



June 1, 2018

Administrative Law Judge Barbara Case
Office of Administrative Hearings
600 N. Robert St., PO Box 64620
St. Paul, MN 55164-0620

Re: Teaching Licensing Rules 8710.0310 and 8710.6000-8710.6400

Dear Judge Case:

The Minnesota Rural Education Association (MREA) represents 224 Greater Minnesota school districts educating 225,000 students daily. MREA has had a vital interest in assuring that all these students have qualified, licensed teachers every day in every subject. For the past five years, rural Minnesota school districts have been facing an ever-increasing shortage of teachers. Two areas of special concern for their shortages has been special education and Speech Language Pathologists (SLP).

MREA has taken special interest in the development of the Tiered Licensure system and testified at the Legislature in support of the new system. The generally accepted intended outcomes of this Tiered system are to ensure the quality of licensed teachers and to allow entrance to the profession for people who did not in their undergraduate or graduate programs pursue teaching licenses. The Tiers are designed to allow entrance to the profession and motivate lower Tier license holders to gain training and experience to move to higher Tiers. The proposed system achieves that and MREA supports nearly all the rules before you.

However, MREA urges you to reject the rules proposed by PELSB relating to “related services professionals” for the following reasons:

1. There is no definition of “related services professional” (8710.0310 Subpart 1, K) in the relevant, authorizing statutes (122A.06, 122A.09, and 122A.15).
2. In describing the need and reasonableness of rules related to “related services professional” (8710.6000-8710.6400), PELSB did not take into account data regarding the “proposed rule’s probable effect on **teacher supply and demand**” as required in statute (122A.09, Subd 9, (e)).

1. Definition:

Statute 122A.09 Subd9 (f) states “The board must adopt rules only under the specific statutory authority.” While 122A.09 Subd 9 (b) provides authority to the board to include “a process for granting permission to a licensed teacher to teach in a field that is different from the teacher's field of licensure without change to the teacher's license tier level,” which provides authorization for rules relating to out-of-field permissions (8710.0320), no similar definition for ‘related services professional’ is provided in the relevant statutes.

Therefore, the board has exceeded its statutory authorization to propose this definition and rules 8710.6000 through 8710-6400 covering Speech-Language Pathologist, School Nurse, School Psychologist, School Social Worker and School Counselor. 122A.015 subd 1 clearly defines, “The term ‘teachers’ for the purpose of licensure, means all persons employed in a public school or education district or by a service cooperative as members of the instructional, supervisory, and support staff including... counselors, school psychologists, school nurses, school social workers...and speech therapists.” 122A.018 provides authority to the board by clearly stating in Subd 1, “The Professional Educator Licensing and Standards Board must issue the following teacher licenses to candidates who meet the qualifications prescribed by this chapter” for Tiers 1, 2, 3, and 4.



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In the proposed rules, the board did not describe qualifications for these five related service professionals in all four Tiers as called for in statute. Instead, the board proposes to specifically prohibit Tier 1 licenses for all five related services, and prohibit Tier 2 licenses for Speech Language Pathologists, School Nurse, and School Social Worker. This is in contradiction to 122A.08 Subd 1, which is specifically prohibited in 122A.09 Subd 1 (d)... “Terms adopted in rule must be clearly defined and must not be construed to conflict with terms adopted in statute or session law.”

The Board does not have statutory authority to create separate rules for related services professionals. The rules the Board is proposing contradict the statutes authorizing the board to license teachers in four Tiers, the proposed rules 8710.0310 Subpart 1, K, and 8710.6000 through 8710.6400 should be deleted from approved rules. PELSB should be instructed to propose new rules that do not contradict 122A.08 Subd 1, and seek legislative authority to propose rules for related services professionals.

