



## MINNESOTA BOARD OF TEACHING

### STATEMENT OF NEED AND REASONABLENESS

#### Proposed Rules Governing Special Education Teacher Licensure, *Minnesota Rules, 8710.5800 – 8710.5850*

#### **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**

The proposed rules are a result of intensive, stakeholder-driven work that began in earnest in 2007. Prior to 2007, the Autism Society of Minnesota had approached the Board of Teaching with concerns about the preparation of teachers who serve students with Autism Spectrum Disorders (ASD). In 2007, the Board of Teaching engaged this concern a targeted way by gathering a cross-section of stakeholders for discussion and direction. The central question at these early meetings was “Is there a need for a licensure response in the area of ASD?” If the answer to this question had been “no,” then we likely would not have embarked on the 4-year journey that we have now completed. But across multiple stakeholder groups and perspectives, the answer was unilaterally “yes.” While there was a great deal of diversity of opinion regarding what the response should be, the sense that something should be done was shared by all. See Appendix A for the decision tree used by the 2007 stakeholder group that guided the discussion.

At that time, the Board of Teaching (BOT) was engaged in a number of other significant initiatives and did not have the resources to invest deeply in this work. However, in January of 2008, the Board made a commitment to make this a priority in the following fiscal year by adopting the following action:

*To include a comprehensive review of all Special Education licenses and related issues in the FY09 Board of Teaching goals.*

So later that year the BOT included the special education work as one of the new goal areas for the year and a leadership and planning team was established. The leadership team included individuals from the BOT, Minnesota Department of Education, and a representative from the Metro Educational Cooperative Services Unit. Under the leadership and collaboration of this team, Phase I of this work was launched in October, 2008. With no preconceived ideas of the end result or final outcomes, the objectives for the work were two-fold:

1. To conduct a comprehensive review of Minnesota’s licensure structure for serving students with exceptionalities, including both disabilities and gifts.
2. To make recommendations to the MN Board of Teaching regarding the preparation of special education teachers and all teachers serving students with exceptionalities.

See Appendix B for the lists of all stakeholders engaged in this work, including the leadership team.

In Phase I participants wrestled with the overarching policy question of whether Minnesota's current licensure standards and structure are appropriate, or whether different standards or models should be considered. From October through December of 2008, representatives from stakeholder organizations analyzed data including:

- student data and trends, including special education child count data
- licensure data and trends, including the use of special permissions
- promising practices in special education from emerging research
- licensure models from other states
- data from national special education professional organizations

After an intensive series of meetings the Phase I working group recommendation was:

*To revise Minnesota's licensure structure to better serve special education students by preparing teachers in a hybrid model of disability-specific and cross-categorical system.*

With the direction from the Phase I group, the leadership team worked quickly to convene the next phase of work, where targeted experts were brought together in 12 work groups to flesh out the work of Phase I by developing draft rule language specific to each of the proposed licensure rules. The Phase II work groups were comprised of teachers and higher education faculty members from teacher preparation programs. These participants were identified and invited to this work because of their deep knowledge and experience specific to each of the special education licensure fields.

The Phase II work groups worked from February through April of 2009 and the BOT also convened a series of focus groups, both face-to-face and online, to solicit additional input from interested stakeholders. After the Phase II work groups completed their tasks of proposing new and revised licensure standards, the initial Phase I participants were reconvened to review the Phase II recommendations and develop final recommendations for the Board of Teaching. Once again, this group (now called Phase III) looked at the overarching policy and broad implications of the recommendations. Specifically, they reviewed the Phase II recommendations against the backdrop of the following considerations:

- student impact
- local impact, including size of district, capacity for various programs and settings, etc.
- capacity in higher education to offer programs, recruit candidates, sustain programs
- transition planning and impact on current teaching force

The Phase III group sought to make final recommendations from a broad, systemic view that would produce a clear and cohesive special education licensure structure.

Throughout the various phases of work, the BOT received ongoing updates and reports, both formally at public Board meetings and informally through the Executive Director's regular BOT updates. (See Appendix C for the schedule of formal BOT reports and actions as well as outreach and communications to stakeholders.) In August of 2009 the BOT received a report including the final recommendations from the Phase III work group. The Board was pleased to continue the work by launching a Technical Writing Team (TWT), whose charge was to begin the technical writing of the rules, including a review for consistency and possible gaps in service. The initial projected timeline for the TWT was to be completed by January 2010, but the work became far more intensive and complex than initially anticipated. As such, the TWT work took 10 months to complete; final proposed rule drafts were presented to the Board in June of 2010. The TWT work was tedious and complex; the process included the following steps:

1. Review and revision of individual proposed licensure fields where MDE liaisons were invited to provide targeted expertise and reflection of Phase II participants
2. Common headings, stems, and formatting across licensure fields were determined
3. Shared/common definitions and terminology across licensure fields were clarified
4. Side-by-side review of all licensure fields reviewed by subpart (ie: foundational knowledge)
  - a. Common language/terminology within and across licensure fields
  - b. Alignment between each licensure field and the Core Skills

- c. Alignment between all fields
- d. Redundancies eliminated; standards within licensure fields built upon knowledge base in Core Skills
- e. Compliance with statutory requirements regarding reading
- 5. Final review of initial BOT charge and priorities
- 6. Implementation considerations and recommendations

In the end, as a result of the many phases of work and the depth of stakeholder input in along the way, the proposed rule drafts are both individually strong and collectively aligned and cohesive. The BOT received the final TWT rule drafts in June of 2011 and was pleased to launch a formal rulemaking initiative in August of 2011.

The Rule-by-Rule Analysis provides additional detailed information regarding the specific proposed rule language.

### **STATUTORY AUTHORITY**

The Board's statutory authority to adopt the rules is set forth in Minnesota Statutes 122A.09, Subdivision 4, which provides: "The board must adopt rules to license public school teachers and interns subject to chapter 14" and Subdivision 9, which provides: "The Board of Teaching may adopt rules subject to the provisions of chapter 14 to implement sections 122A.05 to 122A.09, 122A.16, 122A.17, 122A.18, 122A.20, 122A.21, and 122A.23."

Under this statute, the Board of Teaching has the necessary statutory authority to adopt the proposed rule.

