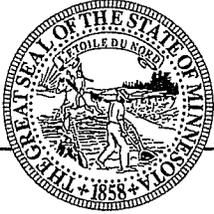


3-10-2008



## MINNESOTA BOARD OF TEACHING

March 10, 2008

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Minnesota Board of Teaching Relating To  
Paraprofessional Credentialing; Governor's Tracking #AR368

Dear Librarian:

The Minnesota Board of Teaching intends to adopt rules relating to the establishment of a voluntary credential for paraprofessionals. We published a Dual Notice in the December 31, 2007 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library a copy of the Statement of Need and Reasonableness. I recognize that this should have been sent at the same time as our mailing of the Dual Notice, and I sincerely apologize for this oversight.

If you have questions, please contact me at 651582.8888.

Sincerely,

A handwritten signature in cursive script that reads "Karen Balmer".

Karen Balmer  
Executive Director

Enclosure: Statement of Need and Reasonableness

# Minnesota Board of Teaching

## STATEMENT OF NEED AND REASONABLENESS

**Proposed Rules Governing Paraprofessional Credentialing, MN Rule 8710.9000:**  
**Implementing a voluntary statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction.**

### ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Sandy Needham, Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, MN 55113. Phone: 651-582-8833. Fax: 651-582-8872. TTY: 651-582-8201.

### INTRODUCTION

Minnesota Statutes, section 120B.363: Credential for Education Paraprofessionals, Subdivision 1, required to the Board of Teaching to adopt rules for a statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction. This statute was enacted into law in 2003 (Regular Session, Chapter 129, Section 10):

*Subdivision 1. [RULEMAKING.] The board of teaching must adopt rules to implement a statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction. Any paraprofessional holding this credential or working in a local school district after meeting a state-approved local assessment is considered to be highly qualified under federal law. Under this subdivision, the board of teaching, in consultation with the commissioner, must adopt qualitative criteria for approving local assessments that include an evaluation of a paraprofessional's knowledge of reading, writing, and math and the paraprofessional's ability to assist in the instruction of reading, writing, and math. The commissioner must approve or disapprove local assessments using these criteria. The commissioner must make the criteria available to the public.*

The Board of Teaching began the rulemaking process immediately following the enactment of the law, but due to a number of variables, including a change in staff and additional concerns raised, the rule was never adopted.

In 2007, the Minnesota legislature followed up with the original law, and enacted the following requirement in Minnesota Session Laws 2007, Chapter 146:

*Sec. 34. RULEMAKING REQUIRED.*

*(a) Notwithstanding the time limit in Minnesota Statutes, section 14.125, the Board of Teaching must adopt the rules it was mandated to adopt under Laws 2003, chapter 129, article 1 section 10. The board must publish a notice of intent to adopt rules or a notice of hearing for rules subject to this section before January 1, 2008.*

(b) The Board of Teaching may charge fees to issue new credentials and to renew credentials for paraprofessionals issued credentials under the rules adopted under this section.

In accordance with this law, the Board of Teaching has developed a proposed rule for a voluntary credential for Minnesota paraprofessionals. The credential will not be required, and will not be considered a license. Rather, if the paraprofessional elects to apply for the credential, the credential will serve as recognition of the advanced training and preparation that the paraprofessional has demonstrated and will acknowledge that the holder has advanced training and skills in supporting a licensed teacher and in assisting a licensed teacher with student instruction for all state and federally funded birth through grade 12 programs, including transition programs.

The paraprofessional credential will have reciprocity and portability within and outside the district of employment at the time the credential was issued.

The proposed rule will create a consistent standard, based on nine core competencies, for paraprofessionals throughout the state who are supporting instruction in state and federally funded programs. Minnesota maintains high educational standards for students and high licensure standards for teachers. The establishment of this rule for paraprofessionals will expand the culture of high and uniform standards for Minnesota paraprofessionals who assist in student instruction.

The Board of Teaching recognizes that paraprofessionals fill a crucial role in providing additional assistance to licensed teachers to promote more individualized planning and instruction to students. They serve a wide variety of Minnesota students: across all grade levels and all educational settings (mainstream and special education). From 1988 through 2006, Minnesota schools experienced a 350 percent increase in the number of paraprofessionals assisting in Title I and special education settings. Additionally, in many cases, paraprofessionals have provided a connection for parents and community members (particularly underrepresented populations and immigrant communities) to participate in the work and educational activities of the local school district.

