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STATE OF MINNESOTA
BOARD OF TEACHING

MAY 5 1981

ADMINISTRATIVE
HEARINGS

Statement of Need and Reasonableness for
Proposed Rule 5 MCAR 3.002 Procedures for the Issuance of Life Licenses

Concerning: The proposed adoption of a rule governing the procedures for the issuance of life licenses.

The authority of the Board of Teaching to promulgate this rule is found in M.S. 125.185, which states in subdivision 4 that "the board of teaching shall...grant life licenses to those who qualify according to requirements established by the board of teaching..."

State Hearing Examiner, Peter Erickson concluded in his report, dated February 4, 1977, (conclusion 4, p. 17) that "...the legislature made its intention clear that at least some persons be granted life licenses when that authority was reinstated in Minn. Stat. 125.185, subd. 4." On page 20, in item 9 of his conclusions, Mr. Erickson stated: "The Examiner concludes that the Board of Teaching has documented its statutory authority to promulgate the proposed rule."

From the very beginning, as the board has sought to interpret and implement statute, carrying out its duties as charged by the legislature, it has been advised by counsel that in legislative terminology, the verb "shall" denotes mandatory action, whereas "will" is permissive. Analysis of M.S. 125.185, subd. 4, shows that the verb of which the term "life licenses", above, is the direct object of SHALL. Therefore, the board is under mandate to issue the life license to some persons according to the requirements it alone sets. Please note: the legislature clearly left it to the agency to set the requirements, stating no prerequisites or stipulations as to how the agency should conduct itself or what requirements it should set.

State Hearing Examiner Kaibel states in his report dated February 26, 1979, in Findings of Fact 6: "That statutory authority to promulgate the proposed rules is found in Minn. Stat. 125.05, subd. 1 (1978), Minn. Stat. 125.185, subd. 4 (1978), and Minn. Stat. 125.06 (1978)."

The most appropriate avenue for rule-making lies with the rule-making boards of this state. The Board of Teaching discussed this subject with a long-term, well-respected Minnesota legislator, Mr. Peter Fugina, years ago. In April, 1975, H.F. #1431 was introduced into the Minnesota Legislature by Mr. Fugina. It would grant life certification to any teacher actually employed in that capacity in the year immediately preceding July 1, 1969. Its intent was to provide equity in opportunity among all teachers employed on the date of legislative termination of life licenses.

Representative Fugina contacted the board to make known his intent regarding this legislation and was invited to appear before the Board of Teaching to explain his proposal and rationale. He did so. He explained that he, too, had been concerned about this failure to carry through the application of rule for those entering or continuing in the profession in that year in which the change took place, and he announced his determination that something be done to correct the situation. At this point, he had already drafted and introduced the bill referred to above. He had done this late in the past legislative

session, however, too late for the bill to move through the legislative process for that year. He then told the board that if it did not take action on the matter, he would reintroduce the same legislation in the next legislative session and move vigorously for its passage.

The board requested Representative Fugina not proceed until the board itself attempted to correct the inequity according to statutory authority already granted it by the legislature in 1973. Mr. Fugina agreed to that course of action. And the board tried. And tried. And it is still trying. Hence, our appearance here today. The board still believes that rule-making by the agency charged to create and implement licensure rules is far superior to rule-making by special interest legislation.

The intent of proposed rule 5 MCAR 3.002 is to correct an inequity which continues to exist. The proposed rule is not intended to address persons entering the profession (or licenses issued) after 1969. It is being proposed only for those teachers (and only for licenses they held) who had already entered the licensure cycle in this state and were affected when statute was enacted putting an end to the life license. The following testimony from the 1979 public hearing on proposed rule for life license supports this statement of board intent.