### **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"**

- *Classes of affected persons*
  - Teacher candidates – All new teachers will be held to the standards set forth in the proposed rules.
  - Higher education institutions – All institutions that prepare teachers will be required to embed the standards and requirements set forth in the proposed rules.
  - Already licensed teachers
    - Teachers currently serving students with Autism Spectrum Disorders (ASD) will be required to earn one of two licenses that will allow them to continue serving these students
    - Teachers who wish to add a licensure field or an endorsement will be held to the standards set forth in the proposed rules.
  - Minnesota school districts – All districts will continue to be required to hire teachers with the appropriate licenses
  - Minnesota students – MN students will be served by teachers who have met the standards set forth in the proposed rules.
- *Those that will bear the costs of the proposed rule*
  - Already licensed teachers – Special Education teachers currently serving students with ASD will be required to earn one of two licenses that will allow them to continue serving these students; this may require additional coursework or participation in additional professional development opportunities.

- Minnesota school districts – Districts may wish to provide additional professional development for their teachers who are required to earn a license to serve students with ASD.
- Higher education institutions – There will likely be costs associated with embedding and implementing changes required by the proposed rules. These costs will include faculty time, and possible resource allocation including funding.
- ***Those that will benefit from the proposed rule***
  - Teacher candidates – New teachers will be well-prepared to serve their students.
  - Already licensed teachers – Teachers who wish to expand their scope of work by adding new fields of special education licensure will benefit from the updated and strengthened standards.
  - Minnesota school districts – The rule changes will strengthen the preparation for teachers who will be hired to serve in our Minnesota schools.
  - Minnesota students – Minnesota students will be served by teachers who have met the standards set forth in the proposed rules; there will be a greater degree of consistency in preparation of Minnesota teachers across the state.

**“(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”**

- ***Probable costs to the agency of implementation and enforcement*** – After the rulemaking process is complete, licensure tests will need to be reviewed and aligned as needed to the new standards. The Board of Teaching may incur marginal costs in this process; however, the Board’s contracted testing vendor will cover the vast majority of these costs, as per the contract.
- ***Probable costs to any other agency of implementation and enforcement*** – The Educator Licensing division at the MN Department of Education will continue to issue licenses; the proposed rule changes will not impact their staffing or resource allocation.
- ***Any anticipated effect on state revenues*** – None anticipated.

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

- ***Less costly methods*** – The BOT has no other avenue for effecting these proposed changes other than its rulemaking authority. There are no less costly methods available.
- ***Less intrusive methods*** – The BOT is the appropriate state entity to review and revise licensure requirements for teachers. The BOT’s rulemaking authority is provided to ensure that the preparation and licensure requirements are strong and are serving Minnesota students well. There are no less intrusive methods for achieving the goals of the proposed rules.

**“(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”**

- ***Any alternative methods for achieving the purpose of the proposed rule that were seriously considered*** – Throughout the entire process the Board of Teaching relied heavily on stakeholder participation and input. Beginning in 2007 stakeholders analyzed data, considered multiple options, and made recommendations. The rule-by-rule analysis provides additional information regarding each of the specific rules and the resulting recommendations.
- ***Reasons why they were rejected in favor of the proposed rule*** – As noted above, significant stakeholder input was solicited. Board of Teaching members received input and recommendations reflecting the views of diverse groups of stakeholders specific to each rule.

**“(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”**

- ***Those that will bear the costs of the proposed rule***
  - Teacher candidates – Teacher candidates already pay for coursework to meet the Board’s licensure requirements; the proposed rules should not have an impact on these costs to candidates. New teacher candidates who wish to earn the ABS license will be required to earn a full license in one of four fields (ASD, DD, EBD, LD) in addition to the ABS license; the licenses can be earned concurrently or across the span of the first renewal cycle of five years.
  - Already licensed teachers – Teachers currently serving students with ASD will be required to earn one of two licenses that will allow them to continue serving these students; this may require additional coursework or participation in additional professional development opportunities. Teachers who wish to add a licensure field or an endorsement will have to pay for coursework to meet Board’s licensure requirements; the proposed rules should not have an impact on these costs.
  - Minnesota school districts – Districts may wish to provide additional professional development for their teachers who are required to earn a license to serve students with ASD.
  - Higher education institutions – There will likely be costs associated with embedding and implementing changes required by the proposed rules. These costs will include faculty time, and possible resource allocation including funding.
- ***Portion of costs to be borne by identifiable categories of affected parties*** – See comments above.

**“(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 governmental units, businesses, or individuals”**

- ***Probable costs or consequences of not adopting the proposed rules*** – The current licensure rules were adopted in 2001 and the standards found in the current licensure rules reflect the body of knowledge and instructional practice that was available in the late 1990’s and 2000 when the rules were developed; research and instructional practices have continued to grow and deepen since that time and it is the responsibility of the Board of Teaching to ensure that teacher preparation in Minnesota reflects current research and instructional practices. The current rules are silent on Autism Spectrum Disorders, which reflects the time when the rules were developed when understanding and research on ASD was emerging. However we now have a tremendous depth of information on ASD and it is imperative that our special education licensing structure reflect the advances in this field in order to best serve these students. Other special education fields have similarly advanced and all special education teachers must be rooted in current research and understanding of instructional practice. With respect to the proposed ABS license, the practice of preparing Special Education teachers in multiple disability areas is a practice found in many other states. These teachers are uniquely prepared to play an important role in the identification of student needs, to serve students who have multiple disabilities, and to serve in settings that include students with multiple types of disabilities. If we do not proceed with the proposed rules we jeopardize the quality of service that our teachers will be prepared to deliver to special education students.
- ***Portion of those costs or consequences borne by identifiable categories of affected parties*** – See comments above.

**“(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”**

- ***Differences between the proposed rule and existing federal regulations*** – In 1975 the federal government passed Public Law 94-142: Education of All Handicapped Children Act, which provided for the education of children with special needs. The law was renamed in 1990 to IDEA: Individuals with Disabilities Education Act and was reauthorized in 1994. IDEA governs how states provide special education services to children; as such there is a significant regulatory structure at the federal level. While the Board of Teaching is not specifically bound to the federal requirements, it would be foolish to proceed with rules that stand in conflict with federal regulations. We have had extensive input from staff at the Minnesota Department of Education who oversee the state’s special education system to ensure that our rules will not create conflicts with the federal requirements.
- ***Need for and reasonableness of each difference*** – N/A

**PERFORMANCE-BASED RULES**

The Board, in developing the proposed rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the Board’s regulatory objectives. The proposed rules will also ensure that teachers licensed in Minnesota are well prepared to meet the needs of the Minnesota students they will teach.

