgets because they know the parameters for best and worst
1800 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
1801 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
1802 possible to set minimum and maximum dollar amount levels too far in advance or on a
1803 long-term basis. For this reason, the board makes determinations for each grant cycle
1804 and makes them available to applicants in the application materials at the beginning of
1805 the application process. All applicants know that there will be minimum and maximum
1806 amounts set, but that the exact figures will not be known before the appropriation. This
1807 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
1808 give the applicants the exact figures as soon as possible.

1809

1810

1811 **1900.2230 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE**
1812 **CULTURAL COMMUNITY PARTNERSHIP PROGRAM**

1813 (Line 31.4)

1814 **Overview**

1815 The Cultural Community Partnership grant program is designed to enhance the careers
1816 of individual artists of color. Artists, at any stage in their careers, can apply for grants to
1817 help support collaborative projects. Applicants can collaborate on a project with another
1818 Minnesota artist of color or with a Minnesota nonprofit organization. The proposed
1819 project must be designed to further the artist of color's career or enhance the artist of
1820 color's artistic abilities. Each project must include a community component that will
1821 draw visibility to the artists' work. The program attempts to stimulate minority
1822 engagement in the arts by stimulating the careers of artists of color and increasing the
1823 profile of artists of color within their communities.

1824

1825 **Background**

1826

1827 The Arts Board has had some variation of this program since 1994. There are two
1828 primary reasons for the line of programs that culminates with Cultural Community
1829 Partnership. First, the number of racial minorities in attendance at arts events in
1830 Minnesota is too low – much lower than proportional to their numbers in the
1831 population (15%). Because the Arts Board is charged with increasing arts access to all
1832 Minnesotans, it is incumbent on the agency to try to improve participation in the arts by
1833 racial minorities. Second, included with the grant that the Arts Board receives each year
1834 from the National Endowment for the Arts (NEA) is a requirement that a certain
1835 percentage, which changes from year to year, be directed at “underserved
1836 communities.” Because the NEA does not define “underserved communities” the Arts
1837 Board has sought to identify such communities in Minnesota. Through its work,
1838 outreach, and through the surveys and forums it has conducted the Arts Board
1839 identified racial minorities as an “underserved community” in Minnesota.

1840

1841 **Subp. 1. Definitions.**

1842 A. *Applicant.* Either the applicant or a collaborator of an organization must be an artist of
1843 color, because the purpose of the program is to enhance the careers of artists of color. An
1844 organization collaborating with an artist that is not of color would not be able to
1845 demonstrate that the project would directly enhance the work of an artist of color.

1846 B. *Artist of Color.* Individuals of North African or Middle Eastern descent are not “people
1847 of color” according to census definitions. However, in Minnesota, artists and arts
1848 audiences in the region do not reflect the large North African population in the area.
1849 Therefore, the board has identified North Africans as an underserved group and
1850 includes them in the definition for the purposes of this program.

1851 C. The collaboration must include creation and presentation because if the goal is
1852 exposure, there should be a community component. It is important that the artwork is
1853 created and that then the community has an opportunity to experience it.

1854 D. The collaborator is defined in a manner that requires that an individual artist is
1855 involved in the project for the same reason as stated in A, above.

1856

1857 **Subp. 2. Purpose of the program**

1858 The purpose of the program is provided here to give context and orientation to the
1859 reader; it does not introduce any new regulatory requirements or Arts Board
1860 procedures.

1861

1862 **Subp. 3. Use of Grants**

1863 Funds may be only for activities directly related to enhancing the career or for
1864 professional development of an artist of color in order to narrowly focus the funds and
1865 insure they are spent only for their intended purpose. The Arts Board is committed to
1866 being a responsible steward of public funds.

1867

1868 **Subp. 4. Criteria used by advisory panel and board to make grants.**

1869

1870 The Cultural Community Partnership program makes grants on a competitive basis
1871 from available funds. It is the policy of Minnesota state agencies, as expressed in Policy
1872 08-02 of the Minnesota Department of Administration's Office of Grants Management,
1873 that competitive grant making be conducted by scoring applicants in relation to review
1874 criteria that have been made available to the applicants. The State Arts Board employs
1875 volunteer advisory panelists to score and rank applicants based on the extent to which
1876 they meet the review criteria for each program. For the Cultural Community Partnership
1877 program, the rationales behind the review criteria are as follows:

1878

1879 A. Artistic quality of work as demonstrated by the artist resume and work samples
1880 submitted with the application. Arts experiences and artists that are of an established
1881 and high quality are more likely to provide better and more consistent arts experiences
1882 and are more likely to be an effective use of state funds. In addition, it stands to reason
1883 that artists with the highest achievement be rewarded with funding because this serves

1884 as incentive to achieve artistic excellence. A resume and art samples allow panelists to
1885 review the work of artists from all over the state in a consistent setting that does not
1886 favor any applicant due to his or her geographic location.

1887
1888 B. Merit and feasibility of the proposed collaboration and the degree to which the project
1889 fosters artistic growth and visibility for the artist. No matter how talented an artist is, he
1890 or she won't receive funding without a realistic proposal. The applicant has to fully
1891 develop a proposal and convince the panelists that the collaboration has to be one that
1892 not only achieves artistic value, but also will realistically boost to the career of the artist
1893 of color.

1894
1895 C. The degree to which the project will expand available arts programming inside and
1896 outside Minnesota Communities of color. The Arts Board does not seek to funds artists
1897 of color in isolation; there needs to be a plan for how the collaboration will impact the
1898 target community or have a positive impact on the career of artist(s) of color. This
1899 program is specifically designed for career development and this is therefore the most
1900 important criterion.

1901

1902 **Subp. 5. Additional requirements**

1903 A. The purpose of the Cultural Community Partnership program is to enhance the
1904 careers of Minnesota artists of color. If neither the artist nor collaborator is an artist of
1905 color as defined in this part, the benefit to Minnesota artists of color, if any, would be too
1906 attenuated and not direct enough to warrant funding. Funds must directly enhance the
1907 career of an artist of color.

1908 B. Because of the Arts Board's duty to further the arts in Minnesota and Legacy funds
1909 may only be used for the benefit of Minnesotans, the Arts Board requires applicants be
1910 Minnesota artists or organizations.

1911 C. Because of the complex nature of the participants in this program, having both
1912 applicant and collaborator, the board needs more flexibility in this program than others.

1913 For example, if an applicant is an arts organization that is already a grantee in another
1914 program, the Arts Board wants to be able to encourage that group to work with an artist
1915 of color on a special project that may be funded through the Cultural Community
1916 Partnership program. This is an attempt to encourage participation in the program while
1917 still reserving an ability to avoid double-funding artists or projects.

1918 **Subp. 6. Dollar amount of grants.**

1919 Establishing minimum and maximum amounts for grants helps artists and
1920 organizations plan their budgets because they know the parameters for best and worst
1921 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
1922 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
1923 possible to set minimum and maximum dollar amount levels too far in advance or on a
1924 long-term basis. For this reason, the board makes determinations for each grant cycle
1925 and makes them available to applicants in the application materials at the beginning of
1926 the application process. All applicants know that there will be minimum and maximum
1927 amounts set, but that the exact figures will not be known before the appropriation. This
1928 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
1929 give the applicants the exact figures as soon as possible.

1930

1931 **1900.2235 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE**
1932 **MINNESOTA FESTIVAL SUPPORT PROGRAM**
1933 (Line 32.22)

1934

1935

1936 **Overview**

1937 Minnesota Festival Support is a pilot program designed to engage Minnesotans in
1938 festivals that celebrate the arts, build community, and expose communities to diverse art
1939 forms, including folk and traditional arts. The program provides funding for sponsoring
1940 or presenting organizations to feature Minnesota individual artists and Minnesota arts
1941 groups in arts festivals, or in the arts components of broader, community-based
1942 festivals.

1943

1944 **Background**

1945 The origin of the Festival Support program is the same as that of Arts Tour Minnesota.
1946 Both evolved from the Arts Across Minnesota program as described above. Also, like
1947 touring arts programming, support for festivals was identified as a priority in the post
1948 Legacy polls and forums. But festivals also have unique characteristics that make them
1949 a priority for the Arts Board. First, because many festivals are celebrations of culture, or
1950 have artistic elements that are cultural expressions, festivals further the Legacy
1951 Amendment goal of preserving Minnesotans' cultural heritages. Second, festivals
1952 provide arts experiences to Minnesotans both directly- through arts programming in
1953 the festival- and through creating future audiences for arts programming. Festivals are
1954 a great way for the public to be introduced to artists, arts organizations and even whole
1955 art forms because festivals are often the first way someone experiences the arts. For
1956 example, one may attend an Irish festival for drink and food only to be surprisingly
1957 entertained by Irish dancing. The next time that person has an opportunity to attend
1958 Irish dance they will be more likely to attend. Finally, one of the primary goals of the
1959 Arts Board is to have Minnesotans benefit from the arts. A festival can be a great benefit
1960 to a community economically and demonstrates that the benefits from the arts are not
1961 only artistic in nature.

1962

1963 **Subp. 2. Purpose of the program**

1964 The purpose of the program is provided here to give context and orientation to the
1965 reader; it does not introduce any new regulatory requirements or Arts Board
1966 procedures.

1967

1968 **Subp. 3. Use of Grants**

1969 Funds may be only for activities directly related to presenting the festival or for the
1970 professional development of presenting staff in order to narrowly focus the funds and
1971 insure they are spent only for their intended purpose. The Arts Board is committed to
1972 being a responsible steward of public funds.

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Subp. 4. Criteria used by advisory panel and board to make grants.

