

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF RAMSEY****SECOND JUDICIAL DISTRICT**

<p>CYNTHIA CAIN (Individually); RACHEL DIETSCH (Individually); JOAN DOBBERT (Individually); ANTHONY HERNANDEZ (Individually); SKYE HOEKSTRA (Individually); MICHELLE HUGHES (Individually); KATELYN KNIGHT (Individually); LEAH LARSON (Individually); ANTHONY MUNSTERMAN (Individually); ABERDEEN RODRIGUEZ (Individually),</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>MINNESOTA BOARD OF TEACHING,</p> <p style="text-align: center;">Defendant.</p>	<p>Civil Case No. 62-CV-15-1979</p> <p style="text-align: center;">FIRST AMENDED COMPLAINT</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

1. Plaintiffs are a collection of teachers petitioning this Court to end the Board of Teaching's ("the Board") practice of consistently refusing to follow Minnesota law.

2. For years now, the Board has arbitrarily denied licenses to well-qualified teachers who clearly meet the statutory requirements.

3. The Board provides no explanations for its denials and has systematically deprived applicants of their statutory rights to an administrative appeal. Instead, the Board simply tells applicants to consult private, for-profit colleges and take whatever courses they recommend.

4. Plaintiffs have exhausted every avenue of encouraging the Board to comply with Minnesota law and now ask this Court for an injunction and a declaratory judgment.

5. For too long the Board's systematic failure to comply with Minnesota law has been depriving teachers of their livelihoods and children of the best qualified teachers. Perhaps most troubling, the Board's actions are disproportionately affecting minority and disadvantaged children.

THE PARTIES

6. **Cynthia Cain** is a health education and physical education teacher currently residing in Anoka County, Minnesota.

7. Ms. Cain has a bachelor's degree in education and 15 years of teaching experience, including nine years teaching Physical Education and Health in Alaska, five-and-a-half years substitute teaching in Minnesota, and one-and-a-half years as a part-time teacher of Health Education.

8. Ms. Cain had an Alaska license to teach kindergarten through twelfth grade Physical Education, which included Health Education. She meets the statutory requirements for licensure in both areas in Minnesota, but was only granted a Physical education K-12 license.

9. The Board informed Ms. Cain that she could not even apply for a Health Education license until she completed a Minnesota approved teacher preparation program.

10. Ms. Cain has a statutory right to a license to teach Health Education.

11. **Rachel Dietsch** is an elementary educator currently residing in Ramsey County, Minnesota.

12. Ms. Dietsch has a bachelor's degree in elementary education and nearly seven years of teaching experience, including teaching in economically disadvantaged schools in South Chicago.

13. Ms. Dietsch is licensed in Illinois to teach Kindergarten through ninth grade.

14. Despite satisfying the statutory requirements for at least a standard elementary education license, the Board issued her a conditional, limited license. The Board informed Ms. Dietsch that it will not issue her a standard license until she completes certain Minnesota approved courses not required by statute.

15. **Joan Dobbert** is an early childhood educator currently residing in Mille Lacs County, Minnesota.

16. Ms. Dobbert has a bachelor's degree and a master's degree in education. She is a dedicated early childhood educator with substantial experience and a proven track record of success with at-risk youth.

17. Ms. Dobbert has six years of experience teaching in Minnesota preschool programs accredited by the National Association for the Education of Young Children

18. Ms. Dobbert contacted the Board to obtain a standard early childhood education license and was initially told to apply through the licensure via portfolio program.

19. Before applying, Ms. Dobbert decided to complete her master's degree to ensure she had the strongest possible application.

20. The Board, however, discontinued the licensure via portfolio process before she could apply.

21. The Board has since told Ms. Dobbert that to obtain a license she needs to get the recommendation of an approved Minnesota preparation program.

22. After contacting a number of programs, Ms. Dobbert was initially told she would have to complete an entirely new master's degree, including student teaching, before being recommended for a standard license.

23. Although the responses have varied from each institution, Ms. Dobbert cannot get the recommendation of any Minnesota institution without taking additional courses, despite having a master's degree in education and years of experience.

24. **Anthony Hernandez** is an elementary educator currently residing in Hennepin County, Minnesota.

25. Mr. Hernandez is a Harvard graduate with a standard teaching license from Washington, D.C. and three years of teaching experience.

26. Although the Board did grant Mr. Hernandez a license, it inexplicably conditioned his license on the completion of "a Minnesota approved course in the assessment of reading skills, including a practicum." There is no statutory or regulatory authority for the Board's additional requirement.