#### **PROCESS**

After the 2003 legislation, the Board of Teaching began the rulemaking process. The Request for Comment period revealed strong opposition from many stakeholders, primarily due to concerns about the potential impact on hiring and staffing at the local level.

Given the controversial nature of the original rule, the Board of Teaching convened a group of stakeholders in September, 2007, to collaborate on a new rule draft. The stakeholders represented the following organizations: Education Minnesota, MN Board of Teaching, MN Department of Education, and the University of Minnesota, Twin Cities.

The stakeholder group worked hard to develop a rule that would provide a meaningful opportunity for recognition of advanced training for paraprofessionals AND that would address the concerns raised in the original rulemaking process.

The initial Request for Comments was published in the State Register on October 8, 2007. The draft of the proposed rule and the SONAR were still in the development process at that time, so the Request for Comments was generic, stating:

***Subject of Rules.** The Minnesota Board of Teaching requests comments on its proposed rules governing the credentialing of paraprofessionals. The Board is considering rules that would establish a voluntary statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction.*

We received one letter during the Request for Comment period. The stakeholder organization expressed opposition to the proposed rule, citing historical concerns regarding staffing, hiring, and potential impact on contractual agreements. As noted previously, the Board of Teaching is confident that many of these concerns have been addressed in the newly proposed rule.

#### **STATUTORY AUTHORITY**

The Board of Teaching's statutory authority to adopt the proposed rules is set forth in two places in state law:

1. Minnesota Statutes, 120B.363 CREDENTIAL FOR EDUCATION PARAPROFESSIONALS.
2. Minnesota Session Laws 2007, Chapter 146

*Subdivision 1. [RULEMAKING.] The board of teaching must adopt rules to implement a statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction. Any paraprofessional holding this credential or working in a local school district after meeting a state-approved local assessment is considered to be highly qualified under federal law. Under this subdivision, the board of teaching, in consultation with the commissioner, must adopt qualitative criteria for approving local assessments that include an evaluation of a paraprofessional's knowledge of reading, writing, and math and the paraprofessional's ability to assist in the instruction of reading, writing, and math. The commissioner must approve or disapprove local assessments using these criteria. The commissioner must make the criteria available to the public.*

*Sec. 34. RULEMAKING REQUIRED.*

- (c) Notwithstanding the time limit in Minnesota Statutes, section 14.125, the Board of Teaching must adopt the rules it was mandated to adopt under Laws 2003, chapter 129, article 1 section 10. The board must publish a notice of intent to adopt rules or a notice of hearing for rules subject to this section before January 1, 2008.
- (d) The Board of Teaching may charge fees to issue new credentials and to renew credentials for paraprofessionals issued credentials under the rules adopted under this section.

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

## REGULATORY ANALYSIS

**"(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule"**

Individuals affected by the proposed rule will include:

- The students who paraprofessionals serve and their families.
- The teachers who work with paraprofessionals in their classrooms.
- Schools that employ paraprofessionals who obtain the credential.
- Paraprofessionals who are able to demonstrate advanced training in the nine core competencies.

The Board of Teaching believes that all of these stakeholders will benefit from individuals who are able to earn the credential.

The individual paraprofessional will bear the cost of earning the credential (i.e.; attending classes or workshops) as well as paying the application fee.

**"(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues"**

The proposed rule may require an additional staff member in the Educator Licensing Division of the MN Department of Education to process applications. Because the credential is voluntary, there is no definitive method for projecting the number of applicants that may apply. However, the 2007 legislation authorized the Board of Teaching to assess a fee for the credential, so the impact on state revenues should remain neutral.

**"(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule"**

In developing the rules, the Board of Teaching consulted at length with the MN Department of Education and other stakeholders. We considered carefully the costs in money, time, and resources to implement the statutory requirement, and we believe that we have chosen the least costly methods available.

**"(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule"**

Because the legislature directed the Board of Teaching to adopt this rule, there are not alternative methods for achieving the intended outcome. However, it should be noted that the current proposed rule reflects an effort to address the concerns expressed by stakeholders in the original rulemaking process.

**"(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals"**

The proposed rule will require staff time from within the Educator Licensing Division of the MN Department of Education. The amount of time required can not at this time be

determined since the proposed rule is voluntary.

The cost to the applicant to process the application will be the same as the teacher licensure processing fee, which is currently \$57.

**"(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals"**

Given that the Legislature mandated the Board of Teaching to adopt this rule, there could be legislative and/or financial consequences to the Board if we do not comply.