The Festival Support program makes grants on a competitive basis from available funds. It is the policy of Minnesota state agencies, as expressed in Policy 08-02 of the Minnesota Department of Administration's Office of Grants Management, that competitive grant making be conducted by scoring applicants in relation to review criteria that have been made available to the applicants. The State Arts Board employs volunteer advisory panelists to score and rank applicants based on the extent to which they meet the review criteria for each program. For the Festival Support program, the rationales behind the review criteria are as follows:

A. The quality of the arts experience. Although it can be difficult to qualify the value of an arts experience, for most programs this is among the most important criteria if the board is to be a good steward of public dollars and bring valuable arts experiences to the public. Arts experiences and artists that are of an established and high quality nature are more likely to provide better and more consistent arts experiences and are more likely to use funds effectively, having done so previously.

- 1) The advisory panels judge the quality of the arts experience by evaluating work samples, an artist's resume, and other documents provided by the applicant. Advisory panels provide the board with the best method for evaluating artistic quality because of the subjective nature of arts evaluation. There is no more objective way to evaluate art than a panel of peers because the majority rules among a group that has specialized knowledge in the art form, making the process both fair and informed. Also, by rotating panels comprised of citizens who have experience in the arts, the board attempts to eliminate bias, or the appearance of bias--the perception that the agency is beholden to any artist or arts organization.
- 2) The board also considers the relationship between the proposed project, the applicant's mission, and the audience's needs. This is an important criterion because

2002 no matter how good the art, it will lose its effect before the wrong audience. There
2003 has to be sufficient need for the art among the audience or funding the project would
2004 be a poor use of public funds.

2005

2006 B. Commitment to and from the community. The Arts Board attempts to avoid
2007 providing one-time arts experiences whenever possible; the board hopes that its
2008 programs create long term relationships between artists and communities that foster
2009 additional interactions in the future. This is why the commitment to and from the
2010 community is an important review criterion: the stronger the support for the art among
2011 the community, and the more dedicated to the community the artist feels, the more
2012 likely future art is to result and be successful.

2013

2014 1) Direct community involvement in the project is perhaps the best indicator of this
2015 type of commitment and for the success of the proposed project and the future
2016 successes of similar projects. If members of the community are involved, it shows
2017 that the community has bought in to the project.

2018 2) Likewise, projects that bring value, artistic or otherwise, to the community
2019 demonstrate a dedication to the community by the artist, which is conducive to
2020 future projects. Also, communities that receive benefits from arts projects will be
2021 more likely to support other art projects in the future in the hopes that they will
2022 again lead to similar benefits.

2023 3) Efforts to make the programming accessible for persons with disabilities
2024 demonstrate a commitment by the artist to the whole community and sensitivity to
2025 the needs of the audience.

2026

2027 C. The board looks at the capacity for effective project administration as a review
2028 criterion because competent operations and leadership are a crucial part of successful
2029 arts projects. No matter how good the art itself, without good administration-- audience,
2030 venue, and other practical and technical considerations-- a project will be far less likely

2031 to succeed in providing artistic value to the community.

2032

2033 1) The qualifications of the staff, artists, and other collaborators to design and
2034 execute the proposed programming will be greatly reflected in the quality of the
2035 programming and the effectiveness of the delivery of the artistic programming.

2036 2) A promotion plan is also necessary for effective arts administration. Unless the
2037 programming is targeted to a specific group, or demographic, such as an
2038 underserved community, a promotion plan that draws the broadest public
2039 participation will have the most affect on Minnesotans and therefore be a priority for
2040 funding.

2041 3) The ability to create and follow a realistic budget that is consistent with the
2042 conception of the proposed programming is a reliable indicator for good
2043 administration and the success of the project.

2044 4) Evidence of an ability to achieve consistent and measurable results is important
2045 because it demonstrates a history of effective project management and marks an
2046 individual or organization that would be a responsible recipient of state arts funding
2047 dollars.

2048

2049 D. Effective evaluation and assessment are important because individuals and
2050 organizations need to learn from their successes and mistakes. Self-evaluation and
2051 assessment are hallmarks of successful artists and arts projects and are therefore among
2052 the review criteria relied on by the board. This is why evidence of an outcome based
2053 plan that is fitted to the specific project, as well as evidence that the plan is valued,
2054 understood, and used, is a factor that the board will direct panels to consider when
2055 identifying grantees who are likely to execute quality programming.

2056

2057 **Subp. 5 Additional Eligibility Requirements**

2058 A. The Operating Support and Community Art Schools and Conservatories programs
2059 provide flexible funds that can be used for arts programming with few restrictions. If an

2060 arts organization that was a grantee in either of these programs and wished to produce a
2061 festival, it could do so out of its general funds. To allow additional funding would be in
2062 effect double funding the festival and the Arts Board would rather spend those funds
2063 elsewhere.

2064

2065 B. It is required that the applicant has presented the festival previously. This not only
2066 insures a baseline level of experience in festival production, it also demonstrates that the
2067 festival has an audience in the community. If there was an audience at previous
2068 festivals, it can be inferred that there will again be interest in such a festival.

2069

2070 **Subp. 6. Dollar amount of grants.**

2071 Establishing minimum and maximum amounts for grants helps artists and
2072 organizations plan their budgets because they know the parameters for best and worst
2073 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
2074 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
2075 possible to set minimum and maximum dollar amount levels too far in advance or on a
2076 long-term basis. For this reason, the board makes determinations for each grant cycle
2077 and makes them available to applicants in the application materials at the beginning of
2078 the application process. All applicants know that there will be minimum and maximum
2079 amounts set, but that the exact figures will not be known before the appropriation. This
2080 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
2081 give the applicants the exact figures as soon as possible.

2082

2083

2084 **1900.2240 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE FOLK**
2085 **AND TRADITIONAL ARTS PROGRAM**

2086 (Line 35.7)

2087

2088 **Overview**

2089 The Folk and Traditional Arts program is designed to support the artistic traditions and
2090 customs practiced within community and/or cultural groups by identifying,
2091 documenting, creating, preserving, presenting, and honoring Minnesota’s folk arts and
2092 traditions.

2093

2094 The practice of folk or traditional art generally stems from birthright, community
2095 membership, or community life, and is a powerful marker of cultural heritage. It is
2096 frequently rooted in a longstanding sense of place and/or ethnic identity. Folk and
2097 traditional artists often have their own community-based systems of training and
2098 education through which they learn and attain mastery of a form by observation and
2099 practice or through apprenticeships with elders and masters.

2100

2101 A folk or traditional arts project may be a single event or activity, or a series or
2102 combination of multiple events or activities. Apprenticeship projects, where a master
2103 artist passes on skills to a promising apprentice, are also encouraged. Projects may
2104 include creation of work, field research, and documentation of folk and traditional art
2105 forms. All projects must have a public component such as a concert, exhibition,
2106 documentary, workshop, or other activity that engages members of the public in the
2107 work of Minnesota’s folk and traditional artists.

2108

2109 **Background**

2110 The Arts Board has had folk art programs in the past, but due to significant funding
2111 reductions (especially in 2003), folk arts funding was rolled into other programs. Despite
2112 the best efforts of the Arts Board, folk arts do not flourish when funded competitively
2113 against other art forms. Folk art is unique in its needs for funding and development.
2114 Folk art forms do not tend to attract as much support from the arts community and
2115 audiences. In addition, many folk art forms are not immediately recognized as “art,”
2116 even by the practitioners, because the activity is so intertwined with culture and

2117 everyday life. Folk art often needs research and context in order to be appreciated by an
2118 audience.

2119

2120 Nonetheless, folk art can have a profound cultural and community-building effect, so it
2121 is important that these art forms are recognized, documented, and passed on. Therefore,
2122 when the Legacy Amendment was passed in 2008, the board took an opportunity to
2123 reinstate a funding program developed solely for folk and traditional art forms. Indeed,
2124 of all of the Arts Board's Legacy programs, the Folk and Traditional Arts program
2125 perhaps most closely aligns with the spirit of the Legacy amendment, which provides
2126 funding "for arts, arts education, and arts access and to preserve Minnesota's history
2127 and cultural heritage." Minn. Const. Art. XI, Sec. 15.

2128

2129 The board considered just reviving the previous program, which was called simply
2130 "Folk Arts program," but decided that the scope of the program needed to be enlarged.
2131 Too often, "folk art" is taken to mean just those European cultural artistic traditions that
2132 have commonly been practiced in Minnesota since its founding. However, the modern
2133 Minnesotan hails from a variety of places and has a variety of cultural backgrounds.
2134 Because the Legacy funds are collected from all Minnesotans and are to be used "for the
2135 benefit of Minnesotans" it is important that the cultural histories of all Minnesotans be
2136 included. For this reason, the program has been renamed, "Folk and Traditional Arts
2137 program," and reformulated to expressly include the cultural artistic traditions of all
2138 Minnesotans.

2139

2140 When preparing to implement new programs to disburse these Legacy funds, the Arts
2141 Board held a series of forums and took surveys from the arts community throughout the
2142 state. As a result of this outreach and research, folk art was identified as a priority for
2143 future funding, and as mentioned above, it was determined that folk art needed its own
2144 program.

2145

2146 With the quickly changing demographic makeup of Minnesotans, the arts offer a way to
2147 build bridges between disparate communities. Folk and traditional arts celebrate
2148 cultural traditions and are a way for Minnesotans to learn about other cultures. So in
2149 addition to the artistic benefits attained by providing additional opportunities for
2150 Minnesotans to experience diverse folk art forms, there is a public service element to the
2151 Folk and Traditional Arts program because it allows glimpses into the lives and cultures
2152 of neighbors from different backgrounds.

2153
2154 Because of this important public service element of folk arts, the Arts Board decided it
2155 was important to emphasize “traditional arts” in addition to “folk arts.” Thus the Folk
2156 and Traditional Arts program celebrates the culture and traditional art forms of all
2157 Minnesotans, whatever their cultural background, rather than just those rudimentary,
2158 Western forms that the term “folk art” usually connotes.