The proposed rules were developed by stakeholders reflecting a diversity of experience and knowledge relating to each of the special education fields. This diversity of stakeholder input allowed for a rich exchange of ideas and comprehensive recommendations for rule changes.

**ADDITIONAL NOTICE**

The Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a letter dated October 14, 2010, by Administrative Law Judge Beverly Jones Heydinger.

The Additional Notice Plan included the following groups:

- Participants in the Board of Teaching’s Special Education initiative:
  - Phase I / III stakeholder group
  - Phase II working groups
  - Technical Writing Team
- Special Education Directors listserv
- Special Education Advisory Panel
- Special Education IHE (Institutions of Higher Education) Group
- Minnesota Department of Education
  - Commissioner, Deputy Commissioner, Educator Licensing Director, Special Education Policy Division supervisors and staff members
- Chairs and Vice-Chairs of the Education Committees of the Minnesota Senate and Minnesota House of Representatives
- Individuals who have requested information on the Special Education Rulemaking initiative
- Individuals and groups on the Board of Teaching’s Rulemaking List
- All superintendents and charter school directors via the MDE Superintendent weekly email
- Deans and Chairs of all approved Minnesota teacher preparation programs
- Board of Teaching Standards & Rules Committee (BOT standing advisory committee)

Our Notice Plan also includes giving notice required by statute. We will mail the Notice of Hearing (including a link to the website containing the rule drafts) to everyone who has registered to be on the Board’s

rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

#### **CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Board's publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

The Board does not anticipate a determination of fiscal impact on local governments.

#### **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The proposed rules relate to the preparation and licensing of Minnesota teachers; as such, the Board has determined that no local government entity will be impacted. No part of the proposed rules relies on local action or regulation; similarly, the proposed rules will not require a local government to adopt or amend an ordinance or other regulation.

#### **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. The Board has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR on pages 3-5.

#### **LIST OF WITNESSES**

The Board anticipates having the following witnesses testify at the public hearing in support of the need for and reasonableness of the rules:

1. Bernard Johnson, Assistant Attorney General, will introduce the Board's public record.
2. Karen Balmer, Executive Director, Board of Teaching, will provide the basis and rationale for the proposed rules.
3. Additional witnesses will testify; Board of Teaching will amend this section once testifiers are confirmed.

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

The set of proposed rules includes all ten existing special education licensure rules and two proposed new rules as shown in Table 1.

Table 1

<b>SPECIAL EDUCATION RULEMAKING</b> <i>Summary of Proposed Structure</i>			
<b>Rule Number</b>	<b>Licensure Field</b>	<b>Scope</b>	<b>New or Revised Field</b>
8710.5000	Core Skills	All	Revised
8710.XXXX	Academic and Behavioral Strategist	Kindergarten - 21	<b>NEW</b>
8710.XXXX	Autism Spectrum Disorders	Birth - 21	<b>NEW</b>
8710.5100	Blind or Visually Impaired	Birth - 21	Revised
8710.5200	Deaf or Hard of Hearing	Birth - 21	Revised
8710.5250	Oral / Aural Deaf Education	Birth - 21	Revised
8710.5300	Developmental Adapted Physical Education	Prekindergarten - 21	Revised
8710.5400	Developmental Disabilities	Kindergarten - 21	Revised
8710.5500	Early Childhood Special Education	Birth - Age 6	Revised
8710.5600	Emotional or Behavioral Disorders	Kindergarten - 21	Revised
8710.5700	Learning Disabilities	Kindergarten - 21	Revised
8710.5800	Physical and Health Disabilities	Birth - 21	Revised

*Note: Areas where no specific license or endorsement is recommended:*

*Severely Multiply Impaired*

*Other Health Disabilities*

*Traumatic Brain Injury*

As described in the Introduction, the draft for each licensure field reflects significant and targeted input from stakeholders with specific expertise in each licensure field. These stakeholders were brought together in Phase II to develop the initial rule draft for each field. As such, each of the proposed rules reflects strengthened and updated language, elimination of obsolete or outdated research, and inclusion of current research and instructional practices.



During the first comment period a number of comments were received; the comments clustered into eight primary categories as shown below in Table 2.

Table 2

<b>Special Education Proposed Rules Fall 2010 Public Comment Summary</b>	
<b>Topic</b>	<b>Volume of comments</b>
General support	Low
General opposition: Autism Spectrum Disorders (ASD) license	Low
General opposition: Academic and Behavioral Strategist (ABS) license	Low
Opposition from Speech-Language Pathologists to the ABS license	High
Opposition to the sign language requirement for Oral/Aural teachers, referenced in the Deaf/Hard of Hearing rule *	Moderate
Impact of rules on current teachers	High
Support for MASA/MASE position **	Moderate
Technical error found in the Physical and Health Disabilities (P/HD) draft	Low
Other: general questions, process, e-blasts out to listservs	Moderate

\* *Technical error*

\*\* *MASA: MN Assn of School Administrators; MASE: MN Administrators for Special Ed.*

The Technical Writing Team reviewed and discussed all of the comments submitted and made a number of changes:

- Physical and Health Disabilities: 1 technical error corrected
- Autism Spectrum Disorders: 1 standard revised
- Oral / Aural: technical changes to align with the revised D/HH license
- Academic and Behavioral Strategist: 1 standard revised; 1 technical error corrected
- Core Skills: 3 new standards added; several standards revised

The concerns relating to the ABS, ASD, and D/HH and O/A licenses will be specifically addressed in the sections below. Because of the depth of stakeholder engagement and the responsiveness to continued input throughout the process this Rule-by-Rule Analysis will not explore the proposed rules line by line. Rather, this analysis will focus on the following critical components of the proposed rules:

1. Structural basis for the entire set of rules
2. Targeted work and rationale for the proposed rules that have generated significant stakeholder concern and input:
  - a. Autism Spectrum Disorders License
  - b. Academic and Behavioral Strategist License
  - c. Deaf or Hard of Hearing and Oral/Aural Deaf Education Licenses