27. **Skye Hoekstra** is a kindergarten teacher currently residing in Hennepin County, Minnesota.

28. Ms. Hoekstra has a bachelor's degree in biology and a master's degree in education with a special emphasis in early childhood education.

29. She has a Nevada license to teach early education, from birth through second grade, and has taught kindergarten for the last four years.

30. Despite satisfying the statutory requirements for a standard early education license, the Board issued her a conditional, limited license. The Board informed Ms. Hoekstra that it will not issue her a standard license until she completes certain Minnesota approved courses not required by statute.

31. **Michelle Hughes** is an elementary and special educator currently residing in Oakland, California.

32. Ms. Hughes is a traditionally licensed teacher with over 12 years of experience in some of the most disadvantaged schools in California.

33. For over a year, Ms. Hughes has been applying for both an elementary and a special educator license in Minnesota so she can move back to her home state.

34. Despite her substantial experience and qualifications, the Board has declined to grant her an elementary education license, and has offered her only a limited special educator license.

35. The Board has also declined to offer any explanation for its decisions, or inform Ms. Hughes of the requirements she must fulfill for a standard elementary education license.

36. Instead, the Board has offered only an endless run-around.

37. For example, despite submitting documentation with her initial application showing that she had substantial training and experience assessing her students' reading level, the Board determined she needed to complete a "Minnesota approved course in the assessment of reading skills, including a practicum."

38. When Ms. Hughes questioned the determination and presented her proof of training and experience, the Board reversed its position and informed her that "we have determined that your preparation in Reading meets Minnesota requirements, and we do already have the transcripts."

39. Nonetheless, three months later, without any explanation, the Board once again took the position that Ms. Hughes did not satisfy the reading requirement. It went on, however, to also explain that if she wanted the Board to consider the materials she submitted in her initial application, and resubmitted three months earlier, she would have to file a new application.

40. As the Board put it: "Ms. Hughes will need to complete an application (enclosed) to be submitted to Educator Licensing at the Minnesota Department of Education and provide the evidence that you have referenced regarding her reading courses...."

41. The Board has no statutory or regulatory authority to require Ms. Hughes to apply for the opportunity to prove her qualifications a third time.

42. Ms. Hughes also explicitly requested an administrative appeal of the Board's decision not to grant her an elementary general education license.

43. As is the Board's practice, it ignored her request. After over a year of making little-to-no progress with the application process, Ms. Hughes is exhausted and reconsidering her decision to return to Minnesota.

44. **Katelyn Knight** is an elementary and ESL educator currently residing in Hennepin County, Minnesota.

45. Ms. Knight has an elementary license and a bilingual generalist license from Texas.

46. Despite proving that she meets the statutory requirements for both licenses, the Board has failed to issue either.

47. The Board has also not explained what requirements it believes she must fulfill, and instead it simply advised her to consult with a Minnesota university or college to "have them review [her] materials."

48. **Leah Larson** is a media specialist and special education and English language learner teacher currently residing in Hennepin County, Minnesota.

49. Ms. Larson has a bachelor's degree in English and master's degree in Media Relations.

50. Ms. Larson has taught in Texas and New York and is licensed in Texas to teach special education and English language learners.

51. Ms. Larson has also taught as a media specialist in Minnesota for the last seven years.

52. Ms. Larson is also currently teaching English language learners on a variance.

53. Despite her qualifications and experience, Ms. Larson is not able to apply for a license to teach English language learners or special education because the Board of Teaching refuses to acknowledge the licensure via portfolio process.

54. **Anthony Munsterman** is a music teacher currently residing in Otter Tail County, Minnesota.

55. Mr. Munsterman has a bachelor's degree in music education and has nearly completed a master's degree in music from Minnesota schools.

56. He has been a music teacher for over 30 years, including 20 years in Minnesota, seven years in North Dakota and two years in Montana. Mr. Munsterman is a dedicated teacher who spends substantial time working for his students, including nights and weekends preparing them for concerts, recitals and competitions.

57. Mr. Munsterman currently has had a Minnesota license to teach 5-12 instrumental band, general music, and orchestra.

58. He also has a North Dakota license to teach K-12 music as well as a Montana license to teach K-12 music.

59. Mr. Munsterman is currently teaching K-12 music on a variance. Despite his vast experience and training, he has been told that he is unable to expand the scope of his license to cover K-4 and music without completing additional coursework, including student teaching.

60. **Aberdeen Rodriguez** is an experienced teacher currently residing in Hennepin County, Minnesota.

61. Ms. Rodriguez has a standard Texas license to teach elementary school; English for grades 4 through 12; art for early education through grade 12; and English as a second language for early education through grade 12.