Mr. Edd Rapp, member of the Board of Teaching, who at the beginning of this hearing had presented on behalf of the board the Statement of Need, later testified:

The intent of this rule is not to set up any new qualifications in any way for life licensure or to encourage it or to move in that direction, but only to correct an inequity under the rules that existed at that time. (PH2, T73)

Mr. Kenneth Peatross, Executive Secretary of the Board of Teaching, stated:

As Mr. Rapp has testified, the Board is not proposing to establish new or different standards for the issuance of life licenses as defined in Minnesota Statutes. They are proposing to correct an inequity, utilizing the statutory criteria which has been applied. (PH2, T76, 77)

Later in the hearing, Dr. George Droubie, Manager of the Licensure and Placement Section of the State Department of Education, testified:

I think, you know, again, what the Board is trying to do is to correct an inequity, not establish a whole new set of criteria for the granting of life licenses; and I know that point's been made many times, but I think that's the crux of the issue. It isn't an attempt to correct any (emphasis supplied) injustice, every (emphasis supplied) inequity with regard to life licensure. It's an attempt to give a life license to those who were teaching during the school year that the legislature happened to cut them off, and I guess that's all it's attempting to accomplish. (PH2, T100, 101)

The major concerns brought out in testimony at previous hearings and the resultant recommendations of the two hearing examiners have been addressed by the Board of Teaching in this proposed rule. The board has identified and summarized these concerns as follows:

- a) the consideration of Minnesota experience only;
- b) the inclusion of parochial school experience;
- c) the question as to why the people addressed by this proposed rule were not eligible under previous openings of application periods for securing this license;
- d) the best estimate as to how many teachers/licenses would actually be affected or involved;
- e) the requests of persons who would not have qualified under the previous proposal which required the person to be teaching in Minnesota in the exact year of legislative termination of this license, namely:
 - (1) those for whom military draft interrupted professional service (including those with National Guard time);
 - (2) those whom pregnancy forced to take maternity leave in the year in question;
 - (3) those few engaged in graduate work during that specific school year but who taught both before and after in Minnesota schools;
 - (4) those who have had to take leaves of absence because of illness or disability or care of a child;
 - (5) those few who taught overseas for the Department of Defense and wanted to see that interruption of Minnesota professional service treated similarly to military service (especially since that teaching was done on a Minnesota teaching license);
- f) the possible impact on continuing education;
- g) the question of appeals;
- h) specific recommendations of previous hearing examiners.

The first question, then, is why the Board of Teaching is not considering out-of-state experience. State Hearing Examiner Kaibel's report dated February 26, 1979, page 7, under Findings of Fact #10 states: "Mr. Waddick, Assistant Commissioner of Education, stated that it was his understanding as conveyed to him by Dr. George Droubie (hereinafter 'Dr. Droubie'), Director of the Personnel Licensing Section, Department of Education, that 'at no point in time prior to legislative termination of eligibility for life licensure for teachers was experience beyond or outside Minnesota considered to be applicable for eligibility for that life licensure.'" (PH2, T31) He further stated that to adopt such a consideration would insert a 'double standard which was contrary to the practice during the interim when life licensure was routinely available.'" (PH2, T32)

(Exact language from the hearing transcript is: "...at no point in time prior to the legislative termination of eligibility for life licensure for teachers was experience beyond or outside the State of Minnesota considered to be applicable for eligibility for that life licensure. Therefore, it would appear that in the event that there is serious thought being given to establishing the acceptability of the testimony immediately preceding mine, that we may, in effect, be after the fact inserting a double standard, which was contrary to the practice during that interim where life licensure was routinely available." T31)

It would appear, therefore, that with the exception of teaching in overseas military dependent schools on a Minnesota license, that out-of-state experience is not an appropriate consideration for the Board of Teaching in this proposed rule.

