

Office of Administrative Hearings
Administrative Law Judge Eric Lipman, Presiding Judge
OAH Docket No. 8-9005-37919
Minnesota Rules: Chapter 3501
Revisor ID: R-4733

Re: Comments on Proposed Amendment to Rules Governing K-12 Academic Standards in Social Studies

Submitted by State Representatives Ron Kresha, Peggy Bennett et al.

To the Honorable Judge Lipman,

Please accept and consider the following comments and objections to the proposed rule, also known as the proposed social studies academic standards.

We, the signed members of the Minnesota House of Representatives, object to the adoption of the proposed standards and urge you to reject the proposed rule in its entirety.

In this document we ask you reject the adoption of the proposed rule on the following grounds:

- The rules, as proposed, were drafted in violation of statutory requirements for stakeholders advising the Commissioner of Education, also known as the Social Studies Standards Committee.
- The rules, as proposed, were drafted in violation of statutory requirements requiring academic standards to be clear, concise, objective, measurable, and grade-level appropriate.
- The rules, as proposed, were drafted in violation of statutory limitations or restrictions against academic standards requiring a specific teaching methodology or curriculum.
- The rules, as proposed, were drafted in violation of statutory limitations defining the scope and subject areas to be included with the social studies standards.
- The rules, as proposed, are not needed, nor are they reasonable.

The proposed standards were reviewed and revised without the statutorily required stakeholders. [MN Statutes 120B.021, subdivision 2 (a)]

Section 120B.021, subdivision 2 (a) requires the Commissioner of Education to consider advice from stakeholders and prescribes the minimum representation of those stakeholders. These include, but not limited to, “parents of school-age children and members of the public throughout the state” and “representatives of the Minnesota business community.”

The social studies standards review committee began meeting in September 2020 with their last meeting in September 2021. The list of committee members published by MDE, dated May 12, 2021, does not include any representatives that appear to be serving the interest of “parents of school-age children and members of public throughout the state”. Nor does the list include any stakeholders “representing the Minnesota business community.”

As noted, the list of stakeholders dated May 12, 2021, fails to include, or otherwise identify any individuals serving on the group of stakeholders in their capacity as a “parent of school-age children” or as a “member of the public.” While it is probable several members of the stakeholder group were parents of school age children, they were not identified as such and thus understood to be bringing that perspective to the table. The same could also be said for lack of public members. A public member is just that – a representation of the public at large.

In the SONAR [pg. 34] MDE claims the stakeholder group included “parents” and “business representatives” but no such stakeholders are identified or otherwise so noted on the list of stakeholders. Additionally, by MDE’s own admission in the SONAR, there were no “public members” included.

The lack of a Minnesota business representative is extremely troubling for two reasons. First, the statutory requirement in section 120B.021, subdivision 2 (a) clearly points to representatives of the Minnesota business community. Second, the SONAR [pg. 83] specifically identifies a “cost and consequence” in failing to adopt the proposed rule on the “business community” but reaches this assessment without including any business representatives among the stakeholder in the review and revision.

It should be further noted that accepting public comment from self-identified parents, members of the public, or those representing the business community is NOT the same as appointing such members or individuals to the regular workings of the standards committee.

Failure to abide by section 120B.021, subdivision 2 is a gross and flagrant violation of the standards review and revision process and alone should be enough to disqualify the proposed standards in their entirety, as the proposed standards all fall from the same poisonous tree.

Academic Standards must "be clear, concise, objective, measurable, and grade-level appropriate." [MN Statutes 120B.021, Subdivision 2 (b)(1)]

Many of these standards, specifically in the history and ethnic studies strands, lack clarity, and are prone to subjective interpretations and applications. If the standards are subjective, then they are neither objective nor measurable.

For example:

