

STATE OF MINNESOTA  
BOARD OF TEACHING

Statement of Need and Reasonableness for Proposed Rules  
5 MCAR §§ 3.007, 3.0831, 3.065, 3.088, 3.089, 3.083

Concerning: The proposed adoption, amendment, or repeal of rules governing the following: procedures for voluntary surrender of teaching licenses, teachers of driver and traffic safety education, teachers of science for grades 5-9 and grades 7-12, teachers of English as a second language, and teachers of bilingual/bicultural education.

5 MCAR § 3.007 Procedures for Voluntary Surrender of Teaching Licenses.

The Board of Teaching contends that persons licensed by the Board have a right to voluntarily surrender such licenses; therefore, 5 MCAR § 3.007 is needed to establish by rule procedures to be utilized in the surrender of licenses granted by the Board of Teaching. These procedures assure persons holding Minnesota teaching licenses who request to surrender such licenses that the Board of Teaching has an established process for surrender of licenses. Further, the Board of Teaching contends that the procedures and criteria set forth in this rule are both needed and reasonable in order to provide for an orderly process enabling the surrender of licenses and possible subsequent issuance of licenses previously surrendered.

Subdivision A. sets forth the required materials to be submitted to the Executive Secretary of the Board of Teaching to initiate the surrender of a teaching license. The materials required by Sections A.1., 2., and 4. are necessary to process the change in licensure status and issue a revised licensure document reflecting valid licenses held by the applicant. Receipt of the materials required by Section A.3. will assure that the employing school district has been advised that a teacher intends to surrender a teaching license. Since licenses held are the basis for teaching assignments, school officials must know the current licensure status of teachers employed in order to assign qualified teachers in compliance with Minnesota Statutes § 125.04.

Subdivision B. sets forth the effective date of surrender of a teaching license based upon the date of receipt of the written request to surrender such license. School districts typically register students during January and February for programs to be offered the following school year and staffing assignments are generally completed by April 1. This time line permits school districts to employ needed teachers and to notify as early as possible teachers who may be terminated or placed on unrequested leave. Therefore, the requirement that a request for surrender be received by January 1 in order to be effective July 1 of that year is reasonable for both the school district and licensed teachers who may be affected by the surrender of a teaching license.

Subdivision C. sets forth the conditions whereby surrender of a teaching license is prohibited. This provision does not permit the license holder to avoid disciplinary action by voluntarily surrendering a license. To permit such

avoidance would frustrate the intent of Minnesota Statutes § 125.09 since the proposed rule permits a teacher who voluntarily surrenders a license to apply for another, even in the same field. A revocation or suspension is a disciplinary action and is normally effective for a specified period of time.

Subdivision D. permits persons who voluntarily surrender teaching licenses to subsequently apply to the Board of Teaching for a license in the subject or field for which licensure was previously surrendered. This provision sets forth the procedures and criteria to be utilized by the Board of Teaching in the issuance of such licenses.

Subdivision E. permits teachers who surrender licenses granted by the Board of Teaching to apply for or hold licenses in other subjects or fields in accordance with the provisions of 5 MCAR § 3.140.

#### 5 MCAR § 3.0831 Driver and Traffic Safety Education.

Subdivision A. provides for an effective date for this rule which has been established to provide sufficient time for teacher preparation institutions to develop and submit for approval licensure programs in accordance with this rule, and for persons to complete such approved programs to be recommended for licensure.

Subdivision B. sets forth the requirements for the licensure of teachers of driver and traffic safety education. It is necessary to delineate the knowledge, skills, and understandings required of teachers of driver and traffic safety education because the current rule is lacking specific criteria for the licensure of teachers of driver and traffic safety education. The proposed rule requires persons to be licensed as teachers, since the program is part of the school curriculum. Minnesota parents and students are entitled to assurances that persons employed in Minnesota schools as teachers of driver and traffic safety education meet established requirements in terms of essential knowledge, skills, and understandings necessary to teach driver and traffic safety education.