The second question is: why does the board include experience in parochial schools? The following testimony answers this question. Dr. Droubie testified:

Mr. Hearing Examiner, the previous life law that was on the books and that was repealed by the legislature effective July 1, '69 specifically said that the experience had to be in the public schools. Okay? When it was reopened in '74, February of '74 to July '75, that public school clause was deleted thereby allowing private and parochial experience to count and that was the intent when this was drafted. So, I really don't think people are not at the hearing because, you know, they're under some misunderstanding. I think the understanding around the State is that if you had five years of experience teaching in Minnesota in a public, private or parochial school, that experience would count, provided that you held the appropriate license. I think that was the intent of legislation that was passed in '74, and this is consistent with that. (T137, 138)

Dr. Waddick added the following observation:

Well, during the course of our discussion today we've talked, Mr. Examiner, about potential discrimination based upon one's sex, necessitating entry into military service, and another individual talked about discrimination based upon race, and we've talked about discrimination based upon sex resulting in maternity. I think, in this instance, the Department and the Board of Teaching and the State Board of Education would not be encouraging the State of Minnesota to discriminate on the base of what would be regarded, in many instances, as religious preference. (T138, 139)

It seems appropriate, then, that both the Board of Teaching and the Minnesota Legislature included experience in nonpublic schools of Minnesota as an effort to avoid discrimination in areas that are otherwise considered acceptable teaching experiences.

This third question deals with why the board should open an application period again; didn't these people already have a chance to apply for this license? Why didn't they do so when they had a chance? The point is: they never had the chance! These people, though they fully expected to do so, have never had a chance to apply for this license. They were cut off midstream when a system which they had already entered was suddenly and without notice, terminated.

The facts are as follows: The Minnesota Legislature had allowed the life license up to July 1, 1969. (That was the only type of licensure established by the legislature.) Up to that time, the cycle for licensure in this state was this: first, a 2-year license was issued; next, a 5-year license; and then, a life license. Because of this practice employed by the State Department of Education, teachers were under the impression that according to rule and/or law, they were not eligible for life licensure until they had had seven years of teaching experience in Minnesota. (In fact, teachers were eligible for the life license with five years of teaching experience in Minnesota.)

In 1969, the legislature enacted a statute which stopped the issuance of the life license. At that time, because of lack of clarity or misinformation, many people eligible for the life license (who had had five years teaching experience in Minnesota) did not apply for the life license. Ultimately, because of the confusion and the lack of publicity at the time of the 1969 legislative action, the legislature enacted an amendment to statute (M.S. 125.07) in 1974, allowing a period of time up to July 1, 1975, in which people who had been eligible to receive that license prior to July 1, 1969 (people who, in fact had completed five years of teaching in Minnesota but had not realized that this number of years of professional service made them eligible) could yet apply for and receive the life license upon payment of the ten-dollar fee. (It was at this time that the legislature allowed experience to be in public and parochial schools.)

This attempt on the part of the legislature to correct the problem, while commendable, dealt only with those who had completed the five years of teaching before the cut-off date. The proposed rule deals with those who had NOT completed the five years, but had, nonetheless, entered the licensure cycle and who expected to receive that same license when they had done so. These people have never had the opportunity to apply for and receive this license. This proposed rule would afford them that opportunity.

The fourth question is this: how many people would be eligible for this life license? The best estimate of the Board of Teaching is that 8,000 to 10,000 teachers would be eligible for this license. It is important here to clarify some misconceptions that have been held by some people in the past. It is a known fact that numbers can be misused or misconstrued.

Mr. Kaibel, pp. 12-13, says "In relation to the estimated number of teachers with renewable licenses (23,000) and those who could get life licenses under the proposed rule (10,000-15,000), Mr. Rapp stated that it is improper to subtract the figure of 10,000 to 15,000 from 23,000 unless every one of those licenses was held in that year immediately preceding July 1, 1969. (T121) Dr. Droubie also stated that he thought the figures were inaccurate in terms of the proposed rule and emphasized the point that teachers have any number of 'areas' or fields listed on their license and while they may qualify for a life license for a field under the proposed rule, they may have other fields that they will have to continue to renew." (T119, 120)