2159

2160 **Subp. 1 Definitions**

2161

2162 A. “*Apprentice.*” Folk and traditional art forms are unique in the way that the forms are
2163 taught, learned, and passed down within a community. Therefore, instead of
2164 teacher/student, the relationship is described as master/apprentice.

2165

2166 B. “*Community.*” Because folk and traditional arts are often shared by people with ethnic
2167 or cultural similarities in addition to communities built around geographic boundaries,
2168 the term “community” has been defined to reflect the broad application used in this
2169 program rather than the more common, everyday meaning of the term.

2170

2171 C. “*Folk Art*” also has been defined more broadly than commonly understood. This
2172 definition reflects the vast array of traditional art forms from many cultures. It is an
2173 inclusive definition that allows for the preservation and promotion of the traditional art
2174 forms of all Minnesotans no matter from where they come.

2175

2176 D. A definition for “*interpretation*” has been added because often, in order to truly
2177 appreciate traditional art forms from another culture, it is necessary to receive additional
2178 explanation and context for the art form.

2179

2180 E. “*Master.*” As in A, above, alternative terminology is needed for the instructor in folk
2181 and traditional arts. Thus “*master*” is used instead of “*teacher*” to reflect the unique
2182 circumstances that usually surround instruction in folk and traditional art.

2183

2184 **Subp. 2. Purpose of the program**

2185 The purpose of the program is provided here to give context and orientation to the
2186 reader; it does not introduce any new regulatory requirements or Arts Board
2187 procedures.

2188

2189 **Subp. 3. Uses of grants.**

2190 Minnesota folk art funding programs in the past have been prescriptive in the types of
2191 arts activities funded. What has been considered folk art has been limited to the artistic
2192 traditions of white, European-Americans that have long been given the designation as
2193 “folk art.” For this program, the board sought to not only to widen the scope of cultures
2194 included but also the types of artistic works funded. 20th century American folklorists
2195 would not recognize many of the artistic traditions of more recent émigrés to Minnesota
2196 as folk art. For example, historical tapestries and funeral songs are such an integral part
2197 of Hmong culture and everyday life that they would not even be considered art even
2198 among the Hmong themselves. Yet, these are precisely the types of artistic traditions
2199 that can give others an introduction to Hmong culture and an appreciation for their
2200 traditions.

2201

2202 It is for this type of cultural appreciation that the grants may be used somewhat broadly,
2203 as long as they promote the artist or the art form or foster understanding of the same in

2204 the audience. Promoting the artist is supported because that support leads directly to
2205 more opportunities for Minnesotans to be engaged with the works. And, as mentioned
2206 previously, activities that foster understanding in the audience are often needed because
2207 often, in order to fully appreciate an artwork, the observer must have a baseline of
2208 cultural knowledge or information. So, this program allows for grants that foster greater
2209 appreciation and understanding among the audience, such as interpreters, and also
2210 promote the development and work of folk and traditional artists.

2211

2212 **Subp. 4. Criteria used by advisory panel and board to make grants.**

2213 The Folk and Traditional Arts program makes grants on a competitive basis from
2214 available funds. It is the policy of Minnesota state agencies, as expressed in Policy -02 of
2215 the Minnesota Department of Administration's Office of Grants Management, that
2216 competitive grant making be conducted by scoring applicants in relation to review
2217 criteria that have been made available to the applicants. The State Arts Board employs
2218 volunteer advisory panelists to score and rank applicants based on the extent to which
2219 they meet the review criteria for each program. For the Folk and Traditional Arts
2220 program, the rationales behind the review criteria are as follows:

2221

2222 *A. The quality of the arts experience.* Although it can be difficult to qualify the value of an
2223 arts experience, for most programs this is among the most important criteria if the board
2224 is to be a good steward of public dollars and bring valuable arts experiences to the
2225 public. Arts experiences and artists that are of an established and high quality nature are
2226 more likely to provide better and more consistent arts experiences and are more likely to
2227 use funds effectively.

2228 1) The advisory panels judge the quality of the arts experience by evaluating work
2229 samples, an artist's resume, and other documents provided by the applicant.

2230 Advisory panels provide the board with the best method for evaluating artistic
2231 quality because of the subjective nature of arts evaluation. There is no more objective
2232 way to evaluate art than a panel of peers because the majority rules among a group

2233 that has specialized knowledge in the art form, making the process both fair and
2234 informed. Also, by rotating panels comprised of citizens who have experience in the
2235 arts, the board attempts to eliminate bias, the appearance of bias, or the perception
2236 that the agency is beholden to any artist or arts organization.

2237 2) The board also considers the relationship between the proposed project, the
2238 applicant's mission, and the audience's needs. This is an important criterion because
2239 no matter how good the art, it will lose its effect before the wrong audience. There
2240 has to be sufficient interest for the art among the audience or funding the project
2241 would be a poor use of public funds.

2242

2243 B. Commitment to and from the community. The Arts Board attempts to avoid
2244 providing one-time arts experiences whenever possible; the board hopes that its
2245 programs create long term relationships between artists and communities that foster
2246 additional interactions in the future. This is why the commitment to and from the
2247 community is an important review criterion: the stronger the support for the art among
2248 the community, and the more dedicated to the community the artist feels, the more
2249 likely future art is to result and be successful.

2250 1) Direct community involvement in the project is perhaps the best indicator of this
2251 type of commitment and for the success of the proposed project and the future
2252 successes of similar projects. If members of the community are involved, it shows
2253 that the community has bought into the project.

2254 2) Likewise, projects that bring value, artistic or otherwise, to the community
2255 demonstrate a dedication to the community from the artist, which is conducive to
2256 future projects. Also, communities that receive benefits from arts projects will be
2257 more likely to support other art projects in the future in the hopes that these too will
2258 lead to similar benefits.

2259 3) Efforts to make the programming accessible for persons with disabilities
2260 demonstrate a commitment by the artist to the whole community and a sensitivity to
2261 the needs of the audience.

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C. The board looks at the capacity for effective project administration as a review criterion because competent operations and leadership are a crucial part of successful arts projects. No matter how good the art itself, without good administration—audience, venue, and other practical and technical considerations—a project will be far less likely to succeed in providing artistic value to the community.

- 1) The qualifications of the staff, artists, and other collaborators to design and execute the proposed programming will be greatly reflected in the quality of the programming and the effectiveness of the delivery of the artistic programming.
- 2) A promotion plan is also necessary for effective arts administration. Unless the programming is targeted to a specific group, or demographic, such as an underserved community, a promotion plan that draws the broadest public participation will have the most affect on Minnesotans and therefore be a priority for funding.
- 3) The ability to create and follow a realistic budget that is consistent with the conception of the proposed programming is a reliable indicator for good administration and the success of the project.
- 4) Evidence of an ability to achieve consistent and measurable results is important because it demonstrates a history of effective project management and marks an individual or organization that would be a responsible recipient of state arts funding dollars.

D. Effective evaluation and assessment are important because individuals and organizations need to learn from their successes and mistakes. Self-evaluation and assessment are hallmarks of successful artists and arts projects and are therefore among the review criteria relied on by the board. This is why evidence of an outcome based plan that is fitted to the specific project, as well as evidence that the plan is valued, understood, and used, is a factor that the board will direct panels to consider when identifying grantees who are likely to execute quality programming.

2291 **Subp. 5. Additional eligibility requirements.**

2292 A. Applicant organizations must be either a Minnesota organization that is exempt from
2293 taxation under section 501(c)(3) of the Internal Revenue Code, an unincorporated
2294 organization with an agreement with a Minnesota fiscal agent, or a public entity, or a
2295 division of state, local or tribal government.

2296

2297 B. Because funding folk arts is a special challenge, the additional eligibility requirements
2298 for individual artists are designed so that only folk and traditional artists are funded.
2299 There are many artists whose work is flavored and influenced by the artistic traditions
2300 of the artists' cultural heritage. The Folk and Traditional Art program is not for these
2301 artists. Such artists may be eligible for funding in programs other than Folk and
2302 Traditional Arts. An individual artist must learn from a "master" because this is the only
2303 way to keep the art's traditional pedigree—by artist-to-artist instruction that emphasizes
2304 the techniques peculiar to the traditional form. In addition, contemporary art using folk
2305 art as inspiration is not traditional art, but tradition-inspired modern art. This program
2306 is dedicated solely to folk and traditional art.

2307

2308 **Subp. 6. Dollar amount of grants.**

2309 Establishing minimum and maximum amounts for grants helps artists and
2310 organizations plan their budgets because they know the parameters for best and worst
2311 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
2312 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
2313 possible to set minimum and maximum dollar amount levels too far in advance or on a
2314 long-term basis. For this reason, the board makes determinations for each grant cycle
2315 and makes them available to applicants in the application materials at the beginning of
2316 the application process. All applicants know that there will be minimum and maximum
2317 amounts set, but that the exact figures will not be known before the appropriation. This
2318 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
2319 give the applicants the exact figures as soon as possible.

2320

2321 **1900.2245 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE**
2322 **OPERATING SUPPORT PROGRAM**

2323 (Line 38.5)

2324

2325 **Overview**

2326 Operating Support provides general operating support to high quality, established arts
2327 organizations that produce, present, or exhibit works of art; to organizations that
2328 provide a broad range of services to artists; and to community arts schools and
2329 conservatories that make arts learning available to Minnesotans of all ages and abilities.

2330 The Operating Support program recognizes that organizations with an established
2331 record of programmatic service and administrative stability should have access to funds
2332 to support their organizational goals and objectives, and to maintain their ongoing
2333 programs, services, and facilities without special emphasis on new initiatives as
2334 justification for funding.