Subdivision C. is needed to specify current knowledge, skills, and understandings required of teachers of driver and traffic safety education. Such teachers must have knowledge of the scope, sequence, and content of the driver and traffic safety education program which includes classroom instruction, laboratory instruction, and the organization and administration of the program. The practicum requirement enables persons preparing to be teachers of driver and traffic safety education to assume major responsibility for the driver and traffic safety education program under the supervision of practicing driver and traffic safety education teachers and college faculty.

Subdivision D. is necessary to set forth the procedure by which approved Minnesota institutions must follow to obtain approval of a driver and traffic safety education program.

Subdivision E. provides for the issuance and renewal of continuing licenses in accordance with current standards and procedures set forth by the Board of Teaching.

The Board of Teaching contends that the requirements set forth in this rule are both needed and reasonable in order to assure that persons preparing to teach driver and traffic safety education demonstrate the necessary knowledge, skills, and understandings which are essential to design and implement instructional programs in driver and traffic safety education.

5 MCAR § 3.065 Science for Grades 5-9 and Grades 7-12.

The need to amend this rule arises because the Board of Teaching has been made aware by the profession of the necessity to address the preparation of teachers of physical science.

Subdivisions D. and F. are amended to set forth the licensure requirements for teachers of physical science, which include the disciplines of chemistry and physics. The knowledge, skills, and understandings required of physical science teachers, which also currently include the broad base, are difficult to complete within a baccalaureate degree program. Therefore, the Board of Teaching proposes to delete the requirement of the broad base in earth and life sciences for teachers of physical science, which will provide more flexibility to accommodate relevant preparation of teachers of physical science. The Board of Teaching contends that these amendments establish the necessary provisions to address this preparation and are both needed and reasonable in order to ensure adequate preparation in chemistry and physics.

Other amendments to this rule provide clarity of language.

Subdivision J. provides for the renewal of continuing licenses in accordance with 5 MCAR § 3.005; therefore, the proposed amendments do not impact upon persons currently holding licensure as teachers of physical science. Persons currently enrolled in these licensure programs are accommodated through the provisions of 5 MCAR § 3.141.

5 MCAR § 3.088 Teachers of English as a Second Language.

Proposed 5 MCAR § 3.088 is needed to implement licensure standards in the teaching of English to students of limited English proficiency. Currently no licensure rule exists.

Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Health, Education, and Welfare."

On May 25, 1970, the Department of Health, Education, and Welfare issued a memorandum intending to clarify a school district's obligations regarding national origin minority children: "Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

The United States Supreme Court decision *Lau vs Nichols*, 1974: "There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills, is to make a mockery of public education."

Further, Minnesota Statute § 126.36 authorizes the Board Teaching to:  
"...grant teaching licenses in bilingual education and English as a second language to persons who present satisfactory evidence that they:

- (a) Possess competence and communicative skills in English and in another language;
- (b) Possess a bachelor's degree or other academic degree approved by the board, and meet such requirements as to course of study and training as the board may prescribe."

In order for Minnesota to comply with these laws, court decisions and memoranda, it is necessary that this licensure rule be promulgated to ensure that teachers serving limited English proficient students have the unique and essential skills to teach English as a second language. Minnesota public schools are being held accountable for competent performance in instructional methods and practices in English as a second language.

In the 1981-82 school year there were 330 teachers serving 8,314 limited English proficient students in 116 school districts across Minnesota. The State of Minnesota has been providing financial assistance to districts serving limited English proficient students since the 1980 legislative session.

Subdivision A. sets forth the definition of English as a second language. This definition clarifies the teaching task, which is instruction of English in English to students who do not speak, read, or write English, but who do speak another language.

Subdivision B. sets forth the requirements for the licensure of teachers of English as a second language. To teach students learning a second language, teachers must have the experience of learning a second language themselves in order to comprehend all aspects of the students' task of learning a new language. Persons preparing to teach English as a second language must complete a professional education component which prepares them in the theory and practice of teaching and learning. In addition, they must possess the knowledge, skills, and understandings required of teachers of English as a second language. Minnesota parents of limited English proficient students are entitled to assurances that persons employed in Minnesota schools as teachers of English as a second language meet established requirements necessary to teach students who do not speak, read, or write English, but who speak another language.