Testimony from the Minnesota School Boards Association seems to support the above statements, as its representative testified that "A 1977 computer search conducted by the State Department of Education indicated that 23,000 persons hold renewable licenses with no life licenses appearing as a function thereon. It also showed that well over 10,000-15,000 teachers held life licenses as a major of function their license (emphasis supplied). (Howard Kaibel Report, p. 12)

But, again -- the numbers provided to the Board of Teaching by the Manager of Licensing and Placement, Dr. Droubie, indicate that 8,000 to 10,000 persons would be eligible to receive this license -- and that among those, there may be many who have other fields that they will have to continue to renew under existing rules of the Board of Teaching (fields for which licensure was issued after the July 1, 1969, legislative termination of the life license).

The fifth question deals with concerns expressed at previous hearings that the board might limit the year of entry into Minnesota teaching experience (or continuance therein) to the academic year which ended prior to July 1, 1969. The board believes that by redrafting the language to allow that entry or continuing year of Minnesota teaching experience to be in any one of the three years prior to July 1, 1969, it has adequately addressed the major concerns of both individual teachers offering testimony and Hearing Examiner Kaibel who cited this area of possible discrimination as one in which the board should make some changes in proposed rule at another hearing. The board has tried to accommodate the needs expressed in the majority of concerns which surfaced, while attempting to remain within the timeline it considered as a legitimate and logical cutoff date.

The sixth question raised is this: will the proposed rule have any appreciable effect on continuing education? Much has been made at past hearings regarding this question. The board believes that concern regarding this issue rises largely from misunderstanding and hopes that its presentation today will allay any residual fears and lay the question, finally, to rest. The main concern expressed in testimony and in comment from the hearing examiners after they had studied the hearing record centered around the continuing need for professional growth. It is a matter of record that the Board of Teaching shares this concern; that the Board of Teaching is committed to the importance of continued professional growth. It is also a matter of record that the K-12 teachers in the State of Minnesota, long before the creation of the Board of Teaching and long before the implementation of a continuing education requirement (now in the form of rule) -- that these teachers were of their own volition and motivation earning advanced degrees, taking additional courses in specialized areas of need, adding areas of specialty as needs emerged from the field, and engaging in professional service not only at the district level, but in regional, state, and national areas as well.

The board's own survey of life license holders in this state and its research on continuing education support this assessment and should assure anyone concerned that teachers, including life license holders, do in fact continue their professional growth, regardless of the type of license held. (The initial survey mailing was made in March of 1978; a follow-up survey was mailed in April; staff analysis was reported to the board in May.) In the survey of life license holders, a random sample of persons holding life licenses was questioned specifically regarding professional growth activities in which they had participated during the five year preceding the survey. The results

clearly show that the overwhelming percentage of life license holders do, indeed, continue their professional growth. Table III shows that 75% of life license holders earned over the 120 renewal units required of persons holding continuing licenses and that all life license holders completed some professional growth activities. Survey results are provided to become a part of this hearing record. Extensive research conducted by Dr. Al Ollenberger of the UM/Duluth and Mr. Dale Rapp, Chairman of the Duluth Continuing Education Committee substantiate and further illuminate the board's assurance that the issuance of the life license does not mean the cessation of -- nor does it even seem to indicate a noticeable diminution of -- professional growth.

It should be stressed that whereas many have seemed to interpret a continuing education rule as a requirement incumbent upon this board, statutory language governing the licensing boards in this regard is permissive, not mandatory. The only mandate in that language is a maximum number of clock hours a board may require in a given period of time -- and from that maximum, this board was made exempt at its own request. For the record, M.S. 214.12 states:

The health related and non-health related licensing boards may (emphasis supplied) promulgate by rule requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of continuing professional education or training shall be designed solely to improve professional skills and shall not exceed an average attendance requirement of 50 clock hours per year. All requirements promulgated by the boards shall be effective commencing January 1, 1977, or at a later date as the board may determine. The 50 clock hour limitation shall not apply to the board of teaching.