**Structural Basis for the Rules**

After the strong foundational work was done by the Phase II stakeholders, the Technical Writing Team was charged to pull all of the rule drafts into a cohesive system. This was complex but critical work, as each special education rule must ultimately situate appropriately and equitably within the larger special education licensure structure. The TWT worked for many months to maintain the substance of the Phase II stakeholder input while making revisions to the rule drafts to ensure:

- Continuity across the licensure fields in terms of the rigor and depth of preparation in each field; it would not be appropriate or equitable to have one field where the standards could be achieved in just a handful of courses and another field that would require a doctoral-level courseload.
- Consistency across the fields in the use of language and terminology; the standards for each field must be able to translate into clear and measurable knowledge and skills for colleges and universities to implement into their programs.
- Efficiency in program design; the format of the rules set clear expectations for the types of courses that the standards should drive and allow for streamlined program designs that considers the needs of both new teacher candidates and already licensed special education teachers.
- Sustainability of the language in the standards by avoiding jargon but embedding the base of current research and also acknowledging the need for emerging research.

As part of the effort to create a cohesive system, the TWT developed common headings and stems for Subpart 3: Subject Matter standards in all of the disability-specific licensure fields (not the Core Skills\*). The proposed headings include:

**A. Foundational knowledge.** *A teacher of special education: ----- understands the foundations of special education services for students with ----- on which to base practice. The teacher must demonstrate knowledge of the:*

**B. Referral, evaluation, planning, and programming.** *A teacher of special education: ----- understands and applies principles of prevention and intervening early and procedures for referral, assessment, evaluation, individualized planning, programming, and placement specific to teaching students with -----.* The teacher must be able to:

**C. Instructional design, teaching, and ongoing evaluation.** *A teacher of special education: ----- understands how to use individualized education program plans to design, implement, monitor, and adjust instruction for students with -----.* The teacher must be able to:

**D. Collaboration and communication.** *A teacher of special education: ----- cultivates and maintains positive, collaborative relationships with children and youth, families, educators, other professionals, and the community to support development and educational progress. The teacher must be able to:*

**E. Clinical experiences.** *A teacher of special education: ----- applies the standards of effective practice through a variety of early and ongoing clinical experiences in teaching children and youth with ----- in primary (grades K-4), middle level (grades 5-8), and secondary (grades 5-12, including transition programs) settings across a range of service delivery models.*

*\* Note: The Core Skills are the broad standards required for all special education teachers and must be achieved in combination with one of the other licensure fields; as such the format for the Core Skills is slightly different. See Appendix D for specific information relating to the proposed Core Skills, including information about the integration of reading standards.*

After these headings were in place and after reviewing the proposed language for each of the rules as independent rules, the team looked across the rules broken down by the sections of subject matter standards. First they reviewed all of the standards within the Foundational Knowledge (Subpart 3A) for all fields with a focus on ensuring that all fields included language regarding:

- impact of co-existing conditions or multiple disabilities
- etiology and research-based understanding of the disability
- educational definitions, issues related to identification, eligibility criteria

The team went through a similar process for each of the subsequent sections under Subject Matter Standards to ensure that certain core concepts were addressed.

Subpart 3B: Referral, evaluation, planning, and programming

- principles of prevention and intervening early
- procedures for referral, assessment, evaluation, and individualized planning, programming, and placement

Subpart 3C: Instructional design, teaching, and ongoing evaluation

- evidence-based (and scientifically-based research interventions when available) practices
- design instruction, monitor progress, adjust
- adapt, modify, accommodate grade-level content standards, access to general education curriculum
- transition planning

Subpart 3D: Collaboration and communication.

- Collaborate with families, professionals
- Communicate across disciplines/fields (legal, medical, social work)
- Know when to seek external/additional expertise, understand roles and responsibilities
- Coordinate services, direct the work of others
- Access resources, link parents
- Diversity
- Impact of disability

A number of other themes were woven throughout the rule drafts, including: statewide assessments, Universal Design for Learning, assistive technology, cultural and linguistic diversity, use of data, and transitions.

Given the fact that the current licensure rules were developed in the late 1990's and effective in 2001, the rules do not reflect today's research and instructional practices. It is both needed and reasonable to make the proposed changes to the current licensure fields.

**Academic and Behavioral Strategist License**

Many states across the nation have adopted special education licenses that allow special education teachers to serve more than one categorical area. These licenses are often referred to as multi-categorical, cross-categorical, or generalist licenses. Minnesota is one of just a few states where special education licenses are singularly disability-specific. So the concept of a broad special education license is certainly not new and has proven to be legally defensible. As a result of the input from the stakeholders in Phases I, II, and III, our proposed structure represents a "hybrid," where we maintain our current disability-specific licenses, add a new disability-specific license (ASD), and also create a new license (ABS) that will allow teachers to serve students in multiple disability areas. Specifically, a teacher holding an ABS license will be able to serve students with mild to moderate needs in the following disability areas: Autism Spectrum Disorders, Developmental Disabilities, Emotional or Behavioral Disabilities, and Learning Disabilities, and Other Health Disabilities. (Note: The Board of Teaching has corresponding licenses to four of the five disabilities listed; Other Health Disabilities is a federally designated disability area but is not proposed as a specific licensure field in Minnesota.)

We believe that this will be a strong complement to our disability-specific licenses and will allow for an appropriate degree of flexibility for both existing licensed special education teachers as well as for teachers new to the profession. The ABS license acknowledges and responds to the fact that special education students do not always come in neat "packages" that align to a single disability area; many students have multiple disabilities and having a teacher trained in multiple disabilities is a benefit to the student both in the initial identification and in the ongoing delivery of services and evaluations. Additionally, many teachers are not able to serve just one student population throughout the entire school day or school year. It is far more common for teachers to serve students across categorical areas throughout the course of the day and year, and teachers holding an ABS license will be equipped with understanding of multiple disabilities and the

necessary assessment tools and instructional strategies for each. Whereas the current practice in many school districts is to place a licensed special education teacher in an assignment with students in another disability area by securing a Board of Teaching-authorized permission such as a Personnel Variance (per Minnesota Rule 8710.1400). In these cases the district must also provide appropriate training, staff development, and oversight of an individual who does not have the benefit of targeted preparation. For these reasons we believe that the ABS license will be a tremendous asset to our teachers and schools, and most importantly, to the special education students that we serve.