Subdivision C. is needed to specify the knowledge, skills, and understandings required of teachers of English as a second language. These unique and essential knowledge, skills, and understandings are necessary for the following specific reasons:

1. To be effective as a teacher with students from any language background, the teacher must have an understanding of linguistics, the system of language. The teacher must know the system of language so that learning can be made efficient and meaningful for the students.
2. The teacher must understand the system of the English language in order to explain, organize, and present meaningful lessons to students. The teacher must have a formal knowledge of that part of English which native speakers have learned informally. In addition, the teacher must be able to compare components of English with those of the students' languages and be aware of the difficulty students may have with a particular item in English.

3. It is necessary that the teacher understand learning theories and factors affecting the acquisition of language in order to facilitate student acquisition of a second language.
4. To teach a comprehensive model of English, noting the differences in usage and dialects, it is important for the teacher to understand the variations which are a part of English and are used in particular situations.
5. The teacher must be sensitive to the relationship between language and culture since the students are learning about the second culture both in the classroom and outside the classroom. The teacher must be aware of the effect upon the student of learning English, and the impact of the first language and the culture, which is a natural part of language learning.
6. The teacher must understand the differences in teaching reading in a second language, which demands a thorough knowledge of reading theory for second language learners whether preliterate, illiterate, or literate in the first language.

Subdivision D. is necessary in order to provide a reasonable means whereby persons currently teaching in the field of English as a second language without a license in this field will have their teaching experience and teacher preparation in English as a second language evaluated in relationship to the requirements for licensure as teachers of English as a second language. Institutions seeking approval from the the Board of Teaching for this teacher preparation program shall be expected to apply relatively consistent and uniform criteria in the evaluation of previous teaching experience and previous teacher preparation of teachers currently employed in the field of English as a second language.

Subdivision E. provides for issuance and renewal of continuing licenses in accordance with current standards and procedures set forth by the Board of Teaching.

Subdivision F. sets forth standards for provisional licensure in this field. Provisional licensure is necessary to provide a reasonable system whereby persons currently teaching without a license in English as a second language will be able to be granted an initial provisional license in English as a second language based upon the completion of minimal preparation in this field. This minimal preparation may include previous teaching experience and/or teacher preparation. This system for provisional licensure will provide assurance to the Board of Teaching that persons possess the minimal knowledge, skills, and understandings for issuance of the provisional license and are required to meet entrance licensure requirements through a reasonable and systematic process.

The Board believes that all teachers of English as a second language must eventually meet the licensure requirements set forth in this rule, and therefore, have placed a reasonable termination date on the issuance of provisional licensure. Preparation in the field of English as a second language is currently available across the state in a number of teacher preparation institutions. Other teacher preparation institutions may develop an English as a second language teacher preparation program upon approval of the rule.

While some persons may believe that teaching experience in the field of English as a second language qualifies them to be granted entrance or continuing licensure in English as a second language, the Board of Teaching contends that it is imperative that all persons granted entrance or continuing licensure in this field demonstrate the unique and essential knowledge, skills, and understandings required by this rule, and that the system for demonstrating such requirements is reasonable.

#### 5 MCAR § 3.089 Teachers of Bilingual/Bicultural Education.

Proposed 5 MCAR § 3.089 is needed to implement licensure standards in the teaching of bilingual/bicultural education. Currently no licensure rule exists.

Federal law and U.S. Supreme Court decisions with respect to equal educational opportunities for limited English proficient students are clear:

- "In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education." (U.S. Supreme Court, 1954).
- "Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students." (Department of Health, Education, and Welfare Memorandum, May 25, 1970).
- "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Health, Education, and Welfare." (Title VI, Civil Rights Act, 1964).
- "Some of the most dramatic, wholesale failures of our public school systems occur among members of language minorities...what these conditions add up to is a conscious or unconscious policy of linguistic and cultural exclusion and alienation...There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program he must already have acquired those basic skills, is to make a mockery of public education." (U.S. Supreme Court, 1974, Lau vs Nichols).

Futher, Minnesota Statutes § 126.36 authorizes the Board of Teaching to: "...grant teaching licenses in bilingual education and English as a second language to persons who present satisfactory evidence that they:

- (a) Possess competence and communicative skills in English and in another language;
- (b) Possess a bachelor's degree or other academic degree approved by the board, and meet such requirements as to course of study and training as the board may prescribe."

