

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF EDUCATION

In the Matter of the Proposed Adoption
of Rules of the State Board of
Education Relating to Graduation
Standards Profile of Learning, Minn.
Rule Parats 3501.0300 to 3501.0469.

REPORT OF THE CHIEF
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subs. 3 and 4. Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge. Administrative Law Judge Beck identified defects with two aspects of this proposed rule: the date of implementation and its application to students in advanced placement programs. Pursuant to Minn. Stat. § 14.15, subd. 3, the agency may correct these defects in the following manner:

1. While some school districts are ready to begin implementation this fall (Finding 44), Judge Beck found that for many others “a transition period is needed...” (Finding 40). To correct the defect, the agency should permit those districts ready to move forward to do so. For districts not ready to fully implement this year, an optional phase-in schedule should be allowed. Judge Beck concluded the content requirements of the proposed rules were both needed and reasonable (while allowing the Board to reduce the required content standards to 18. Finding 54). For that reason, simply delaying implementation for one year would not be an appropriate cure for the defect. Instead, a more tailored approach of allowing a phase-in option for the timing of implementation would better match Judge Beck’s findings that the rule content is needed and reasonable but that the date proposed for complete implementation is not reasonable for all districts.

2. Judge Beck concluded that “the application of the...standards requirement to high achieving students is unreasonable in that it is not rationally related to the end sought to be achieved by the statute” (Finding 67). To cure this defect, Judge Beck suggests the addition of a waiver provision. I encourage the Board to examine this option and to consider a waiver standard which would include students who are participating in a course of study as rigorous or more rigorous as that required by the rules, which will insure that the objectives of the rule are being met.

In the alternative, the agency may follow the procedure for adopting substantially different rules or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule. The procedure for adopting substantially different rules is set out in Minn. Rule 1400.2110.

If the agency chooses to take the action recommended, it shall submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantially different.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial difference.

Dated this _____ day of _____ 1998.

KENNETH A. NICKOLAI
Chief Administrative Law Judge