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The Legislative Commission on
Review Administrative Rules

**STATE OF MINNESOTA
STATE BOARD OF EDUCATION**

MAY - 6 1992

In the matter of the Proposed Rules
Governing Elementary School Staff
Preparation Time, Minnesota
Rules Parts 3500.1400, Sub. Part 3.



STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The rule which is to be adopted was mandated by the 1991 Minnesota Legislature in Session Laws Chapter 265, Article 9, Section 71. The first draft of the proposed rule was developed through a series of meetings involving representatives of the Minnesota Association of School Administrators, Minnesota Education Association, Minnesota Elementary School Principals Association, Minnesota Federation of Teachers, Minnesota School Boards Association and several elementary school teachers. The language of the current proposed rule was developed by the State Board of Education on December 10, 1991 after input from Department of Education staff, testimony from representatives of the Minnesota Education Association and the Minnesota Federation of Teachers and a very lengthy discussion of the pertinent issues involved.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's authority to adopt the rule is set forth in Minnesota Statutes, Chapter 121.11, Subdivision 7 and 1991 Minnesota Session Laws Chapter 265, Article 9, Section 71, which provides: "By May 1, 1992, the state board of education shall adopt a rule under Minnesota Statutes, Chapter 14, establishing preparation time requirements for elementary school staff that are comparable to the preparation time requirements for secondary school staff established in Minnesota Rules, part 3500.3700, subpart 3. In adopting the rule the state board shall consider the length and structure of the elementary day and, if appropriate, permit preparation time to be scheduled at more than one time during the school day. The rule must be effective for the 1992-1993 school year. The state board shall establish a process and criteria for granting one-year variances from the rule for districts that are unable to comply for the 1992-1993 school year." Under these statutes the Board has the necessary statutory authority to adopt the proposed rule.

III. STATEMENT OF NEED

Minnesota Statutes Chapter 14, requires the Board to make an affirmative presentation of facts establishing the need for and reasonableness of the rule as proposed. In general terms, this means that the Board must set forth the reasons for it's proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires

administrative attention, and reasonableness means that the solution proposed by the Board is appropriate.

As schools attempt to respond to pressures to become more effective and address additional societal problems the requirements being made of elementary school staff have become particularly demanding. The makeup of the elementary school day and the way elementary school staff interact with children during the student contact day require continual student contact and in excess of ten different lesson preparations. In addition, the move to encourage parents to become more involved in their children's education has resulted in additional contacts and meetings, therefore, elementary school staff need time to prepare instructional lessons, interact with colleagues, assess the needs of children and respond to parental contacts. This says nothing about the need for elementary school staff to have time for psychological refurbishing.

Currently many, but not all, school districts have provided some preparation time for their elementary school staff. A large number of districts have provided this time with the use of music, art, physical education and other specialist. But this approach can require the elementary school staff to supervise the students while they are going to the gym, music room or other location which in turn reduces the preparation time that has been provided.

To assure quality uniform educational opportunities for all children there is a need to provide preparation and consultation time for all elementary school staff.

The State Board of Education is required by state statute, referenced above, to promulgate an elementary staff preparation time rule. The statute specifies several components that must be contained in the rule. If the rule is not promulgated with these provisions then the board will be in violation of current law.

IV. STATEMENT OF REASONABLENESS

The Board is required by Minnesota Statutes Chapter 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rule. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Board's proposed action. The reasonableness of the proposed rule is discussed in the following paragraphs.

The proposed rule requires local school districts to provide elementary school staff with preparation time which is uninterrupted and comparable to that provided secondary school staff within the student contact day. The elementary school staff may have their preparation time in two blocks rather than one. It is the opinion of the State Board of Education that the word comparable be interpreted to mean proportional. That is, if

the secondary staff have 50 minutes of uninterrupted preparation time during a 7 1/2 hour student contact day then the elementary staff would receive two uninterrupted equal blocks of preparation time totaling 36 minutes or one uninterrupted block of preparation time totaling 36 minutes during a 5 1/2 hour student contact day. This language requires school districts to provide elementary school staff with uninterrupted preparation time which will meet their needs for preparing instructional lessons, interacting with colleagues, assessing the needs of children, responding to parental contacts, etc.

This approach to solving the problem of unequal educational opportunities for elementary school children caused by a lack of preparation time for elementary school staff is reasonable in that approximately 80 per cent of the state's elementary school staff have been provided some preparation time by their respective school districts (Data provided by the Minnesota Education Association, January 1992). In addition, a survey of local school district superintendents indicates that approximately 28 per cent of the districts are now in total compliance with the proposed rule. The proposed rule will provide more uniformity throughout the state and guarantee that elementary staff preparation time is provided for all of the state's elementary teachers.

The proposed rule also provides school districts with an automatic exemption from the rule until July 1, 1993 if they currently provide for elementary staff preparation time. The proposed rule also provides a process and criteria for granting one-year variances from the rule for districts that are unable to comply for the 1992-93 school year. This is reasonable in that districts will not have to change the collective bargaining agreement which is currently in effect; and districts which cannot comply with the rule because of potential damage to student learning and/or program effectiveness can obtain a variance for the 1992-93 school year.

The proposed rule is reasonable in that testimony provided to the state legislature during the 1991 legislative session provided the rationale whereby the legislature mandated this approach to addressing the problem.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

It has been determined that there will be no impact on small businesses.

VI. AGRICULTURAL LAND CONSIDERATIONS IN RULEMAKING

It has been determined that there will be no impact on agricultural land.

VI. LIST OF WITNESSES AND EXHIBITS

In support of the need and reasonableness of the proposed rule, the following witness will testify at the rule making hearing:

Joseph E. Meyerring: Mr. Meyerring will testify regarding the procedures used to develop the proposed rule, the need for and reasonableness of the proposed rule and explain the fiscal impact statement.