62. Nonetheless, despite over a year of providing documents proving her qualifications, the Board has not granted Ms. Rodriguez a single license.

63. Moreover, it has not explained why it believes she does not qualify for any licenses, and it has not told her what she needs to do to earn a license.

64. **The Board of Teaching** is the Minnesota agency responsible for licensing teachers. It is headquartered at 1500 Highway 36 West, Roseville, Minnesota.

JURISDICTION AND VENUE

65. This Court has jurisdiction over this action under Minn. Stat. § 555.02, which allows district courts to determine “any question of construction or validity arising under ... statute, ordinance, [or] contract.” Declaratory Judgments against administrative agencies are appropriate when, like here, quasi-legislative action of the agency is challenged. *See, e.g., Anderson v. County of Lyon*, 784 N.W.2d 77, 81-82 (Minn. App. 2010).

66. This Court also has jurisdiction because Plaintiffs either have no administrative remedies available to them, the administrative remedies are exhausted, or the administrative remedies are inadequate. *See, e.g., Builders Ass’n of Minn. v. City of St. Paul*, 819 N.W.2d 172, 177 (Minn. App. 2012); Minn. R. 8710.0900.

67. Venue is appropriate because the Board is a state agency residing in Ramsey County. *See Minn. Stat. § 542 et. seq.*

BACKGROUND

68. One of the most important issues facing our State is the deplorable and indefensible educational achievement gap between white students and students of color. Regardless of how it is measured, Minnesota is consistently found to have among the worst achievement gaps in the nation.

69. For example, the U.S. Department of Education's recently released data on state graduation rates shows that Minnesota has either the lowest or second lowest graduation rates for all four non-white student categories. (U.S. Department of Education, 2012-2013 Graduation Rates, attached as "**Exhibit 1**").

70. It has the lowest graduation rate for Hispanics and Asians in the country, and the second lowest graduation rate for African Americans and Native Americans. (*Id.*).

71. Similarly, the U.S. Department of Education found that Minnesota had the second lowest graduation rate for economically disadvantaged students in the country in the 2011-12 school year. (U.S. Department of Education, Public High School Four-Year On-Time Graduation Rates and Event Dropout Rates: School Years 2010-11 and 2011-12, April 2014, excerpts attached as "**Exhibit 2**").

72. No other state even comes close to Minnesota's abysmal record. (*See, e.g., Minnesota Near Bottom in On-Time Graduation for Students of Color*, Tim Post, February 19, 2015, MPRNews, attached as "**Exhibit 3**").

73. Results from the Minnesota Comprehensive Assessments tell the same story. They show that white students attain proficiency scores in math and reading at

least 30 percentage points higher than students of color. (Minnesota Office of Higher Education: High School Academic Preparation and College Readiness, attached as “**Exhibit 4**”).

74. Similarly, while Minnesota boasts that in 2013 its average composite score on the ACT College Entrance Exam “was the highest in the nation among the 28 states in which more than half the college-bound students took the test” and that “Minnesota has led the nation in average composite ACT scores for eight consecutive years,” the story is very different for students of color. (*Id.*).

75. While the ACT test shows 43 percent of White students are deemed “college ready,” it also showed that only 9 percent of black, 15 percent of Native American, and 20 percent of Hispanic students were similarly “college ready.” (*Id.*).

76. Hundreds of research studies spanning over a quarter century have definitively shown that the single most important factor for student achievement is the teacher. Simply put, “[n]o other attribute of schools comes close to having [as] much influence on student achievement.” Eric A. Hanushek, *The Economic Value of Higher Teacher Quality*, 30 *Economics of Education Review* 466, 467 (2011).

77. Recognizing the central role of teachers, the Minnesota Legislature prefaced its 2011 amendments to teacher licensing statutes by making explicit that the amendments were intended to “improve academic excellence, improve ethnic and cultural diversity in the classroom, and close the academic achievement gap...” Minn. Stat. § 122A.245.

78. In its 2015 Report to the Legislature, the Department of Education noted several trends “of concern to policymakers,” including: (i) that while Minnesota’s public school population is becoming more diverse, its teacher population remains 96 percent white, which adversely affects students of color and white students alike; and (ii) the percentage of Minnesota school districts reporting that it is “difficult or impossible” to hire qualified teachers in high-demand areas has doubled since 2012. (January 2015, Teacher Supply and Demand, Report to the Legislature, p. 71, excerpts attached as “**Exhibit 5**”).