One of the central questions throughout the ABS development process relates to the depth of preparation that these teachers will receive. The reality is that the increased breadth of preparation across four licensure fields will not allow these teachers to receive the full depth of preparation in each of the four disability areas. This has been a source of a great deal of discussion, and two safeguards have been built into the proposals to mitigate the concerns and to ensure that teachers with an ABS license will be appropriately placed for service to students:

1. After listing the disability areas that the ABS license covers, the Scope of Practice in Subpart 1 states: **“This teacher is not prepared to serve needs beyond those that are moderate in these disability areas.”** Because these teachers will not receive the full depth of preparation in each of the four licensure fields, their service in the five listed disability areas will be restricted to students on the mild to moderate end of the spectrum; unless they hold a license in one of the specific disability areas they will not be able to serve students whose needs are beyond moderate. The use of this language has raised practical implementation questions from the field, but this is not a new practice; it was a long-standing, legally defensible practice under the former special education rules. Prior to 2001, we had three licenses that used similar nomenclature: Moderate to Severe Mentally Handicapped (8700.5506), Mild to Moderate Mentally Handicapped (8700.5508), and Mildly Handicapped (8700.5511). Even though we no longer issue these licenses to new teachers, we continue to renew these licenses for teachers who earned them prior to 2001. As such, we have many teachers currently working under these licenses today and we expect that the implementation of the ABS license will be similar to the implementation of the old licenses with similar language.
2. Teachers with an ABS license will be required to earn one of the four disability-specific licenses within the first five year renewal period. This “anchor” license will ensure that these teachers have the depth of preparation across the full spectrum (mild to severe) in at least one of the disability areas within the ABS license. Specifically, Subpart 4 states:

*Continuing licensure. A continuing license shall be issued and renewed according to rules of the Board of Teaching governing continuing licenses and upon demonstration of holding or being recommended for licensure in one of the following licensure fields: autism spectrum disorders, developmental disabilities, emotional or behavioral disorders, or learning disabilities.*

The ABS license is intended to be “multi-directional,” meaning that it can be earned as an initial license, with an anchor license earned later (or concurrently) and for a teacher who is already licensed in one (or more) of the four disability areas, it can be added to expand the fields in which s/he can serve. As such, the program design for an ABS license is complex. Table 3 summarizes the requirements for various groups of teachers. We have begun working with our Higher Education colleagues to flesh out how programs might be developed to accommodate the needs of different types of candidates.

Table 3

ABS Licensure Requirements				
	Standards of Effective Practice (for all teachers)	Core Skills for Special Education Teachers	Academic & Behavioral Strategist *	Disability-specific standards in ASD, DD, EBD,
NEW special education teachers	x	x	x	x
Already LICENSED Special Education teachers			x	
Already LICENSED teachers in a non-Special Education field		x	x	x

*\* A teacher may choose to earn an ABS license as an initial license but must earn one of the four disability-specific licenses within the first five year license renewal period.*

As evidenced by the comments received in the public comment period last fall, there have been a number of misunderstandings about the proposed ABS license. We have worked over the last several months to provide the following important clarifications:

1. Teachers who are currently licensed in DD, EBD, and LD will **not** be required to seek the ABS license.
2. If a teacher earns the ABS license first, he/she is able to serve mild-moderate needs in any of the four disability areas and must earn a full license in one of the four areas by the end of the first 5-year renewal period. Once the full license requirement is met, he/she will be able to serve the full spectrum of student needs in the full licensure disability area and will continue to be able to serve mild-moderate needs in the other three ABS fields.
3. A teacher could also choose to earn an ABS license concurrently with a disability-specific license.
4. If a teacher already holds a license in DD, EBD, or LD, or if he/she qualifies for an ASD license through the process described above, he/she may choose to expand by adding the ABS license.

Finally, through the public comment period last fall we learned about significant concerns about the proposed ABS license from the Speech and Language Pathology community. Specifically, the language relating to communication in the draft caused deep concern that an ABS teacher would be inappropriately asked to identify and serve students for whom targeted Speech and Language services are needed. This is not the intent of Board of Teaching so members of the Technical Writing Team met several times with representatives from the Minnesota Speech-Language-Hearing Association. Together, these individuals were able to clarify the appropriate communication-related work for ABS teachers. The most significant changes were made in Subpart 1 and in a particular standard of concern in Subpart 3C. We believe that the concerns have been satisfied as a result of the changes made to the proposed rule.

Teachers holding an Academic and Behavioral Strategist license will provide significant benefit to teachers, schools, and most importantly to our students; as such, it is a necessary and reasonable rule.

### **Autism Spectrum Disorders License**

As noted in the Introduction, the Board of Teaching’s initial work was in response to concerns about our service to students with Autism Spectrum Disorders. The child count has exploded in the last decade and yet our current rules are silent on ASD. Just 10 years ago, in 2001-2002, there were 3,759 students identified and receiving ASD services; this represented 3.3% of our state’s total child count in special education. In 2010-2011, the number had grown to 14,646 students, representing 11.5% of the child count. (See Appendix E for additional data.) Further, unlike the time when our current licensure rules were developed, there is now a tremendous depth of information on ASD and it is critical that our special education licensing structure reflect the advances in this field to ensure that our teachers are prepared to serve these students.

There is a defined and discrete body of knowledge unique to this disability and to the research-based identification, assessment, and instructional practices that our teachers must have in order to serve these students successfully.

Absent a license specific to ASD and given the rapidly increasing number of students identified with ASD, Minnesota school districts have had to find alternative ways to support and train their teachers serving ASD students. These students are most commonly served by teachers who hold either another license. For example, a teacher who applies EBD strategies that may be more reactive or consequence-focused to a student with ASD is not effective and typically has the reverse effect of compounding the student's behavior because the teacher has not been prepared to understand the impact of the range of neurological differences, communication, and social understanding on learning and behavior for students with ASD. While ongoing professional development and training are necessary and appropriate local responsibilities, it should not be incumbent on a school district to fully train a teacher in the field of ASD.

Throughout the process, the establishment of an ASD license has been a source of a great deal of dialogue and has represents the most controversial part of the proposed rules. However, it is critical to note that none of the opposition or controversy has asserted that the ASD license will be detrimental to students. Rather, the controversy has centered on the impact that the new ASD license will have on those teachers who are currently serving students with ASD.