2335

2336 The Arts Board awards funds to these arts organizations in order to promote stability in
2337 the Minnesota arts community. These arts groups have been recognized as cultural
2338 assets and need to be preserved. In addition, when these groups do not have to devote
2339 all of their resources to survival, they are able to flourish. More of their money and
2340 energy can be directed towards new and innovative programming and developing new
2341 strategies for engaging Minnesotans in arts experiences.

2342

2343 **Background**

2344 The Arts Board's previous organizational support funding was in the form of
2345 fellowships, or in two programs: Institutional Support, and Presenter Support.

2346 Fellowships were discontinued in the deep budget cuts of 2004. As the Arts Board has
2347 moved towards more outcome-oriented programs, there has been no attempt to restore
2348 institutional fellowship. Moreover, there were difficulties with Institutional Support,
2349 and Presenter Support. Because they both provided ongoing, broad support to arts

2350 organizations there was significant overlap between the two programs. Many
2351 organizations that both developed artistic programming and presented the work of
2352 others applied to both programs. Often, applicants would get confused about which
2353 program to apply for, and it was not uncommon for applicants to submit the wrong
2354 application for consideration.

2355

2356 The board realized that it would be more efficient and less confusing to combine the two
2357 programs. There was increased efficiency as the overlapping administration costs were
2358 combined. There was also less confusion and work for applicants as they were able to
2359 apply to one program whether they were producers, presenters, or both. The board also
2360 replaced the two two-year grant cycles with one four-year cycle that was able to accept
2361 applications on a rolling basis. Now applicants were able to apply when they were
2362 ready, instead of having to wait until every-other year. The benefits of the pilot
2363 program, Operating Support, were soon apparent and the board seeks to make the
2364 program permanent in the present rulemaking.

2365

2366 **Subpart 1. Definitions**

2367 A. The definition of “charitable arts support” comes from Institutional Support at
2368 1900.1510 subp. 1 (d); it has been reorganized, but the meaning is the same. There are,
2369 however, two new exclusions. In-kind contributions have been excluded because they
2370 are hard to value. There is no accepted standardized way to evaluate the worth of
2371 donated items. Because these values would be somewhat arbitrary, it would lead to
2372 valuations of charitable support that are less than fair. In competitive grant programs, it
2373 is imperative that all applicants be similarly situated, which is why valuations for
2374 charitable support must be consistently calculated from applicant to applicant. The
2375 second exclusion is revenue from gaming. Although gaming revenues may be used for
2376 nonprofit purposes, it is the intention of the giver that is here at issue. Donations may
2377 have been given out of the hope of a financial benefit through winning more than for the

2378 purpose of the benefit of the organization. Charitable support must be given solely for
2379 charitable purposes without any hope of benefit for the giver.

2380

2381 B. One of the primary targeted beneficiaries of the Operating Support program is
2382 presenting organizations that present the work of artists. However, the definition of
2383 “presenter” or “presenting organization” here is narrowly drawn to exclude a common
2384 applicant--the landlord. The applicant who applies for Operating Support must be an
2385 active participant in the Minnesota arts community. Presenters can play an important
2386 role by providing Minnesotans opportunities to see carefully chosen and thoughtfully
2387 managed arts presentations. It is not enough to own or rent a facility and make it
2388 available to artists. The applicant must engage in “presenting activities.”

2389

2390 C. The definition of “producer” or “producing organization” is derived from and
2391 entirely consistent with the definition of “producing activities” as found in the current
2392 rules at 1900.0310 Subp. 15. Rather than define “producer” as “one who engages in
2393 producing activities” it was thought that it would simpler and more evident to define
2394 “producer” without referring to “producing activities,” thus avoiding the creation of a
2395 circular definition.

2396

2397 D. Qualifying expenses are used to calculate the amounts of grants, which are awarded
2398 as a percentage of an organization’s budget from the pool of available resources. It is
2399 therefore imperative for the purposes of fairness that the expenses of all organizations be
2400 calculated in the same way. The Arts Board attempts to exclude any expenses that might
2401 be unusual or unique to any one organization from the definition of “qualifying
2402 expenses.” The expenses of all organizations are therefore valued based on baseline
2403 expenses that would be common to all of the applicants.

2404

2405 **Subp. 2. Purpose of the program**

2406 The purpose of the program is provided here to give context and orientation to the
2407 reader; it does not introduce any new regulatory requirements or Arts Board
2408 procedures.

2409

2410 **Subp. 3 Additional Eligibility Requirements**

2411 Operating Support is aimed at established Minnesota arts organizations. These are the
2412 organizations that form the infrastructure for the arts in Minnesota. Less established arts
2413 organizations might be eligible for project-based programs or regional programs and
2414 individual artists might be eligible to Artist Initiative. Operating Support is tailored to
2415 provide support specifically to those bedrock arts groups providing world-class arts
2416 experiences to Minnesotans.

2417 A. To fulfill the purposes of the program, Operating Support funds must go only to
2418 applicants who are directly responsible for providing the artistic programming, or
2419 provide services to artists that are essential for providing artistic programming.

2420 Presenters, producers and artist service organizations are the primary artistic
2421 programming and artist services providers that are critical for the success of the arts in
2422 Minnesota and are the funding priorities for the Operating Support Program.

2423

2424 B. (1) Legacy funds are constitutionally limited to Minnesotans who create artistic
2425 programming “for the benefit of Minnesotans” Minnesota Constitution, Article XI,
2426 Section 15.

2427

2428 (2) The requirement that applicant have been in existence, actively providing arts
2429 programming for at least two consecutive years makes the programming more likely to
2430 be of a high quality because the artist will have previously executed at least two seasons
2431 of similar programming. Also, having a two-year history means that advisory panels
2432 will have an opportunity to review samples of the applicant’s work. The years must be
2433 consecutive both to make continuity of staff and artistic vision more likely, and to tie
2434 future programming to recent programming that is able to be reviewed by panels.

2435

2436 Additionally, because Operating Support is an operational, rather than project-based
2437 program, there is no project proposal to evaluate. Therefore, advisory panelists need to
2438 rely on an established history of providing arts instruction. A start-up organization
2439 would be better suited to a project grant or funding at the Regional Arts Council level.

2440

2441 (3) The qualifying expense and charitable arts support levels are to insure that the
2442 program is serving organizations of the appropriate size. Organizations with lower
2443 qualifying expense levels would be less established and stable and should be funded by
2444 project grants or through the regional councils. Organizations with higher qualifying
2445 expenses are more established and stable and are more appropriate for the Operating
2446 Support program.

2447

2448 In addition, by setting minimums for charitable support, the board is determining that
2449 the organization can be effective at raising funds on its own and is therefore a better bet
2450 for long-term success. Charitable support also indicates that the organization appeals to
2451 the community and that the community is invested in the organization.

2452

2453 Both of these levels are tied to a price index to allow these levels to keep up with
2454 inflation without it being necessary to amend these rules.

2455

2456 **Subp. 4. Uses of Grants**

2457 Because Operating Support is a broad operating program, the Arts Board does not
2458 narrowly restrict the uses that may be made of the grants. Grantees of this program are
2459 established and successful organizations that the board sees as a good investment of
2460 state arts funds. Therefore, they may largely use the funds as they see fit. However, all
2461 restrictions that apply to Legacy funds also apply to Operating Support grantees. The
2462 restrictions listed in subpart 4 (a) through 4 (e) all come directly from the requirements
2463 of the Legacy Amendment.

2464

2465 **Subp. 5. Criteria Used by Advisory Panel and Board to Make Grants**

2466 The Operating Support program makes grants on a competitive basis from available
2467 funds. It is the policy of Minnesota state agencies, as expressed in Policy 08-02 of the
2468 Minnesota Department of Administration's Office of Grants Management, that
2469 competitive grant making be conducted by scoring applicants in relation to review
2470 criteria that have been made available to the applicants. The Arts Board employs
2471 volunteer advisory panelists to score and rank applicants based on the extent to which
2472 they meet the review criteria for each program. For the Operating Support program, the
2473 rationales behind the review criteria are as follows:

2474

2475 *A. Artistic Excellence and Leadership.*

2476 If the Arts Board is to be a good steward of public dollars and bring valuable arts
2477 experiences to the public, it should invest in arts experiences of the highest quality
2478 whenever possible. Arts experiences and artists that are of an established and high
2479 quality nature are more likely to provide better and more consistent arts experiences and
2480 are more likely to use funds effectively. However, because Operating Support is for
2481 general support rather than a specific project like most other programs, advisory
2482 panelists cannot evaluate a proposed project but must look instead at the body of work
2483 of the applicant. Organizations that have distinct and articulable missions and artistic
2484 visions are more likely to produce work that allows the artist or art form to grow and
2485 push boundaries on their productions. When arts groups demonstrate these qualities
2486 and also have distinguished artists and leaders, the board has more faith in the
2487 applicant's ability to provide arts experiences that bring value to Minnesotans.

2488

2489 *B. Management and Fiscal Responsibility*

2490 No matter how good the art itself, without excellent management and administration an
2491 applicant will be far less likely to succeed in providing artistic value to the community.
2492 Organizations that have shown stability over time are the best bets for public dollars

2493 because they are less likely to fail due to lack of funds or mismanagement. They have
2494 demonstrated that they can survive downturns and the occasional misstep. In addition,
2495 because the Arts Board demands measurable outcomes from its grantees, evidence that
2496 the organization has set and achieved measurable outcomes in the past is a good
2497 indicator of an ability to do so in the future.