While schools must open their educational programs to students regardless of their linguistic and cultural background, they cannot expect them to already know English in order to do so. Bilingual/bicultural education allows students to learn content area information while they are learning English. Presently, 26 states and the District of Columbia, including other central states such as Wisconsin, Illinois, Indiana, Kansas, Michigan, and Ohio, have special licensure requirements in bilingual/bicultural education. In recognition of the need to appropriately serve limited English proficient students in Minnesota, the 1980 Minnesota Legislature provided state funding to school districts serving such students, based on the identified number of students in each district. In the 1981-82 school year 116 districts in Minnesota provided special services to limited English proficient students. Three districts also received Title VII Federal funds for bilingual/bicultural education. According to data submitted to the Bilingual Education Unit of the Minnesota State Department of Education, in the fall of 1981, approximately 13,000 students (K-12) have been identified as having a primary home language other than English. A total of 8,314 limited English proficient students were served by programs for such students in Minnesota during the 1981-82 school year with combined state and federal funds. For three years, beginning with the 1982-83 school year, the University of Minnesota will receive a Title VII Federal Grant for the preparation of bilingual/bicultural education teachers. The "Report on the Bilingual Education Needs Assessment and Pilot Projects" submitted in fulfillment of Minnesota Statutes § 126.39, Subd. 10 and entitled "Education Needs of Limited English Proficient Students", presented to the Minnesota State Board of Education in January 1980, included in its conclusions that:

- Many bilingual/bicultural education teachers were not able to obtain appropriate preparation in Minnesota;
- Limited English proficient students were not being served with appropriate instructional techniques and materials;
- Limited English proficient students were often being served only by programs not designed as appropriate for primary service to limited English proficient students;
- These limited English proficient students were enrolled in more than 60% of school districts throughout Minnesota;
- While overall student enrollment declined, limited English proficient student population in Minnesota is increasing;
- Most limited English proficient students were enrolled in classes conducted exclusively through English that made no allowances for their languages and cultures.

The shortcomings cited above can be resolved to a great extent by providing a consistent and quality teacher preparation program for all bilingual/bicultural teachers in public schools, K-12. Lack of properly prepared teachers has significantly affected the providing of equal educational opportunities for the limited English proficient students in Minnesota. The proposed rule is a result of extensive effort by the Bilingual/Bicultural Education Licensure Committee which met bi-weekly for over a year in preparation of the proposed rule and which studied documents from other states as well as consulted with local experts in related fields. The strengths and weaknesses of other working documents were carefully considered as the proposed Minnesota rule was developed. Among those

of whom the committee requested advice and consultation were the Bilingual/Bicultural Education Advisory Task Force, other bilingual/bicultural education teachers, State Department of Education Program Specialists in content areas, Right-To-Read, the Minnesota Teachers of English to Speakers of Other Languages (the Minnesota affiliate of Teachers of English to Speakers of Other Languages), Migrant Education Unit of the Minnesota Department of Education. In addition, on June 4, 1979, an open meeting was held in order that interested parties be able to ask questions and comment on the proposed rule. Resulting comments and questions from this meeting as well as those generated by colleges and universities and other interested parties when the proposed rule was being discussed by the Standards and Rules Committee of the Board of Teaching, were considered in the preparation of the proposed rule presented for public hearing.

Subdivision A. broadly defines the parameters of bilingual/bicultural education for limited English proficient students at elementary and secondary levels. This definition emphasizes the necessary use of two languages of instruction, English and the students' first language, until a student can effectively have access to and participate in an academic program solely in English. It also stresses the importance of including the history and culture of both language groups in the program.

Subdivision B. sets forth the requirements for licensure to offer instruction in bilingual/bicultural education programs. At the present time no licensure exists in this field. It is necessary to delineate the knowledge, skills, and understandings required of teachers of bilingual/bicultural education in order to effectively serve the limited English proficient students in need of bilingual/bicultural education.