79. The Department of Education also concluded that the increasing “disparity in diversity of the teaching workforce and student population may affect student academic achievement of students of color and Caucasian students alike.” (*Id.*)

80. Nonetheless, the Board continues to deny licenses to high-performing out-of-state applicants who satisfy the statutory requirements. The Board’s actions violate Minnesota law and frustrate plaintiffs’ efforts to get effective, diverse teachers in the classroom to close the achievement gap.

I. THE BOARD HAS REFUSED TO ARTICULATE THE STANDARDS IT APPLIES FOR ISSUING A MINNESOTA TEACHING LICENSE AND HAS SYSTEMATICALLY PREVENTED ADMINISTRATIVE APPEALS.

81. Despite repeated requests from community leaders, school principals, teachers, non-profit organizations, state representatives, state senators, private attorneys, and even the Department of Education, the Board has steadfastly refused to provide any

guidance on how it interprets and applies the statutory requirements for a Minnesota teaching license.

82. Instead, the Board makes “case-by-case” determinations based on arbitrary and inconsistent standards. As a result, similarly situated applicants are rarely treated similarly, and there is never transparency. Indeed, the Board often denies some of the most qualified applicants while granting licenses to less-qualified applicants, and all without explanation.

83. Moreover, despite the clear language of Minn. R. 8710.0900, which guarantees applicants the right to an administrative appeal, the Board has not allowed a single administrative review of one of its teacher-licensing decisions.

84. Because an applicant has no right to an appeal until her application is formally denied, the Board has avoided the appellate process by simply not issuing formal denials, or refusing to provide any basis for its decisions.

85. The Board also avoids the appellate process by not informing applicants of their right to an appeal, or incorrectly telling them that they have no such right. (*See* Board Email incorrectly telling applicant there is no appeal, attached as “**Exhibit 6**” Redacted).

86. By way of example, one applicant sent the Board an email on October 23, 2013, formally requesting a contested hearing before an Administrative Law Judge (“ALJ”). On November 13, 2013, the Board’s Interim Executive Director responded:

My name is Allen Hoffman and I am currently the Interim Director of the Minnesota Board of Teaching. My apologies for the tardy response....

While you are certainly within your right to request the hearing to which you refer. [sic] Please do know that it will be considered a contested case hearing before an administrative law judge. The Board of Teaching will have an attorney from the Attorney General's office representing the board demonstrating that the rules were applied in a fair and consistent manner to your request. You would be free to have counsel present as well.

What I want you to understand is that the administrative law judge does not have the authority to change the rules used to determine your eligibility for a license. It is his/her responsibility to ensure that the procedures were applied in a fair and consistent manner. The assessment made by the an [sic] experienced reviewer indicates that your preparation, as indicated above, does not meet the standards required. This is something that the administrative law judge would not have the authority to change.

Please let me know if you are still interested in an administrative hearing. While this is a possibility, I do not think that this would provide what you are looking for at this time. It appears that your best option at this time is that indicated by the reviewer, to contact a teacher preparation institution and ask them to review your work and help you determine what you would need to be eligible for a Minnesota teaching license in the state of Minnesota.

(A. Hoffman Nov. 13, 2013 email, attached as "**Exhibit 7**" Redacted).

87. Undeterred, the applicant sent another email on December 9, 2013, and a formal letter on January 21, 2014, again requesting a formal hearing before an ALJ. (January 21, 2014, Email "**Exhibit 8**" Redacted). To date, the Board has refused to provide the applicant a hearing, or explain why her request was ignored.

88. With the help of counsel, two applicants managed to start the appeal process and get a contested case set before an ALJ.

89. During that proceeding, the Board argued that the applicants should be precluded from introducing any evidence that the Board has granted licenses to similarly situated and even less qualified applicants, including the spouse of one appellant.

90. The ALJ found that such evidence would support a finding that the Board was acting arbitrarily and capriciously and denied the Board's motion.

91. Soon after, without receiving a single document from the applicants, the Board reversed its position and granted the applicants all the licenses they requested.

92. The Board offered no explanation for its initial denial, or its sudden reversal.

93. The Board also successfully opposed a motion from the applicants arguing the ALJ should nonetheless issue an opinion because the Board's actions were capable of repetition while avoiding review. (The ALJ's opinion is not attached because it was marked as "not public").

II. THE BOARD UNLAWFULLY DISCONTINUED THE LEGISLATIVELY-REQUIRED PORTFOLIO APPLICATION PROCESS.

94. In 2008, the Minnesota Legislature created an alternative pathway to licensure for teachers who had not completed a traditional preparation program. *See* Minn. Stat. § 122A.21, subdivision 2.