2498

2499 *C. Inclusive Public Engagement.*

2500 The Arts Board strives to increase opportunities for all Minnesotans to engage with the
2501 arts. Therefore, it is important that organizations the Arts Board funds are committed to
2502 being accessible to all of the public, and not settle for a limited audience. The goal is to
2503 increase the number of participants. Efforts to make the programming accessible for
2504 persons with disabilities, or other strategies that demonstrate a commitment by the artist
2505 to the whole community and sensitivity to the needs of the audience, reflect an applicant
2506 who shares the Arts Board's vision of inclusion. It is also important that the applicant
2507 demonstrate this type of inclusion internally as well, such as on its board and in its staff.
2508 Organizations with diverse staff and board members that reflect the community are
2509 more likely to be in tune with the needs of the community and produce relevant work.

2510

2511 *D. Benefit to the Public.*

2512 The Arts Board prioritizes applicants whose work brings benefit to the community.
2513 Although the benefits derived from Arts Board programs will usually be artistic in
2514 nature, this need not be the case. The Arts Board strives for benefit to the public in
2515 whatever forms it comes. If an arts program brings economic, cultural, or social benefit
2516 to a community, then it is achieving a priority of the board. The criteria here reflect this
2517 idea. This broad view of public benefit also reflects a strategic goal of the Arts Board:
2518 investing public dollars to integrate the arts into as many elements of community life as
2519 possible. The board views such integration as a public benefit in and of itself.

2520

2521 *E. Assessment and Evaluation.*

2522 Effective evaluation and assessment are important because individuals and
2523 organizations need to learn from their successes and mistakes. Self-evaluation and
2524 assessment are hallmarks of successful artists and arts projects and are therefore among
2525 the review criteria relied on by the board. Evidence of an outcome based evaluation plan
2526 shows that an organization is engaging in the type of strategic analysis that makes arts
2527 programming more relevant and successful. And, evidence that the plan is valued,
2528 understood, and used, shows that the applicant has fully embraced self-evaluation as a
2529 benefit that has been integrated into operations. A plan that isn't used appears to be
2530 there only in an attempt to satisfy the Arts Board's requirements and is not satisfactory.

2531

2532 **Subp. 6. Merit Funding**

2533 The Arts Board offers merit funding in the Operating Support program in an effort to
2534 motivate arts organizations and maximize the impact of public dollars. The idea is that
2535 the lure of additional funding will influence arts organizations into pursuing those
2536 practices that the Arts Board believes lead to better arts programming. In addition to
2537 rewarding exemplary applicants, the Arts Board gets a better return on its investment by
2538 investing additional funds in the highest achieving candidates. Moreover, rewarding
2539 excellence should be a major element of any outcomes-based grant system.

2540

2541 **Subp. 7. Multiyear Funding**

2542 By using a four-year grant cycle, the Arts Board saves its own resources because it only
2543 has to do the full application review of an applicant every four years, which takes up
2544 less employee time. The four-year cycle is also easier and more efficient for the
2545 applicant, who does not have to submit a full application every year or every other year.

2546

2547 **Subp. 8. Additional Processes**

2548 These additional processes are the means by which the Arts Board ensures that an
2549 applicant is eligible for funding and remains eligible for continued funding. Artistic and
2550 administrative visits allow the board's appointed representatives to evaluate the

2551 strength of an applicant’s programming and management. Because in Operating
2552 Support there are not specific proposals to review, these visits help the board evaluate
2553 applicants for funding. Additional monitoring visits allow the board to confirm a
2554 grantee’s continued meeting of program standards and verify the quality of work being
2555 produced. These visits allow longer grant cycles with abbreviated interim reviews.

2556
2557 In addition, the Arts Board conducts these visits as recommended by the Office of
2558 Grants Management, which in Policy 08-10 requires at least one monitoring visit during
2559 the grant period for grants of more than \$50,000 and annual visits for grants of more
2560 than \$250,000.

2561
2562 **Subp. 9. Dollar amount of grants.**
2563 Establishing minimum and maximum amounts for grants helps artists and
2564 organizations plan their budgets because they know the parameters for best and worst
2565 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
2566 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
2567 possible to set minimum and maximum dollar amount levels too far in advance or on a
2568 long-term basis. For this reason, the board makes determinations for each grant cycle
2569 and makes them available to applicants in the application materials at the beginning of
2570 the application process. All applicants know that there will be minimum and maximum
2571 amounts set, but that the exact figures will not be known before the appropriation. This
2572 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
2573 give the applicants the exact figures as soon as possible.

2574
2575

2576 **1900.2250 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE**
2577 **PARTNERS IN ARTS PARTICIPATION PROGRAM**
2578 (Line 44.3)

2579
2580 **Overview**

2581 Partners in Arts Participation is a pilot grant program designed to broaden
2582 opportunities for Minnesotans to participate in the arts. Grant funds may be used by
2583 Minnesota nonprofit health or human service organizations to integrate the arts into
2584 their programming or services. Applicants may choose to have their constituents engage
2585 in existing high quality arts experiences, and/or work with an artist or arts organization
2586 to design experiences tailored to meet the needs of the constituents they serve.

2587

2588 **Background**

2589 Partners in Arts Participation is a Legacy program that was created to further the
2590 amendment's directive to use Legacy funds to increase access to the arts in Minnesota.
2591 In addition, increasing arts access scored well in the forums and surveys conducted in
2592 the wake of the amendment and fits with the Arts Board's long term goal of integrating
2593 the arts into all aspects of Minnesotan's lives.

2594

2595 While some underserved Minnesotans are part of communities that are easy to identify,
2596 there are other groups that are more amorphous. These are the groups that the Arts
2597 Board has found difficult to identify and to reach. One of these, people who are clients of
2598 human health organizations, is the target of the Partners in Arts Participation program.
2599 As a class, such clients tend to have limited access to the arts. They have other pressing
2600 issues that prevent participation in the arts. When survival itself is a struggle, the arts
2601 become a low priority. While it is a presumption, it seems inherently true. Homeless
2602 people don't use their limited resources to go to the theater. People living in senior
2603 centers or nursing homes can't drive to the opera. Yet, it is also presumptively true that
2604 the arts can be a comfort in times of trouble. By pairing with human service
2605 organizations, the Arts Board is able to increase access to the arts for this underserved
2606 group of people who are in particular need of arts programming.

2607

2608 **Subp.1 Definition.**

2609 “Health and human service provider” is defined here because these are the groups that
2610 the Partners in Arts Participation reaches out to and it is therefore important to be clear
2611 and consistent in defining these groups. This definition refers to the National Taxonomy
2612 of Exempt Entities because this is a publication that would be familiar to the types of
2613 nonprofit human service organizations that are the targeted grantees of the program.

2614

2615 **Subp. 2. Purpose of the program**

2616 The purpose of the program is provided here to give context and orientation to the
2617 reader; it does not introduce any new regulatory requirements or Arts Board
2618 procedures.

2619

2620 **Subp. 3. Eligibility**

2621 The Partners in Arts Participation program is unique among Arts Board programs in
2622 that it reaches out to an unlikely class of applicants: nonprofit organizations that do not
2623 themselves engage with the arts. For this reason, it is necessary to explicitly exclude
2624 those applicants that are eligible for so many other Arts Board programs. For example,
2625 Minnesota artists and arts organizations are not eligible for Partners in Arts
2626 Participation. The focus of this program is very narrow: nonprofit organizations that are
2627 assisting Minnesotans in crisis.

2628

2629 **Subp. 4. Uses of Grants**

2630 Because of the limited scope and narrow target of this program, the uses of grants are
2631 similarly tightly focused. Funds may only be used for activities that will directly result
2632 in greater opportunities for clients of Minnesota health and human service providers to
2633 engage with the arts. Even though the uses of funds are limited in this way, the program
2634 is not prescriptive. Applicants are free to formulate how they plan to increase
2635 opportunities for their clients to participate in the arts, but they may only be used for
2636 this purpose, i.e., not providing health services, improving facilities, or other purposes.

2637

2638 **Subp. 5. Criteria used by advisory panel and board to make grants.**

2639 The Partners in Arts Participation program makes grants on a competitive basis from
2640 available funds. It is the policy of Minnesota state agencies, as expressed in Policy 08-02
2641 of the Minnesota Department of Administration's Office of Grants Management, that
2642 competitive grant making be conducted by scoring applicants in relation to review
2643 criteria that have been made available to the applicants. The State Arts Board employs
2644 volunteer advisory panelists to score and rank applicants based on the extent to which
2645 they meet the review criteria for each program. For the Partners in Arts Participation
2646 program, both the applicant organization and the proposed work of its artistic partner
2647 will be evaluated and the rationales behind the review criteria is as follows:

2648

2649 *A. The quality of the arts experience.* Although it can be difficult to qualify the value of an
2650 arts experience, for most programs this is among the most important criteria if the board
2651 is to be a good steward of public dollars and bring valuable arts experience to the public.
2652 Arts experiences and artists that are of an established and high quality nature are more
2653 likely to provide better and more consistent arts experiences and are more likely to use
2654 funds effectively.

2655 1) The advisory panels judge the quality of the arts experience by evaluating work
2656 samples, an artist's resume, and other documents provided by the applicant about
2657 the artists involved in the proposal. For the Partners in Arts Participation program,
2658 the quality of the art must be evaluated in conjunction with how the targeted group
2659 will be exposed to the art and its capacity for providing benefit to the organization's
2660 clients.

2661 2) The board also considers the relationship between the proposed project, the
2662 applicant's mission, and the targeted group's needs. This is an important criterion
2663 because no matter how good the art, it will lose its effect before the wrong audience.
2664 The art must bring a tangible benefit to the organization's clients.

2665

2666 *B. Commitment to and from the community.* For the purposes of this program,

2667 community refers both to the clients of the applicant and the surrounding community. A
2668 health and human service provider is by definition committed to the wellbeing of at
2669 least certain members of the community. By connecting people in need with arts
2670 programming, the project should both strengthen the relationship that the clients have
2671 with art, it should also strengthen the role of the applicant organization within its
2672 community by making a commitment to the well being of community memmbers in
2673 need.