- *Standard 18 [Proposed rule 3501.1350, subp. 5, A.] – Change, Continuity and Context: Ask historical questions about context, change and continuity in order to identify and analyze dominant and non-dominant narratives about the past.*
 - This standard puts an emphasis on absent or non-dominant narratives without identifying which narratives are considered underrepresented. This creates a subjective standard in which the teacher would be determining which narratives or voices are absent based on a biased or individual perspective.
 - Simply asking the question on what is considered a non-dominant narrative is a subjective exercise, since any narrative not in the textbook could be considered “non-dominant” since it is missing. Such a wide range of options is then nearly impossible to measure, since there would be no common framework on identifying non-dominant narratives against which educators or students could be measured to determine if the standard is either being effectively taught or learned.
- *Standard 22 [Proposed rule 3501.1350, subp. 5, E.] – Connecting Past and Present: Use historical methods and sources to identify and analyze the roots of a contemporary issue and design a plan to address it.*
 - This standard includes a call to action, a subjective assignment to design a plan to address a contemporary issue. The standard is not clear in what constitutes a contemporary issue, and if standards must be measurable, the plan to address it must be subject to an objective evaluation for potential success. Yet, the plans of action would likely involve political questions making them subject to ideological valuations, rather than academic assessment.
 - The SONAR [pg. 60] claims standards do not “prescribe the actions that are appropriate for a particular classroom context.” If this is then left to the teacher, then the teacher bears responsibility as noted in the SONAR [pg. 60] as the “facilitator and coach” who must also “make careful, strategic choices.” In absence of the “teacher-coach,” the students are then left to their own group think to identify a contemporary issue and design a plan to address it. As also noted in the C3 Framework, students move from “academic inquiry to the public square” [SONAR, pg. 60]. This creates unnecessary tension as it would be probable that a group of students would bring different viewpoints as to what constitutes an issue to be addressed, and then any action to address that issue.
- *Standard 23 [Proposed rule 3501.1350, subp. 6, A.] – Identity: Analyze the ways power and language construct the social identities of race, religion, geography, ethnicity, and*

gender. Apply these understandings to one's own social identities and other groups living in Minnesota, centering those whose stories and histories have been marginalized, erased or ignored.

- Similar to standard 18, this standard 23 relies on a subjective evaluation or determination of “whose stories and histories have been marginalized, erased or ignored.” If a story has been erased, how is it recovered? What lens or means of measurement does a teacher use to determine if a history has been marginalized, erased, or ignored?
- *Standard 24 [Proposed rule 3501.1350, subp. 6, C.] – Resistance: Describe how individuals and communities have fought for freedom and liberation against systemic and coordinated exercises of power locally and globally; identify strategies or time that have resulted in lasting change; and organize with others to engage in activities that could further the rights and dignity of all.*
 - This standard is a prime example of being neither concise nor clear. For instance, is this standard met in describing how the 13 American colonies fought for freedom and liberation against a systemic and coordinated exercise of power locally (royal governors) and globally (King George III), or are the “founding fathers” the colonizers (which is clearly the narrative using the associated benchmarks) wielding systemic and coordinated exercises of powers? How then is such a standard clear, concise, objective, or measurable?
 - Furthermore, the call to action to “organize with others to engage in activities that could further the rights and dignity of all” provides no definition on what rights are to be advanced. Are these recognized rights under the United States constitution, United Nations Declaration of Human Rights, Natural Rights, or political rights? What activities could satisfy a mastery of this standard, and in pursuit of what rights? A contemporary debate on access to voting boxes is for some a proxy for voting rights, and some claim access to abortion is a human right. With no guardrails in place, there is opportunity for activist mischief, in which the “teacher-coach” must make “careful, strategic choices” in which their students are led from “academic inquiry to the public square.”

While the benchmarks required under section 120B.023 are not subject to Chapter 14 rulemaking, and thus may be beyond the scope of an administrative review, they are an extension of the standards as the "specific knowledge or skill that a student must master to complete part of an academic standard" [section 120B.018, subdivision 3]. Therefore, the weaknesses of the benchmarks, which are also subjective, confusing, and void of academic foundation reinforce the concerns with the standards lacking clarity, being objective, or measurable.

With this in mind, the terminology included within the associated benchmarks is very troubling, including references to “settler-colonizer” and “anti-colonialism” that have very little academic foundation, but in the current political vernacular are weaponized terms that are dehumanizing and derogatory.

Academic standards must "Not require a specific teaching methodology or curriculum." [MN Statutes 120B.021, subdivision 2(b)(2)]

The proposed standards would require teachers and curriculum to use or rely on the “C3 Inquiry Arc” [SONAR, pg. 58]. As noted in the SONAR, “These standards frame the expectation that students will engage in the inquiry process throughout the K-12 social studies experience.”

According to the National Council for the Social Studies, the C3 Framework “represents an approach to instructional planning that moves away from traditional textbook coverage to a model that is more consistent with the research on ambitious social studies teaching.” The C3 Inquiry Arc is, by definition, a specific teaching methodology. It is clearly written in the SONAR that the teaching of the proposed standards relies on this inquiry arc.

While the use of inquiry-based practices may be well intended – to promote ambitious social studies teaching - it remains a “specific teaching methodology” that is not allowed to be coerced through the adoption of state academic standards in violation of section 120B.021, subdivision 2(b)(2).