95. The new "portfolio application process" allowed teachers to obtain initial or additional licenses by submitting "one portfolio demonstrating pedagogical competence and one portfolio demonstrating content competence." *Id.*

96. The 2008 legislation was enacted to create the flexibility necessary to recognize the qualifications, training, and experience of non-traditionally trained teachers.

97. Nonetheless, despite a clear statutory mandate for an alternative pathway to licensure, the Board unilaterally discontinued the portfolio process and refused to issue any licenses, regardless of an applicant's qualifications.

98. Instead, the Board simply told applicants to "contact a Minnesota college or university to complete a teacher preparation program." The Board's website notes:

Due to budget reductions and policy changes, the Licensure via Portfolio process has been discontinued. Interested candidates and past candidates who were unsuccessful are encouraged to contact a Minnesota college or university to complete a teacher preparation program....

(Board Website as of March 26, 2015, attached as "**Exhibit 9**").

99. The Legislature enacted the portfolio process so that well-qualified teachers could get licensed without having to complete teacher preparation programs at Minnesota colleges.

100. The Board's discontinuation of the portfolio process is a clear violation of Minnesota law.

III. THE BOARD HAS REFUSED TO RECOGNIZE LEGISLATIVELY REQUIRED RECIPROCITY FOR OUT-OF-STATE TEACHERS.

101. The Board has also consistently refused to grant licenses to out-of-state applicants who satisfy the statutory requirements.

102. Under Minn. Stat. § 122A.23, subdivision 2, teachers licensed in other states are entitled to reciprocity if they satisfy three requirements:

- (i) They hold a bachelor's degree from an accredited college;
- (ii) Their out-of-state license covers no more than two grade levels less than a similar Minnesota license; and

- (iii) The issuing state required the applicant to complete a teacher preparation program that included field-specific teaching methods and student teaching, or the applicant has essentially equivalent experience.

103. Despite the clear legislative mandate that out-of-state teachers are entitled to reciprocity, the Board entirely ignores Minn. Stat. § 122A.23, subdivision 2. It treats experienced, licensed teachers like all other applicants applying for licensure for the first time.

104. It requires them to demonstrate that they completed all the courses that would be required in a comparable Minnesota teacher preparation program, as well as numerous other requirements not included in the statute, such as:

- i. that their teacher preparation program was “essentially equivalent” to a Minnesota program, which involves a course-by-course comparison of transcripts;
- ii. that they have an undergraduate degree with a major in the content area they are seeking to teach;
- iii. that they completed a 10-week student teaching program that included supervision by a university mentor and a teacher mentor;
- iv. that they completed field specific teaching methods in all the areas required by Minnesota preparation programs;
- v. that they have satisfied all Standards of Effective Practice in Minn. R. 8710.2000, including that they have demonstrated an understanding of:

1. the subject matter they seek to teach;
2. how students learn;
3. how to teach diverse learners;
4. a variety of instructional strategies;
5. how to foster a productive learning environment;
6. verbal and nonverbal communication skills;
7. how to plan effective lessons;
8. how to use formal and informal strategies to evaluate student development;
9. how to be reflective about their own professional development; and
10. how to interact with parents;

vi. that they have sufficiently studied American Indian history; and

vii. that they have satisfied a reading requirement.

(Deposition of Board (“Board Depo”), at 45:17-46:13; 52:9-53:13; 57:19-59:12; 65:13-71:15; attached as “**Exhibit 10**”).

105. Not only does the Board ignore Minn. Stat. § 122A.23, subdivision 2, but it also refuses to offer any insight into its decision-making process.

106. It does not tell out-of-state applicants what it believes the general requirements are, what specific requirements it believes the applicants have not satisfied, or how they might satisfy those requirements.

107. Instead, the Board simply tells applicants that they are not being issued a license, and that they should consult a Minnesota approved teacher preparation program to determine what additional courses they may need to take.

108. The Board's form letter reads: "You are encouraged to contact a Minnesota college/university approved to offer this preparation program to determine what additional coursework may be required to obtain Minnesota licensure." (Example of Form denial letter, attached as "**Exhibit 11**").

109. There are at least 37 Minnesota colleges and universities that offer approved preparation programs, and their curricula all differ. And although the Board does not provide any training or guidance to these schools about what Minnesota law requires for licensure, it nonetheless accepts their recommendations without question.

110. By way of example, one approved teacher preparation program is a private, for-profit college that has been investigated by both the Minnesota Attorney General's office and the U.S. Department of Education.