**"(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference"**

The federal No Child Left Behind law requires all paraprofessionals who serve in Title I or special education settings to meet minimum eligibility requirements. Specifically, these paraprofessionals are required to demonstrate competence in one of three ways:

1. Two years of study at an institution of higher education; OR
2. An Associate's degree (or higher); OR
3. A demonstration, through a formal state or local academic assessment:
  - a. knowledge of and the ability to assist in instructing reading, writing, and math; OR
  - b. knowledge of and the ability to assist in instructing reading readiness, writing readiness, and math readiness.

The proposed rule is not in conflict with this or any other federal regulations.

### **PERFORMANCE-BASED RULES**

The Board, in developing the proposed rule, considered and implemented performance-based standards that emphasize superior achievement in meeting the Board's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals. The proposed rule relies on core competencies, which were developed by the MN Department of Education. According to our stakeholders, these competencies reflect best practice for paraprofessionals.

### **ADDITIONAL NOTICE**

The Board of Teaching's Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in an October 22, 2007, letter by Administrative Law Judge Beverly Jones Heydinger.

The following list was used for notification of the initial Request for Comments period and will be used for the Dual Notice. All communication will be done via U.S. mail or electronic mail.

- Individuals and groups on the Board of Teaching's Rulemaking List
- Minnesota Department of Education
- Paraprofessional organizations

- Chairs and Vice-Chairs of the Education Committees of the Minnesota Senate and Minnesota House of Representatives
- All superintendents and charter school directors: MDE Superintendent weekly email
- Minnesota professional organizations related to education:
  - Education Minnesota
  - Minnesota Association of Charter Schools
  - Minnesota School Board Association
  - Minnesota Association of School Administrators
  - Minnesota Association of Secondary School Principals
  - Minnesota Elementary School Principals Association
  - Minnesota Rural Education Association
  - Minnesota Human Resources Organization
  - Minnesota Staff Development Council
  - Association of Metropolitan School Districts
  - Schools for Equity in Education
  - Minnesota Association of Colleges of Teacher Education
- Deans and Chairs of all approved Minnesota teacher preparation programs

In addition, the Board will publish the Dual Notice in the *State Register* and on the public website of the Board of Teaching.

## **RULE-BY-RULE ANALYSIS**

### **Subpart 1**

This subpart clearly articulates that a paraprofessional credential will be granted only to qualified paraprofessionals who meet the requirements as set forth in the rule, that the credential is obtained voluntarily, clarifies the authority of the Board of Teaching to establish the parameters of the credential, sets a validation date for the credential, clarifies that the credential is not a requirement for employment, and establishes that a credential, once granted, does not expire.

### **Subpart 2**

This subpart clarifies that the credential is intended to recognize advanced training and preparation; it is intended to be a professional development option beyond of the minimum state and federal requirements under No Child Left Behind.

### **Subpart 3**

This subpart explicitly states the two requirements for earning a paraprofessional credential under this rule. Specifically, in order to achieve the credential the candidate must demonstrate training in the nine core competencies, as outlined in the rule, and proficiency in reading, writing and mathematics.

### **Subpart 4**

This subpart identifies the nine specific competency areas in which a paraprofessional must demonstrate advanced training and preparation. The competencies were developed by Minnesota

educators through a review of the research and literature, analysis of statements from professional organizations regarding the role of paraprofessionals, and input from a variety of Minnesota constituents, including: administrators, teachers, paraprofessionals, representatives from higher education, representatives from unions and professional organizations, parents, and others. The competencies represent the core knowledge and skills competencies for paraprofessionals who work in instructional roles with students in Minnesota schools.

**Competency 1: Philosophical, Historical, and Legal Foundations of Education**

Understanding the philosophical, historical and legal foundations of education is to important to contextualize their work and their role in the schools. Paraprofessionals should understand the distinctions between the roles and responsibilities of teachers, related services staff, administrators, and paraprofessionals.

**Competency 2: Characteristics of Students**

Increasingly paraprofessionals are supporting students with a broad array of needs, including: medical, linguistic, learning, emotional, and behavioral needs. Paraprofessionals working with teachers to provide instructional services to students should understand the various factors that might influence a student's learning.

**Competency 3: Assessment, Diagnosis, and Evaluation**

Paraprofessionals are often responsible for collecting and displaying data used by others to make assessment and diagnostic decisions. It is critical that paraprofessionals understand the broader context for which they are contributing information. Paraprofessionals should be familiar with tools used for student assessment and diagnosis to appropriately collect, report and discuss confidentially such student information collected using the tools.

