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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-FIFTH  
SESSION**

**HOUSE FILE No. 3596**

February 28, 2008

Authored by Faust

The bill was read for the first time and referred to the Committee on E-12 Education

March 10, 2008

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act  
1.2 relating to education; prohibiting the commissioner of education from enforcing  
1.3 unadopted rules; amending Minnesota Statutes 2006, section 127A.05,  
1.4 subdivision 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 127A.05, subdivision 4, is amended to  
1.7 read:

1.8 Subd. 4. **Administrative rules.** (a) The commissioner may adopt new rules  
1.9 or amend any existing rules only under specific authority and consistent with the  
1.10 requirements of chapter 14. The commissioner may repeal any existing rules adopted  
1.11 by the commissioner. The commissioner may grant a variance to rules adopted by  
1.12 the commissioner upon application by a school district for purposes of implementing  
1.13 experimental programs in learning or school management. This subdivision shall not  
1.14 prohibit the commissioner from making technical changes or corrections to rules adopted  
1.15 by the commissioner.

1.16 (b) When the commissioner issues a policy, guideline, bulletin, criterion, manual  
1.17 standard, or similar pronouncement to school districts that meets the definition of a  
1.18 rule under section 14.02, subdivision 4, but that has not been adopted as a rule, the  
1.19 commissioner must include in the pronouncement a notice to the districts that the  
1.20 pronouncement is not enforceable. Consistent with section 14.381, subdivision 1, a district  
1.21 may petition the office of administrative hearings seeking an order of an administrative  
1.22 law judge determining that the commissioner is enforcing or attempting to enforce a  
1.23 pronouncement as though it were a duly adopted rule.

1.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.