111. In 2007, the school settled an investigation with the Minnesota Attorney General's office that found "that financial aid officers received money, trips, gifts, golf and other entertainment from companies making student loans." (Minnesota Attorney General Press Release, attached as "**Exhibit 18**").

112. Allegations against the school included that its director of financial aid was paid \$12,400 in consulting fees from a lender to the school, as well as many other perks, "including rounds of golf, wine, golf accessories, clothing and 'thousands of dollars in honoraria.'" (Exhibit 18).

113. In 2008, the Office of Inspector General with the United States Department of Education released a Final Audit Report finding that the same school returned \$588,000 less than it should have to Title IV and Higher Education Act programs for students who dropped before the start of classes. (Final Audit Report, attached as **“Exhibit 19”**).

114. Despite the drastic differences in Minnesota approved institutions, if any approved school recommends an applicant for licensure, the Board will issue the license without any review.

115. Not surprisingly, on at least two occasions the Board has admitted that teachers were “incorrectly advised” that they needed to take additional courses by a Minnesota teacher preparation program, and were subsequently granted full licenses. (**Exhibits 12 and 13**).

116. The application review process for out-of-state teachers is an incomprehensible mess. As State Representative Kelly Fenton recently explained, “I know from personal experience that Minnesota’s licensure process for out-of-state teachers is exceedingly onerous and confusing. After teaching for many years in both Wisconsin and Texas, I was shocked to discover the hoops through which I would have to jump in order to transfer my license to Minnesota. Unfortunately these hoops still exist for out-of-state teachers, and deter excellent educators from pursuing careers in Minnesota.”

117. In its 2015 Report to the Legislature, the Department of Education asked district hiring officials to “identify factors that are barriers for hiring.” The responses

show immense frustration with licensure practices for teachers initially trained in other states. Anonymous responses collected in the report include:

...Finally, I have seen some good applicants (at least on paper) inquire about teaching who have experience but have not been licensed in MN. Getting the license is costly and time consuming so several of those people have decided not to pursue education again - I believe that if they have been successful teachers out of state and re-locate to MN, we should honor that and have the ability to employ them without making it more difficult. In general, it seems that the difficulty with hiring and retaining educational staff is at a crisis level.

Getting candidates is difficult. Out of state candidates won't even apply because of all the hoops they have to jump through and the cost of the license and tests is excessive....

Licensing requirements placed on us by the board of teaching are making it very difficult to hire in areas like science and SPED, ASD. The hoops that prospective teachers have to jump through to get a license in MN is causing a shortage of licensed staff in all areas. We can't hire licensed teachers from neighboring states because they don't meet our over the top licensing requirements. The Board of teaching has too much control in deciding who gets a license to teach in MN.

...Future teachers from other states are no longer coming to MN for licensure as in the past because of the difficulty of obtaining a license with all of the extra requirements beyond their own state licensing. It is quite intimidating to think that one was good enough to be licensed and teach in another state and that MN would require such an additional burden to get licensed....

(January 2015, Teacher Supply and Demand, Report to the Legislature, p. 96-106, excerpts attached as “**Exhibit 5**”).

118. Mr. Barry Olson, Superintendent of Blooming Prairie, MN Public Schools, recently wrote that, “When a quality out-of-state teacher applies for a job in Minnesota, let’s not make their licensure process more difficult than it needs to be. Let’s maintain standards, of course, but focus on the questions that I believe—and suspect most of my

colleagues would agree—are most important: Have they demonstrated success in the classroom and competence in their content area? Will they help our students learn? I fear that the Board of Teaching has taken away some of what principals and superintendents job is: to hire quality people. We know if they are good teachers or not, and we welcome being held accountable for the results of our hires.” (B. Olson, *School Leader: To Help MN Kids, Let’s Open the Door to Great Teachers*, Feb. 2, 2015, available at: <http://minncan.org/news-blog/blog/school-leader-open-door-great-teachers>).

119. In practice, the Board makes it far more difficult for experienced, out-of-state teachers to get licensed than in-state applicants applying for the first time.

120. The Board must stop ignoring Minn. Stat. § 122A.23, subdivision 2, and start affording out-of-state applicants their statutory rights to a Minnesota license.

IV. THE BOARD HAS STEADFASTLY REFUSED TO ADOPT LEGISLATIVELY MANDATED “STREAMLINED PROCEDURES.”

121. In addition to ignoring applicants’ right to an administrative appeal, their right to a portfolio review, and ignoring out-of-state teachers’ right to reciprocity, the Board has also entirely ignored a legislative mandate that they create streamlined procedures to recognize the experience, qualification, and training of out-of-state applicants.