Minnesota statute clearly gives this licensing board the authority to set the requirements for the issuance and renewal of all licenses which it issues. It is the judgement of this board that based on the demonstrated record of their already-existing (and largely self-initiated) pattern of continued professional growth, teachers issued the life license will, in fact, continue to address in a responsible, professional manner the existing and emerging needs in the field and their ability to deal with them.

Should there still be some doubters -- let the burden of proof now rest upon them. This agency suggests two possible avenues or approaches through which they might satisfy any remaining concerns:

- 1) Instead of blanketly indicting a whole group of current and potential holders of the life license, observe and evaluate life license holders at the district level. To date, this board has received not one complaint against any holder of a life license in this State which charges that that individual teacher has not continued his/her professional growth to the satisfaction of the employing district. If an individual teacher should happen to be found deficient or remiss, districts are free to require of that person as a condition of employment whatever is needed to correct the situation. But certainly, 8,000 to 10,000 professionals should not be prohibited from receiving this license on the basis of pure supposition and speculation. Many of these teachers are now career veterans, people who have now had to wait yet another five plus years to receive this license which they had expected as a right upon entry into teaching in this state.

- 2) Further, perhaps doubters might do well to study the records of the teacher preparation institutions in this state (and others as well, for that matter) for, let us say, the past fifty to seventy-five years. The board suggests that the records will show that the consumers of the traditional and expanding programs at those institutions have been, in large part, practicing teachers; that is, that over the major half of this century, it has been the K-12 practitioners who have been completing those evening and summer courses and weekend institutes and seminars — and not, to any comparative degree, the undergraduate students.

It must be concluded, therefore, that the proposed rule will not have any appreciable effect upon continuing education.

The seventh question asked: what about special cases where a person denied this license still believes he/she qualifies for it? The Board of Teaching already uses an appeal process, established in rule. That rule would be applicable to any appeals that might occur under this proposed rule. It states:

BT3.020: Appeal to the Minnesota Board of Teaching

- A. All persons denied issuance or renewal of teaching licenses, and all Minnesota teacher preparing institutions denied program or college approval, and all persons licensed by the Minnesota Board of Teaching whose appeals are denied by the local committee for continuing education/relicensure, are hereby entitled to a hearing pursuant to Minnesota Statutes Chapter 15 on such denial and to a final decision by the Minnesota Board of Teaching.
- B. A person or an institution entitled to a hearing under the provisions of this rule shall file a written request for such hearing with the executive secretary of the board of teaching within thirty (30) days from the date of denial. Failure to file a written request for a hearing within thirty (30) days constitutes a waiver of the individual's right to a hearing. (BT 1979)

And finally, what specific recommendations were made by the two previous hearing examiners? Mr. Peter Erickson, in his report dated February 4, 1977, recommended "That the Board of Teaching adopt the proposed rules as recommended in this Report." (p. 21) The amendment cited is to be found on page 18 of his Report, where he states: "BT 2 should be amended as set out in Findings 7(d) and 7(f) for the reasons stated therein." On page 4, Finding 7(d) states: "The MASA also proposes to amend BT 2 by adding the language 'applying to the grades and subjects taught and certificates held.' They contend that if this language is not added, the application will prevent many legitimate certificate holders from receiving life licensure."

This recommendation of Hearing Examiner Erickson has been followed by the language in the redrafted rule proposed today: "...may apply for and receive a life license for those grades, subjects, and fields for which Minnesota licensure was held prior to July 1, 1969..."

Further, on pages 4-5 of the Report, in Finding 7(f), Mr. Erickson states: "Edward A. Rapp, member of the Board of Teaching, proposes to amend BT 2 by changing the fourth line to read, '...in any one of the three years immediately...' He contends that this proposal would allow for temporary absences immediately prior to 1969, while excluding those teachers who left the profession for an extended period of time."

This recommendation of Hearing Examiner Erickson has been followed by the language in the redrafted rule as proposed today: "...who was actually employed as a classroom teacher or other similar professional employee on a regular contract in any one of three years immediately preceding July 1, 1969..."