2. Data

The SONAR, the Statement of Need and Reasonableness, is where one would expect a thorough discussion of the effect of restricting these related services to Tiers 3 and 4. For Speech Language Pathologists (SLP), the proposed rules restrict licenses to only applicants who have completed a Master’s degree. For school nurses, they restrict licenses to only applicants who have a bachelor’s in nursing, are registered as an RN, and are registered as a public health nurse. Similar restrictions apply to other related service professionals.

These are among the most difficult positions for schools to fill and difficult for aspiring students to enter professional preparation programs. Instead of an investigation and discussion of the probable effects of these rules, there is a cursory acknowledgement of the severe shortage of these teachers, especially in Greater Minnesota with the sentence, “However, the Board realized that some districts depend on our current limited licenses and limited intern licenses for some services, and those needs would continue.”

An investigation into the “proposed rule’s probable effect on teacher supply and demand” should start with PELSB’s own data. MREA requested the license data on all SLP teachers with licenses and promptly received the database of all SLP license holders:

- 1,957 were actively teaching under the license in schools during the ’17-18 school year
- 117 of the 1,957 were listed as having a bachelor’s as their highest degree, representing only 6%.
- 12 of the 119 SLPs newly licensed in ’17-18, were listed as having a bachelor’s as their highest degree.

Fully 10% of newly licensed SLP’s do so today with a bachelor’s. This is precisely what a Tiered license system is designed to do: accommodate and replace waivers and special permissions for 10% of newly licensed teachers.

An investigation would look into the ability of degree programs, such as Masters in SLP, to enroll more students to match demand. No evidence was presented in the SONAR on this critical question. An investigation into the “proposed rule’s probable effect on teacher supply and demand” should reach into the field. An easily available source is the 2017 Report of Teacher Supply and Demand from MDE.

SUPPLY DEMAND REPORT	Percent Districts Reporting	
License Area	Very Difficult to Hire	Unable to Fill Position
Speech Language Pathologist	50%	14%
School Nurse	50%	6%
School Psychologist	53%	13%
School Social Worker	30%	6%
School Counselor	21%	2%



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Three of licensure areas are in very short supply and two in moderately short supply, according to the 2017 report. There were 170 districts reporting looking for SLPs, 119 newly licensed in '17-18, leaving 14 percent unfilled. Clearly this is evidence of a teacher shortage and is precisely what a Tiered license system is designed to do: accommodate and replace waivers and special permissions.

Finally, an investigation could seek and pay attention to input directly from the field such as this message from Kyle Erickson, Director of Northwest Regional Interdistrict Council which was sent via email to the PELSB Executive Director and Board Chair on April 18, 2018.

“The suggested changes outlined in draft rule 8710.6000 will greatly impact the level of service that my organization is able to provide for students with disabilities in northwest Minnesota. The NWRIC currently employs two SLPs on limited licenses. Despite extensive recruitment processes over the last five years the NWRIC has only been able to hire one fully licensed SLP. The other applicants that we have been able to recruit have been graduates with a bachelor's degree.... Only one of the four SLPs that we have employed over the last five years has been accepted into graduate school.”

For PELSB in its SONAR to dismiss these documented shortages as the needs of “some districts,” at best indicates that they did not take into account data regarding the “proposed rule’s probable effect on teacher supply and demand” as required in statute (122A.09, Subd 9, (e).

For this reason, proposed rules 8710.6000 through 8710.6400 should be deleted from approved rules. PELSB should be instructed to propose new rules which utilize their authority to provide entry into the teaching profession through the Tiers with the probability of increasing the supply of professionals in these fields to match the demand.

In conclusion, the proposed rules 8710.0310 Subpart 1, K, and 8710.6000 through 8710.6400 should be deleted from approved rules. PELSB should be instructed to:

- Seek legislative authority to propose rules for related services,
- Propose new rules that do not contradict 122A.08 Subd 1., and
- Use its authority to provide entry into the teaching profession through the Tiers with the probability of increasing the supply of professionals in these fields to match the demand.

Respectfully submitted,

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