122. In 2011, in recognition of the challenges that highly qualified, out-of-state teachers were experiencing with the Board, and in an attempt to “improve ethnic and cultural diversity in the classroom, and close the academic achievement gap,” the

Minnesota Legislature amended the laws governing teaching licenses for applicants trained, but not licensed in other states. Minn. Stat. § 122A.23, subdivision 1.

123. The amendment required the Board to create streamlined procedures to recognize the experience and training of out-of-state teachers. The amendment reads:

For purposes of granting a Minnesota teaching license to a person who receives a diploma or degree from a state-accredited, out-of-state teaching training program leading to licensure, the Board of Teaching must establish criteria and streamlined procedures to recognize the experience and professional credentials of the person holding the out-of-state diploma or degree and allow that person to demonstrate to the board the person's qualification for receiving a Minnesota teaching license based on performance measures the board adopts under this section.

Minn. Stat. § 122A.23, subd. 1.

124. In a recent deposition, the Board's designated representative testified that in the three years since the Legislature passed the amendment, it had created only one "streamlined procedure." (Board Depo., at 97:23-98:1; 107:10-12). That procedure, however, has not been made public or memorialized in any internal Board document, and has not been applied to a single applicant.

125. As the Board explained, the one streamlined procedure is intended to allow applicants who did not complete student teaching to demonstrate they nonetheless have "essentially equivalent" experience.

126. Although not defined in any document of any kind, the Board testified it interprets "student teaching" as requiring the completion of at least a 10-week program in which the applicant taught under the supervision of a university professor and a teacher mentor. (Board Depo., at 41:18-42:12).

127. Under the new streamlined procedure, applicants who do not satisfy that requirement can instead demonstrate that they completed a teacher preparation program that includes all the requirements of Minn. Stat § 122A.245, subd. 2, which includes:

(i) “a minimum 200-hr instructional phase that provides intensive preparation and student teaching,”

(ii) “a research-based and results orientated approach focused on best teaching practices to increase student proficiency and growth measured against state academic standards;”

(iii) “strategies to combine pedagogy and best teaching practices to better inform teacher candidates’ classroom instruction;”

(iv) “assessment, supervision, and evaluation of teacher candidates to determine their specific needs throughout the program and to support their efforts to successfully complete the program;”

(v) “intensive, ongoing, and multiyear professional learning opportunities that accelerate teacher candidates’ professional growth, support student learning, and provide a workplace orientation, professional staff development, and mentoring and peer review focused on standards of professional practice and continuous professional growth;” and

(vi) “a requirement that teacher candidates demonstrate to the local site team under subdivision 5 satisfactory progress toward acquiring a standard license from the Board of Teaching.”

(Board Depo., at 103:12-105:15) (emphasis added).

128. As the Board explained, there are no exceptions to these requirements. Even an applicant who has taught for 38 years will not be considered to have “essentially equivalent experience” to student teaching unless she can demonstrate that her teacher preparation program included each requirement of Minn. Stat § 122A.245, subd. 2 noted above. (Board Depo., at 43:2-45:16; 106:5-11).

129. The so-called streamlined procedure creates one notable difficulty for applicants: to demonstrate they have essentially equivalent experience to student teaching, they must show they completed student teaching, in addition to other things.

130. To avoid the streamlined procedure actually being more burdensome to applicants, the Board has explained it interprets the term “student teaching” in Minn. Stat. § 122A.245 differently from how it interprets the same term in Minn. Stat. § 122A.23. (Board Depo., at 99:16-100:21).

131. The Board, however, was unable to explain how it defines student teaching in § 122A.245, or why it attributes two different meanings to the same term. (*Id.*).

132. Even the Department of Education recognizes that the Board has failed to create the legislatively mandated streamlined procedures, and that its failure has frustrated teachers, school superintendents, and the Legislature.

133. On July 26, 2012, the Commissioner of Education, Dr. Brenda Cassellius, wrote the Board urging it to create the streamlined procedures. She explained:

As you know, this was a high priority for both Governor Dayton and the Legislature as a strategy to attract highly qualified mid-career professionals to address shortages in high need areas, help close achievement gaps and diversify our teaching corps. I understand developing this approval process is a complex and lengthy endeavor; however, more than a year later, it is

still unclear how the BOARD is moving forward to ensure its success. In particular, please attend to the expedited process for out-of-state candidates as outlined in statute. It's been reported to me that there are currently several hundred qualified teachers standing by to serve our children. If the Department can assist you in finalizing work in this area, we stand ready.

(Dr. Cassellius, July 26, 2012, letter to Board, attached as "**Exhibit 14**").