If this statutory limitation is inconsistent with the Commissioner’s desired intention, the remedy is not to simply ignore the statutory requirements but to seek a revision to that requirement through the legislative process. Otherwise, the Commissioner is bound by statute to draft the rules (proposed standards) in a manner that is consistent with the statutory requirements and limitations.

Scope of Social Studies Prescribed by Statute [MN Statutes 120B.021, subdivision 1(a)(4)]

The proposed standards far exceed the academic scope specified in statute. The statute – section 120B.021, subdivision 1, paragraph (a), clause (4), specifically defines the scope of social studies as "including history, geography, economics, and government and citizenship that includes civics." These are the subjects required and authorized under the statute, and thus the Commissioner is limited to rulemaking consistent with these subject matter areas.

This limitation on the defined scope of social studies is aligned in section 120A.22, subdivision 9 specifying the essential knowledge and skills required under our state’s compulsory instruction law. In this section, social studies are specifically history, geography, economics, government, and citizenship. Again, here, there is no reference to an ethnic studies subject area.

Furthermore, the state graduation requirements for three and one-half credits of social studies [MN Statutes 120B.024, subdivision 1(a)(4)] is limited to credits encompassing at least United State history, geography, government and citizenship, world history and economics align to the scope of subjects specified for social studies.

The Commissioner cannot use rulemaking to exceed or expand the scope of the agency’s statutory authority, in this case the scope of social studies to include a new subject or “strand” as referred by the Commissioner for “ethnic studies.”

The current standards adopted in 2011 and the new standards proposed include “strands” covering “citizenship and government”, “economics”, “geography”, and “United States and world history.” However, the new standards also include a new strand for “ethnic studies” that is not found in section 120B.021, subdivision 1.

The Commissioner may point to the new requirement adopted during the 2023 Regular Session to “embed ethnic studies” during the review and revision of required academic standards [MN Statutes 2023 120B.021, subdivision 4]. While this is true, the 2023 statutes also requires the Commissioner to “embed technology and information literacy standards” and “Indigenous education” into the state academic standards.

However, in meeting this requirement, the Commissioner creates a subject strand for ethnic studies, but there is no subject strand for technology and information literacy, or even Indigenous education. In fact, within the proposed rule the word “indigenous” appears only once within the new standards and that is using “Indigenous studies methods” (which are not defined) within the Ethnic Studies strand. Nor, is it clear that the proposed standards include “technology and information literacy standards.”

Therefore, the Commissioner is establishing a curious precedent that ethnic studies will be embedded with a fully separate subpart in rule, while other embedded requirements will simply be buried within the rules and in some cases hardly distinguishable. This is important since the statutory requirement for embedding ethnic studies applies not only to social studies, but to all academic standards. Is the Commissioner then proposing to have an ethnic studies subpart or strand for academic standards in mathematics or science, as well?

The Proposed Rule is Neither Needed nor Reasonable

Concerns and questions on Need

While the review and revision of the rules were needed, these specifically proposed rules are not needed, nor are they reasonable.

State law [section 120B.021, subdivision 4, paragraph f] does require that the Commissioner of Education to review and revise academic standards for social studies beginning with the 2020-21 school year, and every ten years thereafter. In so far as that is the case, then review and revision was needed to meet the statutory schedule. However, MDE has failed to demonstrate that these specific rules, as proposed, are needed when a more moderate revision of the current standards would have been more prudent and likely less controversial.

Minnesota has traditionally been seen as a leader in the area of public education and academics, therefore, the laundry list of how other states writing or revising their social studies standards may be informative, it is not persuasive as to why Minnesota should be relegated to a follower status, rather than continuing to lead the nation in both high academic standards and high student expectations.

The current social studies standards include 58 specific content rich standards across four subject areas supported by section 120B.021, subdivision 1. The proposed standards are reduced and limited to only 25 standards across five subject areas. This is most evident with the history standards reduced from 23 separate standards covering United States and World History to only five. We see the same problem with Citizenship and Government reduced from 11 standards to six.

While there may be value in streamlining the number of standards, this process leaves content on the cutting room floor, and pressures the remaining standards to absorb too much lost material making them too abstract and potentially obtuse. The Commissioner has not demonstrated that such a dramatic rewrite and reduction of the standards is needed nor reasonable.

Even if MDE makes their case that the proposed rules, as drafted, are needed, they are certainly not reasonable.

