

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF TEACHING**

In the Matter of the Proposed Permanent  
Rules Governing Teacher Licensing,  
Minnesota Rules Chapters 8700 and 8710.

**REPORT OF THE CHIEF  
ADMINISTRATIVE LAW JUDGE**

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4. Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge with one exception. The finding of defect described in Findings 63-65 is not approved.

The standard for review of a proposed rule is whether the agency has established its need and reasonableness. The inquiry as to reasonableness focuses on the existence of a rational basis for the proposal, one related to the purpose the agency seeks to accomplish.

In this proceeding the Board proposes to adopt Section 8710.3200 which will, in part, allow elementary teachers to teach all subjects to children ranging from kindergarten through grade six. Reasonable people can disagree whether the developmental needs of younger children require that licensure requirements should differ for kindergarten or for first or second grades as well. The record contains argument against the rule to the effect that kindergarten teachers should have preprimary specialization rather than only primary licensure due to the unique developmental needs of kindergarten students. As long as there is a rational basis for the choice, the policy choice belongs to the Board.

The Board recognized the needs of younger children by creating a specialization for children of birth through age eight. But the record also reflects the desirability of school based management reflecting the structure of K-5 or K-6 schools. Because of this, the Board proposes ending the current practice of requiring additional requirements to teach one of the early childhood grades.

As with several other parts of these proposed rules, the specialization permits the school district to make hiring decisions with knowledge of specialized training. But the Board has shown that it is reasonable to establish a license which will allow individuals to teach K-6 as teachers of elementary education. The Office of Administrative Hearings should find a reasonableness defect only when the record as a whole, including public comments, shows that the agency's proposal is arbitrary.

This determination does not prevent the agency from revising the rule as suggested by the commentors if it finds that suggestion to be the superior policy choice.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also submit the complete record to the Chief Administrative Law Judge for a review on the issue of substantial difference.

Dated this \_\_\_\_\_ day of March, 1999.

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KENNETH A. NICKOLAI  
Chief Administrative Law Judge