A valid Minnesota license as an elementary or secondary teacher is necessary because content area material must be presented by the bilingual/bicultural education teacher. A bilingual/bicultural education teacher must fully understand, and when appropriate, offer academic material and other school-related information in the limited English proficient student's first language, in order to facilitate that student's successful transition into the English-speaking classroom and school environment. In order to do this, it is essential that the bilingual/bicultural education teacher be proficient in both English and another language. Meaningful communication with students' parents and other school personnel must be accomplished if quality education and equal education opportunities are to be assured.

Subdivision C. is needed to specify the knowledge, skills, and understandings required of bilingual/bicultural education teachers. While elementary and secondary preparation programs assume a monolingual approach to instruction, in addition it is necessary for a bilingual/bicultural education teacher to fully understand and work with the primary language and culture that the limited English proficient student brings to school. The unique and essential knowledge, skills, and understandings are necessary for the following specific reasons:

1. To be an effective bilingual/bicultural education teacher, it is necessary to thoroughly understand the educational theory of the field, its implications for academic success, and both its historical and current perspectives.
2. It is necessary to understand the acquisition of a second language as well as the effects of the first language. This is essential to be able to help students progress both in the acquisition of language and in their overall academic success.



3. To be able to teach reading to students whose first language is not English requires special preparation, taking into account the student's literacy in the primary language as well as oral skills in the new language. Effective reading is imperative to academic success.
4. In order to understand and provide a comfortable, non-threatening educational environment, as well as the ability to facilitate the student's understanding and living with two cultures, social and historical information with respect to languages and cultures is necessary.
5. It is essential for teachers of bilingual/bicultural education to have knowledge of curriculum, instructional methods, and techniques which are appropriate to a bilingual/bicultural education setting.
6. Specific preparation in the use of assessment instruments and procedures to avoid possible linguistic and cultural biases is necessary.
7. To be able to competently communicate with school personnel, students, family, and community, special skills are necessary to assist bilingual/bicultural teachers in this very important role of bridging home, school, and community.
8. Teaching experiences are needed to provide teachers with necessary practicum experiences to further develop and demonstrate the skills cited above at both an elementary and secondary level.

Subdivision D. is necessary in order to provide a reasonable means whereby persons currently teaching in the field of bilingual/bicultural education without a license in this field will have their teaching experience and teacher preparation in bilingual/bicultural education evaluated in relationship to the requirements for licensure as teachers of bilingual/bicultural education. Institutions seeking approval from the Board of Teaching for this teacher preparation program shall be expected to apply relatively consistent and uniform criteria in the evaluation of previous teaching experience and previous teacher preparation of teachers currently employed in the field of bilingual/bicultural education.

Subdivision E. provides for issuance and renewal of continuing licenses in accordance with current standards and procedures set forth by the Board of Teaching.

Subdivision F. sets forth standards for provisional licensure in this field. Provisional licensure is necessary to provide a reasonable system whereby persons currently teaching without a license in bilingual/bicultural education will be able to be granted an initial provisional license based upon the completion of minimal preparation in this field. This minimal preparation may include previous teaching experience and/or teacher preparation, as well as a baccalaureate degree. This system for provisional licensure will provide assurance to the Board of Teaching that persons possess the minimal knowledge, skills, and understandings for issuance of the first provisional license and are required to meet entrance licensure requirements through a reasonable and systematic process.

The Board believes that all teachers of bilingual/bicultural education must eventually meet the licensure requirements set forth in this rule and therefore, have placed a

reasonable termination date on the issuance of provisional licensure. Preparation in the field of bilingual/bicultural education is currently available across the state at several teacher preparation institutions. It is anticipated that more institutions will develop programs when the licensure rule has been approved.

While some persons may believe that teaching experience in the field of bilingual/bicultural education qualifies them to be granted entrance or continuing licensure in bilingual/bicultural education, the Board of Teaching contends that it is imperative that all persons granted entrance or continuing licensure in this field demonstrate the unique and essential knowledge, skills, and understandings required by this rule, and that the system for demonstrating such requirements is reasonable.

5 MCAR § 3.083 Driver Education Teachers.

It is necessary to repeal 5 MCAR § 3.083 because the Board of Teaching has proposed new standards of licensure in this field.