2674

2675 C. The board looks at the capacity for effective project administration as a review
2676 criterion because competent operations and leadership are a crucial part of successful
2677 arts projects. No matter how good the art itself, without good administration—audience,
2678 venue, and other practical and technical considerations-- a project will be far less likely
2679 to succeed in providing artistic value to the community. For the Pasrtners in Arts
2680 Participation program, both the administrative skills of the applicant organization and
2681 the arts organizations will be relevant.

2682 1) The qualifications of the staff, artists, and other collaborators to design and
2683 execute the proposed programming will be greatly reflected in the quality of the
2684 programming and the effectiveness of the delivery of the artistic programming.

2685 2) A promotion plan is also necessary for effective arts administration. Unless the
2686 programming is targeted to a specific group, or demographic, such as an
2687 underserved community, a promotion plan that draws the broadest public
2688 participation will have the most affect on Minnesotans and therefore be a priority for
2689 funding.

2690 3) The ability to create and follow a realistic budget that is consistent with the
2691 conception of the proposed programming is a reliable indicator for good
2692 administration and the success of the project.

2693 4) Evidence of an ability to achieve consistent and measurable results is important
2694 because it demonstrates a history of effective project management and marks an
2695 individual or organization that would be a responsible recipient of state arts funding

2696 dollars.

2697

2698 D. Effective evaluation and assessment are important because individuals and
2699 organizations need to learn from their successes and mistakes. Self-evaluation and
2700 assessment are hallmarks of successful artists and arts projects and are therefore among
2701 the review criteria relied on by the board. This is why evidence of an outcome based
2702 plan that is fitted to the specific project, as well as evidence that the plan is valued,
2703 understood, and used, is a factor that the board will direct panels to consider when
2704 identifying grantees who are likely to execute quality programming.

2705

2706 **Subp. 6. Dollar amount of grants.**

2707 Establishing minimum and maximum amounts for grants helps artists and
2708 organizations plan their budgets because they know the parameters for best and worst
2709 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
2710 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
2711 possible to set minimum and maximum dollar amount levels too far in advance or on a
2712 long-term basis. For this reason, the board makes determinations for each grant cycle
2713 and makes them available to applicants in the application materials at the beginning of
2714 the application process. All applicants know that there will be minimum and maximum
2715 amounts set, but that the exact figures will not be known before the appropriation. This
2716 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
2717 give the applicants the exact figures as soon as possible.

2718

2719

2720 **1900.2255 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE**
2721 **COMMUNITY ARTS SCHOOLS AND CONSERVATORIES PROGRAM**
2722 (Line 47.3)

2723

2724 **Overview**

2725 Community Arts Schools and Conservatories is a pilot program that provides operating
2726 support to high quality, established, community arts schools and conservatories that are
2727 nonprofit, or hosted within a parent, public, or nonprofit tax-exempt institution; that
2728 provide rigorous, structured arts learning programs offered by professional faculty; and
2729 whose programs are open to all interested learners.

2730

2731 The goal of the Community Arts Schools and Conservatories program is that every
2732 Minnesotan, regardless of geographic location, economic situation, age, racial/ethnic
2733 characteristics, or disability, has an opportunity to participate in rigorous, structured
2734 arts learning programs.

2735

2736 **Background**

2737 The Arts Schools and Conservatories program is a program that is derived directly from
2738 the language and purposes of the Legacy Amendment, which specifically calls for
2739 heritage funds to be used for “arts education and arts access”, and that funds be used
2740 “for the benefit of Minnesotans.” Minnesota Constitution, Article XI, § 15. In the board’s
2741 research and planning that followed the amendment, the idea emerged that it is
2742 important that there be an avenue for Minnesotans to engage directly with the arts: not
2743 just as spectators, but also as participants. While other Legacy programs offer
2744 opportunities for passive arts experiences, this is a program where participants get their
2745 hands dirty actually creating art.

2746

2747 The original idea, and hope, was that every community would have a place where all
2748 would be welcome to receive arts instruction. While this idea ultimately proved
2749 impractical, it nonetheless guided the program development. By providing support for
2750 arts schools, or non-art schools that have conservatories, to provide such instruction to
2751 the surrounding communities, a larger percentage of Minnesotans would have an
2752 opportunity to actively participate in the arts. Such instruction would also strengthen to
2753 relationships between these organizations and the surrounding communities.

2754

2755 Like the Arts Learning program, the Community Art Schools and Conservatories
2756 program had its genesis in the Arts Education program. This program was limited in its
2757 scope and only provided funds for public schools to bring in artists in residency. The
2758 Community Art Schools and Conservatories program greatly expands the availability of
2759 arts instruction to all Minnesotans by expanding the types of organizations that may
2760 apply.

2761

2762 **Subp. 1. Definition.**

2763 The definition of “arts schools and conservatories” here is expansive so that more
2764 organizations will be aware that they are able to participate. Rather than be limited to art
2765 schools, the hope is that this program provides an incentive for colleges and arts
2766 organizations to provide community instruction. The instruction must be available to all
2767 interested individuals because the Arts Board is committed to making Legacy projects
2768 available for all Minnesotans. In addition, this definition emphasizes rigor, structure,
2769 and proficiency in order to encourage seriousness in the teaching of arts skills. This
2770 should be a high quality arts experience with qualified teachers who teach at a level
2771 appropriate for the student to become proficient in an art form. The prohibition against
2772 degrees is aimed at keeping costs down and making the instruction available to those
2773 who do not want to make the commitment that a degree requires.

2774

2775 **Subp. 2. Purpose of the program**

2776 The purpose of the program is provided here to give context and orientation to the
2777 reader; it does not introduce any new regulatory requirements or Arts Board
2778 procedures.

2779

2780 **Sup. 3. Eligibility**

2781 A. The type of organization that has the necessary balance between being able to
2782 provide high quality instruction and being available to all Minnesotans is the targeted

2783 organization in this program. The starting point for the eligibility of an organization of
2784 this type is meeting the definition of “art school and conservatory” as defined in Subp.1.
2785

2786 B. Community Arts Schools and Conservatories is an operational, rather than project-
2787 based program. Therefore, because there is no project proposal to evaluate, advisory
2788 panelists need to rely on an established history of providing arts instruction. A start-up
2789 organization would be better suited to a project grant or funding at the Regional Arts
2790 Council level.

2791
2792 C. Because the Community Arts Schools and Conservatories program provides flexible,
2793 general-purpose funds, it could possibly lead to double funding if Community Arts
2794 Schools and Conservatories grantees were also able to receive Operating Support funds.
2795 An organization that provides instruction in the community would be able to use its
2796 Operating Support grant for those purposes if it so chose. The Arts Board would prefer
2797 to grant the funds to other applicants and spread around the available arts funds. In
2798 addition, these funds are intended for growing organizations. The hope is that
2799 eventually the organization would grow and become established enough to receive an
2800 Operating Support grant instead.

2801
2802 D. The qualifying expense levels are to insure that the program is serving organizations
2803 of the appropriate size. Organizations with lower qualifying expense levels would be
2804 less established and stable and should be funded by project grants or through the
2805 regional councils. Organizations with higher qualifying expenses are more established
2806 and stable than the targeted group size and it would then be more appropriate for these
2807 applicants to apply for the Operating Support program. This program is aimed at those
2808 applicants in between these two groups.

2809
2810 By setting minimums for charitable support, the board is determining that the
2811 organization can be effective at raising funds on its own and is therefore a better bet for

2812 long-term success. Charitable support also indicates that the organization appeals to the
2813 community and that the community is invested in the organization.

2814

2815 Both of these levels are tied to a price index to allow these levels to keep up with
2816 inflation without it being necessary to amend these rules.

2817

2818 **4. Use of Grants**

2819 The Use of Grants section limits the use of funds to costs directly associated with
2820 instruction or professional development in an effort to safeguard that funds are used
2821 only in accordance with the Legacy Amendment. However, the uses are general enough
2822 to not be overly prescriptive and allow the applicant an opportunity to demonstrate how
2823 the use of funds will achieve the measurable outcomes.

2824

2825 **5. Criteria used by the advisory panel and board to make grants.**

2826 The Community Art Schools and Conservatories program makes grants on a
2827 competitive basis from available funds. It is the policy of Minnesota state agencies, as
2828 expressed in Policy 08-02 of the Minnesota Department of Administration's Office of
2829 Grants Management, that competitive grant making be conducted by scoring applicants
2830 in relation to review criteria that have been made available to the applicants. The State
2831 Arts Board employs volunteer advisory panelists to score and rank applicants based on
2832 the extent to which they meet the review criteria for each program. For the Community
2833 Art Schools and Conservatories program, the rationales behind the review criteria are as
2834 follows:

2835

2836 A. The arts instruction will be of a higher quality if the teachers are themselves
2837 producers of high quality art and/or arts instruction. Experienced teachers and leaders
2838 will provide instruction that is at an appropriate level for the student's ability and
2839 relevant to the student's interests and goals.

2840

2841 B. Well-managed, fiscally responsible organizations have a greater chance of success and
2842 establishing a long relationship with the community. Success within the community is
2843 an encouraging sign for long-term stability. Also, because grants require measurable
2844 outcomes, organizations that have demonstrated an ability to achieve measurable
2845 outcomes in the past will be more able to accomplish the goals of the present grant, and
2846 will be eligible for other grants in the future.

