

MINNESOTA STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION

Statement of Need and Reasonableness  
for Permanent Rules 3700.0140 to  
3700.0155 Covering Licensure of Technical  
College Personnel.

3700.0140 General Provisions for  
Vocational Licensure

3700.0150 Procedures for Voluntary  
Surrender of Technical College  
Licenses

3700.0155 Letters of Approval

The statutory authority for the State Board of Vocational Technical Education to promulgate these rules is contained in Minnesota Statutes section 136C.04, subd. 9 which states:

Licensure. The State Board may promulgate rules, according to the provisions of Chapter 14, for licensure of teaching, support, and supervisory personnel in postsecondary and adult vocational education. The State Board may adopt licensure rules according to Sections 14.29 to 14.36 when necessary for continuous programs approved by the Board and when the Board determines appropriate licensure standards do not exist.

BACKGROUND INFORMATION

The State Board of Vocational Technical Education is in the process of revising existing licensure rules and developing instructor licenses for new programs when an appropriate standard does not exist. This process involves three areas. New venture programs for which no license exists, revision of current licensure rules, and revision and addition of general licensure options. The rules indicated in this Statement of Need and Reasonableness concentrates on the general licensure rules.

The State Board passed an Authorizing Resolution on January 9, 1990. A Notice of Intent to Solicit Outside Opinion was published in the State Register on January 16, 1990. Information was sought and received from State Board staff, outside opinion from interested parties, consultation with Technical College administrators and instructors, Revisor of Statutes and the Office of the Attorney General which resulted in the proposed rules. The State Board of Vocational Technical Education staff then made the final rule recommendations.

## General Information

3700.0140 General Provision for Vocational Licensure. This rule is a revision of current rule 3515.0300 and 3515.0400.

Subpart 1. License requirement. This subpart is a revision of 3515.0300, Subpart 1. License requirement. The changes in this subpart are primarily editorial and represent no significant change. The rule number is moved from 3515. to 3700. to indicate the new rule numbers which have been assigned to all Technical College revised licensure rules. Since Technical College personnel are currently licensed in different rule numbers during the transition phase, the reference is changed from "requirements set forth in parts 3515.0100 to 3515.9942" to the statement of "requirements set forth in Minnesota Rules pertaining to the licensure of technical college personnel". This change is editorial in nature to accommodate the transition period during which rules are found in 3515., 3509., and finally the revised permanent rules of 3700. Since there are no changes in requirements in this subpart and there are only editorial modifications this is a reasonable revision.

Subp. 2. License issuance. This subp. has been changed to reflect the separation of Boards in 1983 and results in no change in requirements. "State Board of Education" had been changed to read "State Board of Vocational Technical Education".

Subp 3. Fees. The specific language in this subpart is changed to indicate the separation of the Boards and is editorial in nature. This subpart, however, now indicates the cost of a license and the cost of a committee review. The cost of a license application had previously been indicated in BOARD OF TEACHING RULE 8700.0600 titled FEES: The fee is stated to clearly indicate to an applicant the cost of a license and a committee review. The fee will be changed from the existing cost of \$40 to \$50 for teacher licensing and the fee for committee review will increase from \$50 to \$100. Prior to 5-1-87 fees for licensure of vocational teachers were received, deposited, and reported by the Department of Education pursuant to an interagency agreement for the license processing service. Fiscal Year 87 costs include expenditures incurred from 7-1-86 to 6-30-87 relating to the development of processes and staff for internal management of licensure activity effective 5-1-87. Minnesota Statutes 136C.04, Subdivision 9, laws of 1989, gave the State Board the authority to set fees for the licensure of teachers. To comply with 16A.128, FEE SETTING, Subd. 1a, which states, "Fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner," a form has been attached approved and signed by the Executive Budget Officer, Department of Finance.

The State Board is required by Minnesota Statutes as follows:

214.06 FEES: LICENSE RENEWALS.

Subd. 1. "Notwithstanding any law to the contrary, the Commissioner of Health as authorized by Section 214.13, all health-related licensing boards and all non-health-related

licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A. 128."

Subd. 2. "Notwithstanding any law to the contrary, each health-related and non health-related licensing board shall promulgate rules providing for the renewal of licenses."

Minnesota Statute 136C.04 Subdivision 9, as stated supersedes the rules from the Board of Teaching, specifically Chapter 8700. extracted from Minnesota rules:

RULE 8700.0600 FEES:

"Effective July 1, 1983, each application for the issuance and/or renewal of a license to teach shall be accompanied by a processing fee in the amount of \$40. The fees shall be paid to the Commissioner of Education who shall deposit them with the state treasurer, as provided by law and report each month to the Commissioner of Finance the amount of fees collected."

"The fee shall be nonrefundable for applicants not qualifying for a license, except the fee is refundable when the applicant for a license already holds a license for which application is made and that license does not expire in the year the application is submitted."

Minnesota Statute gave the State Board the authority to set fees for licensure of teachers:

136.04, Subdivision 9, LICENSURE:

"The State Board may establish a processing fee for the issuance, renewal or extension of a license."