The Board of Teaching clearly recognizes that the establishment of an ASD license will have significant impact on those teachers and seeks to provide reasonable means for these teachers to transition to the new ASD license. We anticipate that we will provide a window of approximately three years for those teachers who wish to continue serving students with ASD and we have already been working with colleagues from the ASD community to develop plans. Specifically, there will be three options:

1. Process to recognize prior ASD-specific coursework and professional development – Many teachers have completed a college or university ASD certificate program, have participated in substantial professional development, and have a wealth of experience with students who have ASD. All of these things may be used for the purpose of demonstrating that the new licensure standards have been met. To that end, we have launched a process to analyze ASD-specific coursework and trainings that have been offered since 2001 to determine alignment to the ASD standards in the new rule. Once we have cataloged the information we will make it available to teachers who will then be able to provide evidence that they have addressed each of the new standards by virtue of their prior coursework and professional development. We believe that many teachers will be able to demonstrate that they have already met standards in the new ASD rule from coursework and other professional development activities. The Board hopes to help teachers move through this process during the 2011-2012 school year so that those who have gaps and need additional training will have ample time to receive the additional training needed to earn the ASD license.
2. Earning the Academic and Behavioral Strategist License – For many already licensed teachers, the ABS license will be a valuable option, and particularly for teachers who hold a license in DD, EBD, or LD. Those teachers will already have the “anchor” license in place and will need only to take the ABS coursework to pick up the other fields, including ASD. The ABS license is restricted to serving students with mild to moderate needs, but for many ASD teachers this would allow them to continue serving in their current capacity.
3. Enrolling in an approved ASD licensure program – Several Minnesota colleges and universities currently offer ASD certificate programs and we anticipate that these institutions and others will seek approval to offer an ASD licensure program. Once approved and launched, any teacher may enroll and be recommended for licensure upon completion of the program.

Given the substantial and growing number of Minnesota students with ASD and the fact that the current licensure rules are void of any specific preparation for serving these students, it is both needed and reasonable to establish a license for Autism Spectrum Disorders.

### **Deaf or Hard of Hearing and Oral/Aural Deaf Education Licenses**

The proposed rule drafts for Deaf or Hard of Hearing and Oral/Aural Deaf Education represent significant stakeholder input through a complex set of facts and perspectives. Prior to 1999 the Board of Teaching had a Deaf or Hard of Hearing (D/HH) license; in 1999 the Legislature directed the Board of Teaching to create a new license in addition to the D/HH license for teachers to teach in oral/aural deaf education programs. (Minnesota Session Laws 1999: Chapter 241, Article 2, Section 3)

<https://www.revisor.mn.gov/laws/?doctype=Chapter&year=1999&type=0&id=241>

*Note: The current language is found in Minnesota Statutes 122A.28.*

<https://www.revisor.mn.gov/statutes/?id=122A.28>

As such the current licensure structure includes both the D/HH license and the Oral/Aural (O/A) license. The primary difference is that the D/HH license requires proficiency in American sign language and the O/A does not. In the rulemaking process, the Phase II participants recommended revisions to the D/HH license and elimination of the O/A license. The Phase III participants received the recommendations and were concerned about the idea of eliminating the O/A license, and after reviewing the Blind or Visually Impaired rule draft, which included numerous new standards specific to deaf-blind students, there was also a sense that the D/HH license might include additional standards specific to serving deaf-blind students.

In response to the diversity of perspectives and recommendations, the Board launched a targeted work group comprised of the Phase II participants and others. At the opening of this work group, called “Phase 2.5,” the Board set forth the following goals:

- Articulate additional standards within the D/HH license to address the full spectrum of hearing loss, with particular attention to standards for students who are hard of hearing (i.e.; cued speech).
- Articulate additional standards within the D/HH license to address students who are both deaf and blind.
- Clarify the requirements of the sign language proficiency skills examination.

With the help of passionate and highly engaged “Phase 2.5” participants, we were able to further clarify and develop the proposed D/HH rule draft, including standards that address the specific needs of students who are hard of hearing as well as students who are deaf-blind. Conforming changes were made to the O/A license to ensure alignment.

Given the substantial stakeholder collaboration and dialogue throughout the process, the Board of Teaching believes that the resulting proposed rule drafts for Deaf or Hard of Hearing and Oral/Aural Deaf Education are both needed and reasonable.

**ADDITIONAL INFORMATION; TECHNICAL CHANGES**

Whereas we had initially hoped to have the rules adopted during the summer of 2011, the rulemaking process was prolonged as the Board sought to work with stakeholder groups in response to concerns raised and was further prolonged by staff retirements and the government shutdown. As such, we propose changing the effective date from September 1, 2012 to January 1, 2013. This additional time is necessary for our higher education institutions to revise or design their licensure programs and successfully complete the Board's approval process.