2847
2848 C. The Arts Board attempts to avoid providing one-time arts experiences whenever
2849 possible; the board hopes that its programs create long term relationships between
2850 artists and communities that foster additional interactions in the future. This is why
2851 commitment to and from the community is an important review criterion: the stronger
2852 the support for the art among the community, and the more dedicated to the community
2853 the artist feels, the more likely future art is to result and be successful. If the staff and
2854 board do not reflect the diversity of the community the programming will be less
2855 relevant to the community and will therefore attract less public engagement within the
2856 community. Similarly, an organization that takes steps to identify and reach
2857 underserved communities is more attuned to the community's needs and will be more
2858 engaged and produce more relevant programming.

2859
2860 D. Grant funds are not achieving their purpose if they are not bringing any value to the
2861 public. Communities that receive benefits from the arts are more inclined to support the
2862 arts, and arts organizations that are attuned to the needs of the community and attempt
2863 to make the arts an established aspect in the lives of the community are more likely to
2864 create benefits for the public.

2865
2866 E. Effective evaluation and assessment are important because individuals and
2867 organizations need to learn from their successes and mistakes. Self-evaluation and
2868 assessment are hallmarks of successful artists and arts projects and are therefore among
2869 the review criteria relied on by the board. This is why evidence of an outcome based

2870 plan that is fitted to the specific project, as well as evidence that the plan is valued,
2871 understood, and used, is a factor that the board will direct panels to consider when
2872 identifying grantees who are likely to execute quality programming.

2873

2874 **Subp. 6. Merit Funding**

2875 The Arts Board offers merit funding in the Community Art Schools and Conservatories
2876 program in an effort to motivate arts organizations and maximize the impact of public
2877 dollars. The idea is that the lure of additional funding will influence arts organizations
2878 into pursuing those practices that the Arts Board believes lead to better arts
2879 programming. In addition to rewarding exemplary applicants, the Arts Board gets a
2880 better return on its investment by investing additional funds in the highest achieving
2881 candidates. Moreover, rewarding excellence should be a major element of any outcomes-
2882 based grant system, because it provides extra incentive to achieve more and better
2883 outcomes.

2884

2885 **Subp. 7. Multiyear Funding**

2886 By using a two-year grant cycle, the Arts Board saves its own resources because it only
2887 has to do the full application review of an applicant every two years, which takes up less
2888 employee time and agency resources. The two-year cycle is also easier and more efficient
2889 for the applicant, who does not have to submit a full application every year.

2890

2891 **Subp. 8. Dollar amount of grants.**

2892 Establishing minimum and maximum amounts for grants helps artists and
2893 organizations plan their budgets because they know the parameters for best and worst
2894 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
2895 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
2896 possible to set minimum and maximum dollar amount levels too far in advance or on a
2897 long-term basis. For this reason, the board makes determinations for each grant cycle
2898 and makes them available to applicants in the application materials at the beginning of

2899 the application process. All applicants know that there will be minimum and maximum
2900 amounts set, but that the exact figures will not be known before the appropriation. This
2901 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
2902 give the applicants the exact figures as soon as possible.

2903

2904 **1900.2260 ADDITIONAL REQUIREMENTS AND PROCESSES FOR THE ARTS**
2905 **LEARNING PROGRAM**

2906 (Line 50.5)

2907

2908

2909 **Overview**

2910 Arts Learning is a program that offers funding for projects that help lifelong learners
2911 acquire knowledge, understanding, and skills in the arts. Projects must provide
2912 participatory learning, and engage learners with skilled teaching artists and high quality
2913 artistic experiences. The Arts Board supports continuing the learning cycle for all
2914 Minnesota residents. This program is designed to provide opportunities to share and
2915 celebrate the diverse cultures of Minnesotans and to deepen community connections
2916 through the love of learning.

2917

2918 **Background**

2919 Before the Legacy Amendment, the Arts Board operated a program called School
2920 Support that provided resident artists for public schools. This was the only grant
2921 program aimed at providing arts instruction. When the Legacy Amendment specifically
2922 mentioned “arts learning” it became apparent that funding programs for arts education
2923 would have to be increased. After considering many alternative ideas (including
2924 continuing School Support, and insuring that all five year olds were exposed to at least
2925 three arts experiences), the board settled on widening the scope of arts learning to
2926 include Minnesotans of all ages in the Arts Learning program.

2927

2928 While there is no doubt that artistic programming and education for schoolchildren is of
2929 great importance to the vitality of the arts in Minnesota, the Arts Board is reluctant to

2930 fund such activities. Primarily, this is because it is thought that arts education is a vital
2931 component of education and should be funded with education funds. In addition, if Arts
2932 Board funds were directed to schools, it is reasonable to suspect that the arts portion of
2933 education funding would be reduced accordingly. The Legacy Amendment states that
2934 Legacy funds “must supplement traditional sources of funding for these purposes and
2935 may not be used as a substitute.” Minnesota Constitution, Article XI, § 15. Finally, the
2936 Arts Board is charged with providing arts experiences for all Minnesotans and thus
2937 believes that arts learning should continue after school.

2938

2939 **Subpart 1. Definitions.**

2940 A. This definition of “*arts learning*” reflects the idea that because the Arts Board has an
2941 obligation to provide learning opportunities in the arts to all Minnesotans, the program
2942 is meant for lifelong learners. Also, the terms “*disciplined*” and “*intentional*” are included
2943 here to emphasize that this is intended to be high quality arts experience, where learners
2944 attempt to master skills with highly trained teachers.

2945

2946 B. “Teaching artist” is used instead of teacher to convey that teachers who are also artists
2947 should provide the instruction so they pass along skills and a developed craft rather
2948 than merely provide basic arts instruction.

2949

2950 **Subp. 2. Purpose of the program.**

2951 The purpose of the program is provided here to give context and orientation to the
2952 reader; it does not introduce any new regulatory requirements or Arts Board
2953 procedures.

2954

2955 **Subp. 3. Use of Grants.**

2956 The use of grants section makes clear that funds may be used for providing arts
2957 instruction and for the professional development for those that provide instruction. Such
2958 professional development insures that in addition to increasing the quality of instruction

2959 for current students, future learners will have better arts learning experiences with more
2960 qualified providers.

2961

2962 **Subpart 4. Eligibility.**

2963

2964 The eligibility requirements in the Arts Learning program are as expansive as any Arts
2965 Board program. The idea is that applicants do not have to be teaching organizations; an
2966 applicant could be an arts group or individual artist providing disciplined instruction in
2967 a nontraditional context. By widening the scope of potential applicants, more
2968 opportunities for arts learning in Minnesota become available. However, the applicant
2969 must be at least 18 so he or she can enter into an enforceable contract.

2970

2971 **Subpart 5. Criteria used by the advisory panel and board to make grants.**

2972 The Arts Learning program makes grants on a competitive basis from available funds. It
2973 is the policy of Minnesota state agencies, as expressed in Policy 08-02 of the Minnesota
2974 Department of Administration's Office of Grants Management, that competitive grant-
2975 making be conducted by scoring applicants in relation to review criteria that have been
2976 made available to the applicants. The Arts Board employs volunteer advisory panelists
2977 to score and rank applicants based on the extent to which they meet the review criteria
2978 for each program. For the Arts Learning program, the rationales behind the review
2979 criteria are as follows:

2980

2981 A. The arts instruction will be of a higher quality if the teachers are themselves
2982 producers of high quality art and arts instruction. Not only should the teachers be
2983 accomplished artists themselves, they should be experienced teachers and leaders who
2984 will provide instruction that is at an appropriate level for the student's ability and
2985 relevant to the student's interests and goals. Teachers are also required to demonstrate
2986 that they have considered the talent level and needs of the pupil. Instruction that is too

2987 far above or beneath the student's ability or is not of sufficient interest to the student
2988 would be a waste of taxpayer dollars and will not be funded.

2989

2990 B. Commitment to and from the community. The Arts Board attempts to avoid
2991 providing one-time arts experiences whenever possible; the board hopes that its
2992 programs create long term relationships between artists and communities that foster
2993 additional arts interactions in the future. This is why the commitment to and from the
2994 community is an important review criterion: the stronger the support for the art among
2995 the community, and the more dedicated to the community the artist feels, the more
2996 likely future art is to result and be successful.

2997

2998 One way an arts instructor can demonstrate a commitment to the community is by
2999 showing that they have taken the time, and shown the interest necessary, to tailor a
3000 curriculum targeted to the specific community, with their needs and interests in mind.
3001 Another way is by working directly with artists and groups from the community, and
3002 forming collaborations that could outlast the duration of the project.

3003

3004 C. The board looks at the capacity for effective project administration as a review
3005 criterion because competent operations and leadership are a crucial part of successful
3006 arts projects. The qualifications of the staff, artists, and other collaborators to design and
3007 execute the proposed instruction will lead to better and more effective instruction and
3008 the achievement of project goals. An important sign of a project that is committed to
3009 providing qualified staff is the willingness and ability to pay reasonable wages. Wages
3010 sufficient to retain qualified staff, and an overall balance between instruction and other
3011 overhead expenses as part of a realistic budget are hallmarks of the type of education
3012 providers sought for this program, and these will be the successful applicants to the Arts
3013 Learning program.

3014

3015 D. Effective evaluation and assessment are important because individuals and

3016 organizations need to learn from their successes and mistakes. Self-evaluation and
3017 assessment are hallmarks of successful artists and arts projects and are therefore among
3018 the review criteria relied on by the board. This is why evidence of an outcome based
3019 plan that is fitted to the specific project, as well as evidence that the plan is valued,
3020 understood, and used, is a factor that the board will direct panels to consider when
3021 identifying grantees who are likely to execute quality programming.