Mr. Howard Kaibel, on page 17 of his Report, dated February 26, 1979, stated that "It is hereby recommended: That the Board of Teaching redraft the proposed rule 5 MCAR 3.002 relating to life licenses in accord with this Report and repromulgate it after a further hearing thereon."

That is precisely what the board has done (that is, redraft) and is attempting to do (that is, to promulgate the redrafted rule) today. It would appear, therefore, that the recommendations of two staff public hearing examiners have been fully met by this proposed rule.

Concluding Remarks

On the basis of its own experience and study which must, perforce, include the oral and written testimony submitted in the course of over five years of work on this subject, the Board of Teaching believes that it is reasonable to promulgate the rule as proposed today. It is designed to meet the needs of the 8,000 to 10,000 teachers for whom it was intended to correct an inequity. The large number of persons testifying in support of the rule at each hearing attests to the need perceived by teachers in this state. The preponderance of testimony is in clear support of the proposed rule.

It is important to note that some who expressed concerns in previous hearings did so in an effort to have themselves included in the rule. Most who raised questions regarding Continuing Education requirements, for example, were not actually in opposition of the proposed rule. On the contrary, they were simply expressing a human reaction that if they had to meet certain requirements, others should so the same. In contrast to those few are the thousands of persons who support the board's proposal. (Citation here to the following testimony:

PH1 - Orrin DeLong (T 16, 17, 18) and survey results which are part of the hearing record

PH1 - Henry Winkles (T 25, 26, 27, 28)

PH1 - John Ferkul (T 12, 13, 14) and survey results which are part of the hearing record

PH2 - Ruth Dittes Blackstad (T 32, 33, 34)

PH2 - Brother Robert Thomas (T 45)

As the record shows, many thoughtful, active professional practitioners attest that the rule is desirable. (As a matter of fact, as teachers learned of the rule to be heard here today, Dr. Droubie has received a number of inquiries about and requests for application forms for this license.) It must be

concluded that since the major objections offered were not against the proposed rule itself, but rather consisted of attempts to broaden the rule to include more people -- or were unwarranted concerns about possible damage to the continuing education/professional growth concept, the proposed rule is both reasonable and desirable.

It would be appropriate here, to reiterate statements of two members of the Board of Teaching which appear in the hearing transcript from the second hearing:

Joseph Moren, then Chairman of the Board of Teaching stated:

...we're trying to be very practical. We hear of these inequities and we know they're going to exist. We can't take care of every inequity...I'm afraid that...200 people might prohibit the 8,000 people now getting this license. (PH2, T97+)

The board member Ed Rapp added:

Should the fact that inequities exist that are not addressed, by this rule put in jeopardy a rule addressing and, obviously, meeting a serious inequity for 8,000 to 10,000 people or, restated, if it will make right a wrong affecting 8,000, should the fact that a few hundred others may not be made right negatively affect this rule? (PH2, T67, 68)

Most decisions made by state or federal agencies are unfair to someone. What the agency responsible must do is to design the policies, to make the decisions, as fair as possible. Most rules and regulations discriminate against someone. Obviously, they are not created for that purpose -- but any time a decision is made on the basis of category, geography, time, or similar distinction, it is likely that some people will feel that they have not been treated fairly. Yet such distinctions will no doubt continue to be made as long as there is human life on this planet. What the agency responsible must do is to design policies and to make decisions which will discriminate against as few people as possible, within the bounds of prudence, good judgment, and reason.