Concerns and questions on Reasonableness

The proposed standards ask students to analyze key events, persons, or institutions without any clarity on what the student is expected to use as a base of knowledge, context to analyze. This is not reasonable.

The proposed standards ask students to examine the internal struggle for liberation without any reference to our nation's role in advancing liberty and freedom around the world and defeating fascism and imperialism. This is not reasonable.

Critical thinking, by definition, is an objective analysis and evaluation to form an independent opinion. The Commissioner claims these standards are intended to promote critical thinking, but this does not align to a narrowly crafted set of proposed standards and benchmarks that push students toward activism rather than academic reflection. This is not reasonable.

While the legislature made specific changes to how academic standards were to be reviewed and revised during the 2023 Legislative Session, the most recent commissioner approved draft is from December 27, 2022. There is no indication that the Commissioner attempted to make any revisions to the proposed rule to incorporate the most recent legislative requirements. This may lead some to conclude that MDE set out to draft a specific set of academic standards and then cobbled together a group of like-minded individuals for their stakeholder group to arrive at their predetermined destination, and then waited nearly a year before filing their intent to adopt rules in September 2023. This is not reasonable.

The proposed benchmarks, which are extensions of the proposed standards and thus a reflection on the intent of the standards, include politically weaponized terms such as “settler colonialism” and “anti-colonialism” that share unfortunate, and hopefully unintended, similarities to language used by activists in opposition to the State of Israel or the foundation and expansion of the United States of America. This is not reasonable.

The proposed rule includes a standard centered on “resistance”, which is a political process rather than an academic endeavor. The term “resistance” is too closely associated with violent efforts to overthrow the “colonizers.” It is unconscionable to even consider the possibility that our state academic standards would not only defend but condone the type of violent resistance we have in seen in recent weeks against the State of Israel under the guise “resistance” or “anti-colonialism. This is not reasonable.

The proposed standards and associated benchmarks are a dramatic shift from being centered in academics to political activism. Again, pointing to the SONAR (pg. 60) the intention of the standards is to guide students from “academic inquiry to the public square” with the teacher now serving as a “facilitator and coach” forced to make “careful and strategic choices” to “disseminate important information to students.” Thus, the standards and benchmarks seek to turn our classrooms into social justice warrior factories with the hope that teachers will make careful and strategic choices to peacefully guide their students to the public square. This is not reasonable.

Summation

For these reasons, we reiterate our request for the Administrative Law Judge to reject the adoption of the proposed rule and direct the Commissioner to start over the rulemaking process on the following grounds:

- The rules, as proposed, were drafted in violation of statutory requirements for stakeholders advising the Commissioner of Education, also known as the Social Studies Standards Committee.
- The rules, as proposed, were drafted in violation of statutory requirements requiring academic standards to be clear, concise, objective, measurable, and grade-level appropriate.
- The rules, as proposed, were drafted in violation of statutory limitations or restrictions against academic standards requiring a specific teaching methodology or curriculum.
- The rules, as proposed, were drafted in violation of statutory limitations defining the scope and subject areas to be included with the social studies standards.
- The rules, as proposed, are not needed, nor are they reasonable.

These comments are submitted respectfully for consideration by the following Members of the Minnesota House of Representatives:



Representative Peggy Bennett



Representative Ron Kresha



Minority Leader Lisa Demuth



Representative Pam Altendorf



Representative Jeff Backer



Representative Dave Baker



Representative John Burkel



Representative Brian Daniels



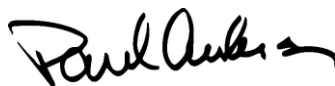
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Representative Pat Garofalo



Representative Matt Grossell



Representative Paul Anderson



Representative Patti Anderson



Representative Ben Bakeberg



Representative Matt Bliss



Representative Greg Davids




Representative Jeff Dotseth



Representative Mary Franson



Representative Dawn Gillman



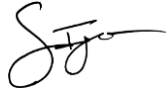
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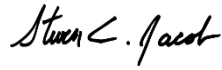
Representative Bobbie Harder



Representative Walter Hudson



Representative Spencer Igo



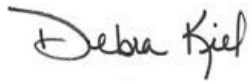
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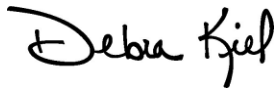
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Representative Duane Quam



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Representative Isaac Schultz



Representative Paul Torkelson



Representative Nolan West



Representative Natalie Zeleznikar



Representative Bernie Perryman



Representative Marion Rarick



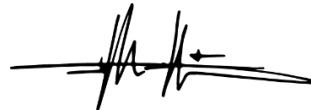
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