3022

3023 **Subp. 6. Dollar amount of grants.**

3024 Establishing minimum and maximum amounts for grants helps artists and
3025 organizations plan their budgets because they know the parameters for best and worst
3026 case scenarios for receiving Arts Board funds. However, because the Arts Board awards
3027 grant dollars on a competitive basis from funds allocated by the Legislature, it is not
3028 possible to set minimum and maximum dollar amount levels too far in advance or on a
3029 long-term basis. For this reason, the board makes determinations for each grant cycle
3030 and makes them available to applicants in the application materials at the beginning of
3031 the application process. All applicants know that there will be minimum and maximum
3032 amounts set, but that the exact figures will not be known before the appropriation. This
3033 allows the Arts Board to adapt quickly to the ever-changing appropriation levels and
3034 give the applicants the exact figures as soon as possible.

3035

3036 **Regional Arts Councils.**

3037 (Line 52.15)

3038

3039 The Regional Arts Council (RAC) system, established in 1995 (Minn. Session Laws Ch.
3040 126, H.F. No. 1194), serves the needs of arts organizations and artists throughout the
3041 state on a grassroots level. The Arts Board was empowered to work with regional
3042 representatives to establish arts regions statewide and to designate an organization in
3043 each of the regions to serve as RAC. At the time that these rules were promulgated there
3044 were eleven (11) regions.

3045
3046 RACs are charged with assessing the needs of their respective regions, developing
3047 programs and services to meet those needs, and distributing funds through an
3048 accountable, competitive, and public process. Working with the RACs, the Board
3049 prepares a Regional Arts Council/Arts Board Memorandum of Agreement, which each
3050 RAC must sign to receive its block allocation. The Arts Board has oversight
3051 responsibility for ensuring that: each RAC adheres to the terms of the Memorandum of
3052 Agreement; that each RAC engages in an appropriate biennial planning process; and
3053 that each RAC submits an approved biennial plan. RACs are autonomous from the
3054 Board and from each other in their planning, decision-making, programming, and
3055 operations. They independently develop biennial plans, policies, and programs based on
3056 valid constituent need assessments. In addition, they adhere to their approved, publicly
3057 disseminated biennial plan and operate in a fiscally responsible manner that serves the
3058 needs of their region.

3059

3060 **1900.2310 Definitions.**

3061 Subp. 12(a)

3062 This definition for “regional arts council” replaces the definition for “designated
3063 regional arts council,” previously at subpart 6. The definition remains unchanged, and
3064 both refer to the same body; however, a clause containing additional explanatory text
3065 has been added.

3066

3067 **Subp. 14**

3068 The reference to “RAC forum” has been removed. This acronym is not used in the rules
3069 and is neither needed nor helpful. Although “RAC” is used in this SONAR, it is always
3070 used for “regional arts council” alone, never with “forum.”

3071

3072 **1900.2610 Eligibility for Allocation.**

3073

3074 **Subp. 1.** Year one of the biennium.
3075 This part failed to specify which year of the biennium was being referenced. It may seem
3076 obvious that the plan would be submitted in the immediately preceding year, but this
3077 point has been specified nonetheless.

3078
3079 **Subp. 2.** Year two of the biennium.
3080 As in the subp. 1, above, the year of the biennium is now specified. In addition, this
3081 section now requires the regional arts councils to confirm that there will be no changes
3082 to its biennial plan or to submit a plan update for any changes to the plan in the second
3083 year of the biennium. This change is for efficiency purposes. The sooner the Arts Board
3084 learns of each council’s plans; the sooner funds can be disbursed. In practice, this has
3085 been the course of action between the RACs and the Arts Board for several years. This
3086 rulemaking will simply commit this practice to the RAC’s governing rules. They have
3087 expressed no concern in reviewing these proposed rules.

3088
3089 **1900.2710 Biennial Plan Components**

3090
3091 **Subp. 3.** “E-mail, online” has been added to reflect current technology.

3092
3093 The word “biennial” has been added for clarification.

3094
3095 **Subp. 11.** “[a]nd on its Web site” has been added because this is most likely how the
3096 public will and would prefer to access the plan. However, “at the council’s office” has
3097 been retained for those instances where someone might want to see the plan in a paper
3098 form.

3099
3100 **1900.2810 Preliminary and Biennial Plan Review Process**

3101

3102 **Subp. 2.** The RACs asked the board for additional notice time before the advisory
3103 committee meeting in order to prepare. The board accommodated this request by
3104 granting thirty, rather than ten days.

3105

3106 **1900.3310 Appeals of Disputed Designation**

3107

3108 **Subp. 1.** This subpart has been edited for clarity and elaborated on slightly to mirror the
3109 appeal process for applicants who dispute an Arts Board decision as found at 1900.1110.
3110 Not only does this create uniformity among Minnesota state arts funding procedures, it
3111 implements the same time requirements that have been designed to keep the appeal
3112 moving while allowing all parties sufficient time to prepare. The process for handling
3113 appeals at the RAC level is now consistent with the state-wide Arts Board appeal
3114 process, and the procedure is believed to be reasonable and fair to both the RAC and
3115 applicant.

3116

3117 **Subp. 2.** This section has been amended for clarity. In addition, the board is directed to
3118 propose a remedy if it finds that an appeal is warranted. This is for efficiency, so that the
3119 issue does not have to be revisited at a subsequent meeting if there is a remedy available
3120 that is acceptable to all parties.

3121

3122 Also, "Office of Administrative Hearings" is used instead of "an administrative law
3123 judge" because it is a more accurate phrase. The board does not refer an appeal to a
3124 specific administrative law judge, but to the Office of Administrative Hearings, which
3125 then assigns a specific judge to the matter. The previous language could be thought to
3126 suggest that the Arts Board is able to select a judge, which is, of course, untrue.

3127

3128 The meaning of the text in subp. 3 remains unchanged; however, the language has been
3129 re-written for clarity.

3130

3131 **1900.3410. Assignment of Legislative Arts Allocation to Regional Arts Councils**

3132

3133 **Subp. 1.** “[O]r no more than 15 days after any legislative arts appropriation passed after
3134 June 30” has been added because there was an instance recently, the 2011 government
3135 shutdown, where the allocation was not made before June 30, making it was impossible
3136 for the RACs not to violate its rules. This clause serves as a safety valve.

3137

3138 **Subp. 2.** The phrase “as required in Subpart 1,” was added to reflect the change in
3139 subpart 1, above, that allows for the 15-day exception for appropriations after June 30.

3140

3141 **1900.3510 Regional Arts Advisory Committee**

3142

3143 The board decided that the role of the Arts Advisory Committee had become too broad
3144 for one committee to effectively manage. The Advisory Committee reads thousands of
3145 pages of plans and reports as part of its budgetary duties alone. The board found that an
3146 additional committee was needed for systemic improvement and communication
3147 between the Arts Board and the RACs. As a result, a new committee has been created:
3148 the Regional Arts Council Liaison Committee. The role of the Advisory committee is to
3149 work with the RACs and the board on biennial plans only. The Liaison Committee
3150 focuses on conflict resolution between the board and the RACs and also evaluates
3151 relations and procedures between the bodies on a more systemic level.

3152

3153 **Subp. 1.** This subpart has been edited to be more concise and focus only on the purpose
3154 of the committee: biennial appropriations.

3155

3156 Lines B and D have been removed because these are now tasks performed by the Liaison
3157 Committee.

3158

3159 The other minor changes to this part were for editorial purposes only.

3160

3161 **1900.3610 Minnesota State Arts Board/ Regional Arts Council Liaison Committee.**

3162

3163 The title of this part is now the name of the committee rather than a description of its
3164 tasks, which is now contained in the subparts immediately following.

3165

3166 **Subp 1.** This subpart states the three primary responsibilities of the new Liaison
3167 Committee. Previously, these duties were listed as duties of the Advisory Committee in
3168 part 1900.3510.

3169

3170 **Subp.2.** This subpart describes the process by which members are appointed to the
3171 Liaison Committee. The process is similar to the Advisory Committee member selection
3172 process. However, because the only purpose of this committee is improving relations
3173 between the board and the RACs, all members come from the board, the RACs, or Arts
3174 Board staff, with no at large membership. The Advisory Committee, on the other hand,
3175 has at large members that provide an outside perspective and expertise on budgetary
3176 matters.

3177

3178 **1900.3710 Process to Carry Forward Block Allocations to the Next Fiscal Year**

3179

3180 **Subpart 1.** The RACs requested additional time to notify the board about carrying
3181 forward block allocations into the next fiscal year. The board believed this request to be
3182 reasonable and granted an additional month.

3183

3184 **1900.3810 Process to Carry Forward Block Allocations to the Next Biennium**

3185

3186 **Subpart 1.** The RACs requested additional time to notify the board about carrying
3187 forward block allocations into the next biennium. The board believed this request to be
3188 reasonable and granted an additional month.

3189

3190 **1900.3910 Unobligated Block Fund Allocation Funds**

3191

3192 “Board” has replaced “general fund” in order to reflect the fact that the board must
3193 receive the funds in order to determine to which fund--general or Legacy—the funds
3194 must be returned. The funds are then returned to one of these funds, as required by
3195 Minnesota statute.

3196

3197 **1900.4110 Reporting Requirements**

3198

3199 Rule 1900.4110 describes the type of plans, reports, and audits each of Minnesota’s
3200 eleven regional arts councils must submit to the Minnesota State Arts Board in order to
3201 receive and account for its block grant allocation of state funds. These submissions help
3202 the board insure that each RAC is fulfilling its role as a good steward of public dollars.
3203 The cornerstone of these submissions from the regional arts councils to the board is a
3204 report that details how the block funds that have been allocated have been used so far.
3205 Because of the prevalence of carryovers from year to year and in the interest of effective
3206 oversight, the board, in consultation with the RACs, has determined that annual reports
3207 are needed rather than biennial reports. This annual report system is not new, having
3208 been in place now for several years. Both the Arts Board and the regional arts councils
3209 are satisfied with the effectiveness and frequency of this reporting system.

3210

3211 Other than the change to annual reporting, this section has been amended only for
3212 clarity.

3213

3214

3215

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