**CONCLUSION**

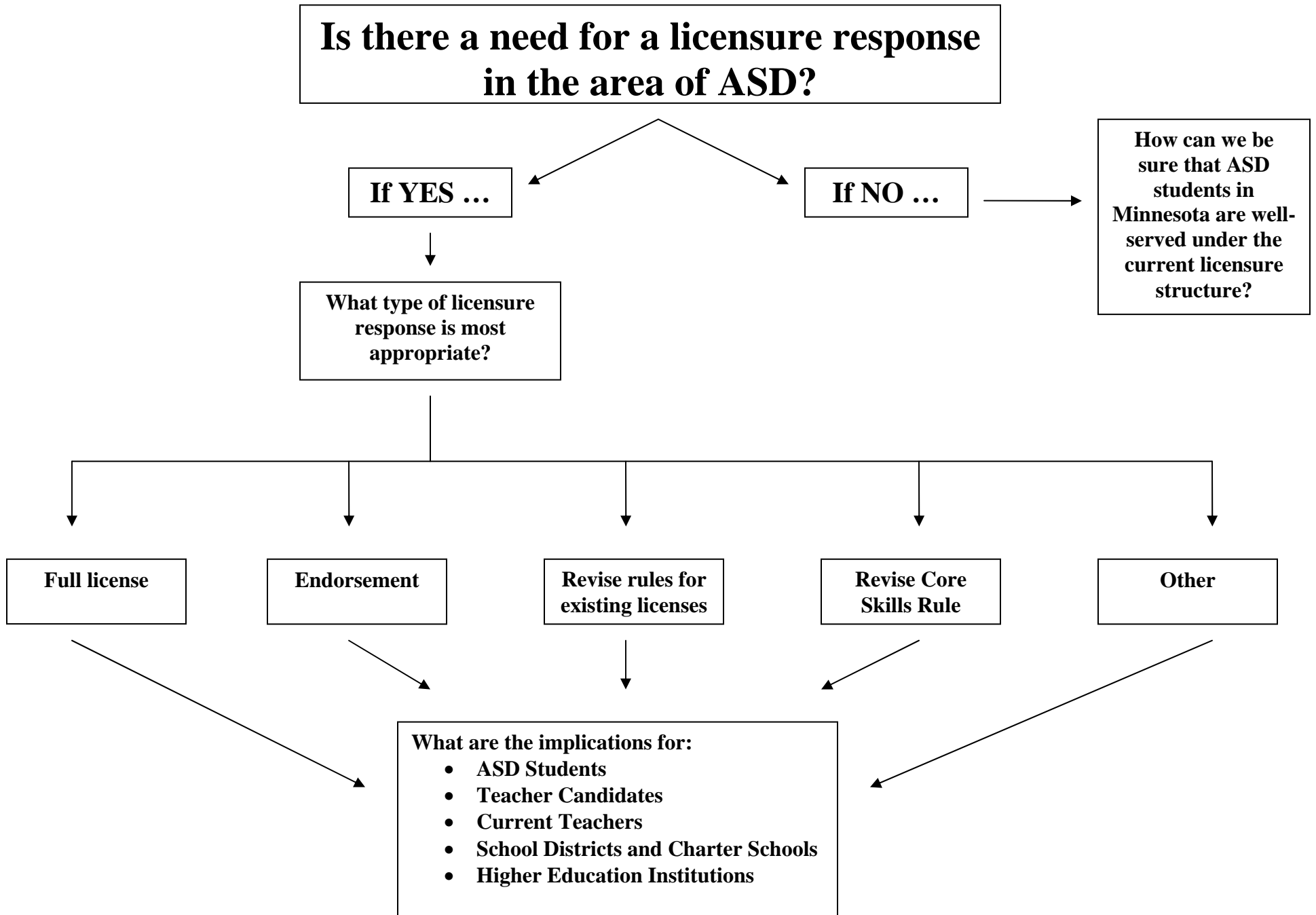
Based on the foregoing, the proposed rules are both needed and reasonable.

\_\_\_\_\_  
August 15, 2011

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



**APPENDIX A**



## **APPENDIX B: Phase I / III Participating Organizations**

MN Administrators for Special Education  
MN Association of School Administrators  
Education Minnesota  
MN Department of Education: Educator Licensing division  
MN Department of Education: Special Education Policy division  
MN Department of Education: Gifted & Talented specialist  
ARC of Minnesota  
PACER Center  
Special Education Advisory Panel  
MN Association of Secondary School Principals  
MN Elementary School Principals Association  
MN School Boards Association  
Association of Metropolitan School Districts  
MN Association of Alternative Programs  
MN Rural Education Association  
MN Association of Colleges for Teacher Education  
MN Association of Charter Schools  
Regional Low-Incidence Facilitators  
MN Council for Gifted & Talented / MN Educators of Gifted & Talented  
Autism Society of Minnesota  
MN Association of School Psychologists

## APPENDIX B: Phase II Participants

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## **APPENDIX B: Technical Writing Team**

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## APPENDIX C

<b>Board of Teaching Public Meetings</b>	
June 15, 2007	Report: ASD stakeholder concerns
November 16, 2007	Report: ASD follow-up discussion
December 14, 2007	Report: ASD follow-up discussion
January 18, 2008	Action: Conduct comprehensive special education review in FY09
August 8, 2008	Discussion: FY09 goals, including special education initiative
October 10, 2008	Action: Adopt FY09 goals, including special education initiative
April 17, 2009	Report: Special education licensure update
August 7, 2009	Report: Special education licensure recommendations
June 11, 2010	Report: Special education licensure recommendations
August 6, 2010	Action: Special education licensure rulemaking launch
December 10, 2010	Action: Adopt revised special education rule drafts
May 13, 2011	Report: Special education rulemaking initiative

<b>Board of Teaching Stakeholder Outreach</b>	
October 21, 2009	Minnesota Association of Colleges for Teacher Education
January 14, 2010	Minnesota School Boards Association
February 12, 2010	Minnesota Association of Colleges for Teacher Education
February 18, 2010	Education Policy Committee, Minnesota House of Representatives
March 23, 2010	Midwest Regional Special Education Law Conference
April 22, 2010	Minnesota Association of Colleges for Teacher Education
May 6, 2010	Deaf and Hard of Hearing Stakeholders
May 13, 2010	Deaf and Hard of Hearing Stakeholders
May 20, 2010	Special Education Advisory Panel
May 27, 2010	Deaf and Hard of Hearing Stakeholders
August 4, 2010	Minnesota Association of School Administrators (Superintendents)
September 8, 2010	Regional Low-Incidence Facilitators
October 12, 2010	Autism Task Force, Minnesota Legislature
October 25, 2010	Special Education IHE Forum (Institutions of Higher Education)
October 28, 2010	Minnesota Association of Colleges for Teacher Education
November 15, 2010	Deaf and Hard of Hearing Stakeholders
December 8, 2010	Speech and Language Pathologists
January 3, 2011	Speech and Language Pathologists
January 11, 2011	Education Reform Committee, Minnesota House of Representatives
January 13, 2011	Minnesota School Boards Association
January 18, 2011	Education Committee, Minnesota Senate
February 11, 2011	Special Education IHE Forum (Institutions of Higher Education)
February 18, 2011	Minnesota Association of Colleges for Teacher Education
March 14, 2011	Austism Spectrum Disorders Stakeholders
March 29, 2011	Memo to Minnesota Special Education Directors
March 30, 2011	Speech and Language Pathologists
April 11, 2011	Parents United
May 13, 2011	Joint session: Special Education Directors and IHE Forum