"The buck stops here," was a favorite saying of Harry Truman. In the last analysis, some one individual or agency must make a decision and stand by it. The board, acknowledging an existing inequity, has had to face this question: should everyone receive this type of license or only certain persons? if the latter, who? and upon what bases can or should a decision be made? The Board of Teaching has tried to be as fair as possible in drafting this rule proposed today. The board deems that it is:

FAIR to acknowledge the inequity experienced by those teachers who had entered the licensure cycle of this state and who had expected to receive a life license after five years of teaching here;

FAIR to choose 1969 as the last year for consideration of qualify for the year of entry into the profession, because that was the year in which the entire "old life" system was brought to an end by the legislature;

FAIR to allow people who had entered the cycle to complete it;

FAIR in include the parochial school experience, because the legislature did so in one of its own reopenings;

FAIR to attempt to address problems of people who may have been out of the field temporarily for a number of different reasons in the exact year of legislative cutoff, though they had begun their Minnesota teaching experience within a short time of that year;

FAIR to establish reasonable limits.

In Summary, then:

It is the belief of the Board of Teaching that the rule proposed today, corrected and revised as a direct result of two previous public hearings, is:

- a) Necessary to correct the inequity done to the teachers who had begun the licensure cycle in Minnesota but were not allowed to complete it;
- b) Reasonable in that it utilizes as far as possible, conditions, qualifications, and timelines set by the legislature itself;
- c) Fair because it has addressed insofar as the board deems reasonable as cited in (b) above, the questions regarding the major exclusions or chances of discrimination called to the attention of the board through the previous hearings.

Therefore, does the Board of Teaching attempt to promulgate the rule for the issuance of life licenses as proposed at this Hearing.

STATE OF MINNESOTA
BOARD OF TEACHING

Statement of Evidence

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ADMINISTRATIVE
HEARINGS

In addition to the Statement of Need which is available for inspection or purchase at the Office of Administrative Hearings, 1745 University Avenue, St. Paul, Minnesota 55104 and in support thereof, the Board of Teaching will introduce the following evidence and will call the following expert witness to testify:

5 MCAR § 3.002 Rule governing the procedures for the issuance of life licenses:

Kathryn Rayburn, Teacher
Rochester Public Schools
Rochester, Minnesota 55901

Kathryn Rayburn will establish that the need to adopt 5 MCAR § 3.002 Procedures for the Issuance of Life Licenses arises from the following reasons:

- 1) M.S. 125.185, Subd. 4 mandates that the Board of Teaching "grant life licenses to those who qualify according to requirements established by the Board of Teaching."
- 2) In 1969, the Minnesota Legislature removed the opportunity for life licensure from all "continuing" teachers except those who qualified with at least five years of experience prior to July 1, 1969, thus depriving active teachers in the field of a right available and expected upon entry into the profession.
- 3) The date of July 1, 1969, appears to be arbitrary as applied to practicing teachers.
- 4) A precedent for instituting a system of grandfathering for those teachers who presented a valid claim has already been established by the 1973 Legislature which authorized those non-life licensed teachers eligible in 1969 to apply for and receive such licensure by July 1, 1975.
- 5) Approximately eight to ten thousand teachers in the State of Minnesota have been affected by this loss of potential life licensure.
- 6) The need as perceived by the Board of Teaching has been supported and attested to at two previous public hearings, but until now, the Board of Teaching has been unable to promulgate a rule to correct the acknowledged inequity.

- 7) State Hearing Examiner Peter Erickson stated in his report, dated February 4, 1977, in the tenth Finding of Facts "That the need for and reasonableness of proposed BT 2 . . . as recommended to be modified in this report, has been shown by an affirmative presentation of facts." (Note: BT 2 was the old number, under a previously existing numbering system, which indicated a previously proposed rule on life licenses. That rule, now revised, is currently proposed under the number 5 MCAR § 3.002.)
- 8) Mr. Erickson concluded his report of February 4, 1977, with the recommendations "That the Board of Teaching adopt the proposed rules as recommended to be amended in this Report."
- 9) State Hearing Examiner Howard L. Kaibel, Jr., in his report, dated February 26, 1979, stated that "It is hereby recommended: That the Board of Teaching redraft the proposed rule 5 MCAR † 3.002 relating to life licenses in accord with this Report and repromulgate it after a further hearing thereon."