16A.1281 REPORT ON LOW OR HIGH FEES: "Each biennium the commission shall review fees collected by agencies. The commissioner shall report on the fees to the Commissioner of Revenue and to the Appropriation and Finance Committees not later than the date the Governor submits the biennial budget to the legislature. The report must analyze the fees that the commissioner believes will be too low or too high in the next biennium for the service provided. The analysis must take into account the cost of collecting the fee and state the revenue generated by the fees of each agency."

It is necessary to increase the fees required for licensure application and review to accommodate the increase in expenses over the last several years as indicated in the report signed by the Office of the Department of Finance. The licensure fees have not increased since the early 1980's. The increase in administrative costs have necessitated this request. In order to comply with 214.06 FEES; LICENSE RENEWALS and 16A.1281 REPORTS ON LOW OR HIGH FEES this increase is required. The increase is reasonable based on the figures submitted to and approved by the

Department of Finance.

The increase in fees will be the responsibility of the applicant and will not have a fiscal impact on the Technical College System.

Subp. 4. License validity. This subpart reflects editorial changes which indicate the separation of the boards. There are no significant changes in this subpart.

Subp. 5. Correlation of expiration dates. This subpart has been added for the clarification of interested parties. Correlation of dates is a process that has a precedent with the Department of Education as they interpreted postsecondary vocational licensure rules. To eliminate unnecessary expense an applicant will receive the same expiration date when applying for a category with the same renewal requirements as an existing license. In addition to make it possible to correlate dates, an applicant may renew up to one year early. This is a reasonable addition to current rule since it has been an established procedure as set by the Department of Education as they interpreted postsecondary rules. Continuing this interpretation and clarifying the correlation in rule will eliminate unnecessary hardship should this procedure be allowed to dissolve. This is, therefore, a reasonable and necessary rule.

3700.0150 PROCEDURES FOR VOLUNTARY SURRENDER OF TECHNICAL COLLEGE LICENSES.

This is a new addition to the Technical College System rules. This procedure was added to ensure technical college staff would have the same options as provided to licensed staff by Board of Teaching rules. This part is similar to Minnesota Rules pt. 8700.0501. This will allow a licensed staff member to voluntarily remove an endorsement from his/her license in a category in which the licensee no longer feels qualified to function, as well as provide procedures to protect the employing authority from assuming an applicant holds an endorsement which has been removed. This is, therefore, a reasonable addition.

Subpart 1. Material required to surrender license. This subpart indicates to an applicant the required materials to be submitted to the State Board of Vocational Technical Education for removal of a license. This provides assurance that all impacted parties will be aware of the removal of the endorsement from the license in a timely manner so as to allow for any staffing changes which could be necessitated by a change in endorsement. It also will allow the applicant clear directions on the procedure to be followed. The directions and appropriate notification verifications are necessary to avoid confusion and expedite a smooth process. This is, therefore, a reasonable subpart.

Subp. 2. Voluntary surrender date. This subpart informs the applicant of the limitation of time for removal of an endorsement. This is a reasonable and necessary subpart to allow an adequate period of time for the assigning authority to determine if staffing changes could be required prior to the next contract year.

Subp. 3. When voluntary surrender is prohibited. This subpart is necessary to prevent abuse of the voluntary surrender process for any intent other than stated above. Minnesota Statutes sections 125.09 and 214.10, section 125.12 subdivision 6 or 8, section 125.17 subdivision 4, 8700.7500, or proceedings which have begun which might result in the change of status of a teaching license due to individual conduct are protected by this subpart. It is reasonable and necessary not to conflict with existing rules and statutes written to protect the public.

Subp. 5. Effect of voluntary surrender. This subpart is necessary to assure and clarify to the applicant the authorization still allowed when voluntary surrender is requested. This is a reasonable addition.

#### 3700.0155 LETTERS OF APPROVAL.

This is a new addition to the Technical College System licensure rules. This rule is necessary to ensure continuation of a viable technical college program for an interim period in a hardship case when no appropriately licensed instructor is available, and no available teacher is eligible for the license under existing rules.

Programs, conditions, and availability of teachers may vary in different college areas. It is, therefore, reasonable to allow the technical college to determine the need for a Letter of Approval within certain perimeters to protect existing licensed staff.

The specific content of this rule parallels a similar long-time provision in nonvocational licensure rules, where it has been utilized successfully to alleviate extreme hardship cases.

Subp. 2 gives the definitions of what constitutes a hardship to limit the use of this emergency measure to legitimate distress situations and is, therefore, a reasonable subpart.

Subp. 3 is reasonable since it outlines the procedure for documenting need by requiring verification that all other possible solutions have been explored and that no licensed teacher is being replaced by an individual authorized by a Letter of Approval. A basic level of educational and occupational competency is assured by requiring that the applicant hold a prior teaching license, is technically qualified for the assignment by documentation of training or occupational experience, and has had a minimum of 12 hours of teaching techniques. This is a reasonable minimal requirement to protect the integrity of the program. It is reasonable to allow the local administrative staff to assess the submitted qualifications since that group would be representative and knowledgeable about what an interim teacher should know to ensure program continuation on a temporary basis.

Subp. 4 limits the Letter of Approval to only the school year involved plus one renewal. This is a reasonable limitation to prevent misuse of this provision and to ensure maximum efforts will be made to obtain a qualified teacher to provide quality instruction consistent with the programs objectives.

The above referenced rules will be implemented using existing mechanisms and will not have a fiscal impact on the technical college System.