## Appendix D: CORE SKILLS

As noted in the SONAR, the Core Skills is the set of competencies required for all special education teacher candidates in combination with the disability-specific licensure competencies. The revised Core Skills represent the following changes:

- Standards updated and strengthened
- Standards strategically embedded to address specific issues:
  - social/emotional health
  - social competence
  - cultural competence
  - classroom management
  - academic competence
- Reading knowledge and instructional strategies; academic competence
- Reflection of both disabilities and gifts

Throughout the revision process a great deal of time was devoted to discussing reading preparation for all special education teachers and the appropriate placement of reading preparation requirements within the proposed licensure structure. With help from the disability-specific MDE specialists, the Technical Writing Team embedded language unique to the literacy needs of each student population and also included a common standard in Subpart 3C: Instructional design, teaching, and ongoing evaluation. ... The teacher must be able to:

*(1) integrate knowledge of evidence-based instruction, including scientifically-based research interventions when available, in language development, reading, writing, and math with characteristics of developmental disabilities in order to design, implement, monitor, and adjust instruction aligned with grade-level content standards;*

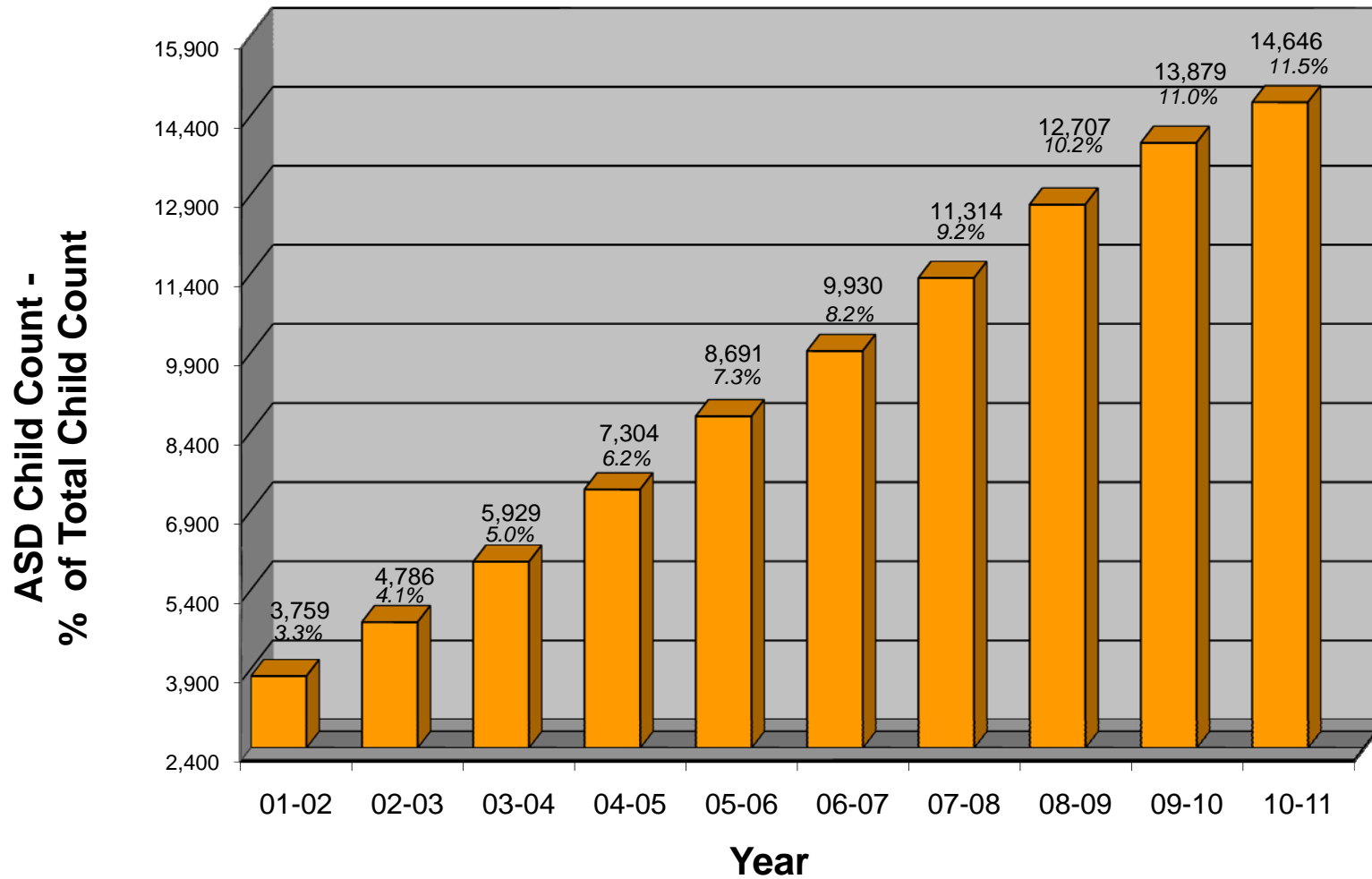
In addition to the language in each of the disability areas, the Core Skills draft includes the following references specific to reading preparation for special education teachers:

- Subpart 1. Licensure requirements.  
*B. A candidate recommended for licensure in special education shall meet the statutory requirements regarding comprehensive scientifically-based reading instruction as required by [Minnesota Statute 122A.09, subdivision 4e](#) and as specified in [Minnesota Rule 8710.3200, subparts 3C, 3D, 3E, and 3F](#).*
- Subpart 3C. Instructional design, teaching, and ongoing evaluation. ... The teacher must be able to:  
*(10) apply knowledge of comprehensive scientifically-based reading instruction including phonemic awareness, phonics, fluency, vocabulary development and reading comprehension;*
- Subpart 3. Program requirements.  
*B. All colleges and universities approved by the Board of Teaching to prepare persons for classroom teacher licensure must include in their teacher preparation programs research-based best practices in reading, consistent with [section 122A.18, subdivision 2a](#), that enable the licensure candidate to know how to teach reading in the candidate's content areas.*

This language will ensure that all special education teacher candidates will receive deep preparation in the area of reading.



# Minnesota Child Count Age 0-21 Autism Spectrum Disorders 2001-02 to 2010-11



# Minnesota Child Count Age 0-21 Disability Distribution December 1, 2010