**Competency 4: Instructional Content and Practice**

Whereas in the past, the primary roles of most paraprofessionals included making copies and organizing materials, they are now expected to do much more. They support individual learners, lead small groups, provide remedial and follow-up instruction for students, and provide adaptations as instructed by teachers. Paraprofessionals working in educational environments and assisting with the instruction of students should be able to use a variety of instructional methods and materials when supporting the instruction of the teacher.

**Competency 5: Supporting the Teaching and Learning Environment**

Paraprofessionals are members of instructional teams providing educational services to students. Paraprofessionals working in educational environments and supporting the teaching and learning environment should exhibit a variety of skills, including supporting a safe and healthy environment, engaging students in various environments, promoting students' independence, using technology to assist with teaching and learning, and preparing and organizing materials needed for learning.

**Competency 6: Managing Student Behavior and Social Interaction Skills**

The ability of paraprofessionals to support the management of student behavior and social interaction skills is becoming increasingly important in our schools. Paraprofessionals are

often charged with implementing individual behavior plans, and they are often the staff member who works with students when their behavior is the most challenging. Paraprofessionals should understand policies and best practices to guide their behavior while managing student behavior. Paraprofessionals should understand variables that influence behavior, strategies that reinforce positive behavior, and techniques for collecting information about the behavior.

**Competency 7: Communication and Collaboration Partnerships**

As paraprofessionals increasingly work with teachers and other school professionals to carry out educational plans and services, they should have the knowledge and skills to communicate and collaborate effectively. Paraprofessionals should understand their roles and the roles of others; they should be able to effectively and appropriately communicate about the needs of students; they should be able to follow the directions of teachers, and they should understand the educational terminology used in the school and classroom.

**Competency 8: Professionalism and Ethical Practices**

In any role, professionalism and ethical practices are essential. Paraprofessionals should model positive behavior, demonstrate respect for others, and follow written standards and policies.

**Competency 9: Academic Instructional Skills in Math, Reading, and Writing**

The No Child Left Behind Act (NCLB) requires paraprofessionals working in instructional positions in Title I supported programs or schools or special education settings to be able to support the instruction of reading, writing, and math or readiness in the same subjects:

**Subpart 5**

This subpart articulates the process required to assess the demonstration of the required competencies. The proposed process is intended to permit the establishment of assessment processes that recognize a variety of training and preparation opportunities. The rule establishes that the assessment process will take place locally, regionally, or by consortium.

**Subpart 6**

This subpart sets forth the procedures for submission of a paraprofessional credential application and identifies the specific costs to the paraprofessional for the processing of the application. Because they currently receive and process licenses for other educational personnel, the Educator Licensing division of the Minnesota Department of Education has been identified as the issuing agency. The processing fee will match the fee assessed for teaching licenses.

**Subpart 7**

This subpart will allow paraprofessionals who are already able to demonstrate their training in the nine core competencies to submit an application for a credential as soon as they are approved locally, regionally, or by a consortium and an application is submitted to the Educator Licensing division at the Minnesota Department of Education.

**Subpart 8**

This subpart will ensure that paraprofessionals are able to identify when their credential was issued.

**FISCAL IMPACT ON LOCAL GOVERNMENTS**

As required by Minnesota Statutes, section 14.131, the Board has consulted with the Commissioner of Finance. We did this by sending to the Department of Finance copies of the documents sent to the Governor's Office for review and approval by the Governor's Office prior to the Board publishing the Dual Notice. We sent the copies on December 13, 2007. The documents included: the Governor's Office Proposed Rule and SONAR Form; December 12, 2007 draft rules; and December 11, 2007 draft SONAR. We anticipate receiving verification from the Department of Finance that the proposed rule will have little fiscal impact on local units of government.

The proposed rule is designed to recognize the advanced training of a Minnesota paraprofessional. The paraprofessional will pay a \$57.00 processing fee to the Minnesota Department of Education. Typically the individual requesting the license pays the \$57.00 fee, although it is possible that the school district may choose to pay the fee. The fee will off-set the costs to the Department of Education for processing the applications and issuing the credentials. The projected impact would be minimal.

**COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

**LIST OF WITNESSES**

If this rule goes to a public hearing, the Board anticipates having witnesses testify in support of the need for and reasonableness of the rules. The witnesses will likely include Minnesota paraprofessionals, teachers, school administrators, school board members, and representatives from higher education.

**CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karen Balmer  
Executive Director