134. The Board did not respond to Dr. Cassellius's letter, and it did not accept the Department of Education's offer of help.

135. After another year of inaction, on February 11, 2013, the Chair of the Education Policy Committee in the Minnesota State House, Representative Carlos Mariani, wrote the Board requesting that it expedite its efforts to create streamlined procedures in accordance with Minn. Stat. § 122A.23, subd. 1. Representative Mariani wrote:

This will be the third hiring season since the legislature passed MN Statute 122A.23 requiring that a pathway be created for out of state candidates "to recognize the experience and professional credentials of the person holding the out-of-state diploma or degree and allow that person to demonstrate to the board the person's qualifications for receiving a Minnesota teaching license."

I would like to specifically highlight the urgent need that our schools and districts currently have in accessing the widest and most diverse teaching candidates when filling open positions. Candidates who have taught or become licensed in another state currently face a significant lack of clarity and inconsistency in how their previous experience, knowledge and credentials are recognized by the MN Department of Education.

I urge the Board of Teaching to take the immediate, necessary steps to establish a clear, objective set of criteria that acknowledges the knowledge and prior experience these candidates bring to the MN workforce.

(Rep. C. Mariani Feb. 11, 2013, letter to Board, attached as "**Exhibit 14**")

136. On April 12, 2013, the Board received a similar letter from seven “stakeholders in the MN education community” again calling the Board to action. (April 12, 2013 letter to Board, attached as “**Exhibit 16**”). The letter was signed by: (i) Rep. Carlos Mariani; (ii) the Superintendent of the Minneapolis Public Schools; (iii) the Executive Director of Charter School Partners; (iv) the Director of African-American Leadership Forum; (v) the Executive Director of Teach For America; (vi) the principal of Minneapolis College Prep; and (vii) the Chief Entrepreneurship Officer Venture Academy. The Board again offered no response.

137. On April 24, 2013, the Board received another letter from Senator Terri Bonoff joining Representative Mariani’s letter “urging the Board of Teaching to take the immediate, necessary steps” to establish the necessary streamlined procedures. (Sen. T. Bonoff April 24, 2013 letter to Board, attached as “**Exhibit 17**”).

138. Another two years have passed and the Board has still done nothing. Despite public outcries from state representatives, senators, school superintendents, principals, and teachers across the state, the Board continues to refuse to create the streamlined procedures the Legislature mandated in 2011.

139. The Board’s refusal to recognize the experience and training of highly qualified, out-of-state applicants has not only deprived teachers of their livelihoods, it has deprived students of the most qualified teachers.

140. Perhaps most troubling, the Board’s refusal to take action has had a particularly adverse effect on students of color.

141. Minnesota continues to struggle with one of the most embarrassing education gaps in our nation, and the Board's inaction frustrates the 2011 amendment's explicit purpose "[t]o improve academic excellence, improve ethnic and cultural diversity in the classroom, and close the academic achievement gap." Minn. Stat. § 122A.245, subd. 1.

**COUNT I – VIOLATION OF PLAINTIFFS’
PROCEDURAL DUE PROCESS RIGHTS
UNDER THE MINNESOTA CONSTITUTION**

142. Plaintiffs incorporate by reference the above paragraphs as if fully stated herein.

143. Plaintiffs have legitimate claims of entitlement to Minnesota teaching licenses.

144. Plaintiffs also have due process rights to have their applications considered under a fair and transparent process that applies appropriate legal standards, informs them of the standards being applied, and informs them of the basis for the Board's determinations.

145. The Board violates Plaintiffs' due process rights in a number of ways, including:

- a. By not allowing applicants to exercise their statutory right to apply for licensure under the portfolio process articulated in Minn. Stat. § 122A.21;
- b. By not allowing out-of-state applicants to apply for licensure under the reciprocity requirements articulated in Minn. Stat. § 122A.23, subdivision 2;

- c. By ignoring the legislative mandate of Minn. Stat. § 122A.23, subdivision 1 to create streamlined procedures to recognize the qualifications, experience, and training of applicants;
- d. By failing to develop or apply a consistent criteria for issuing licenses;
- e. By not informing Plaintiffs' of the requirements for licensure, or why their applications were not granted;
- f. By deferring to private institutions to decide what coursework Plaintiffs need to complete for licensure; and
- g. By not impeding and preventing administrative appeals as required by Minn. R. 8710.0900.

146. The Board's systematic deprivation of Plaintiffs' rights to a fair and transparent application process that complies with Minnesota Law is a violation of Minnesota's constitutional right to due process under the law.

COUNT II – NON-DELEGATION

147. Plaintiffs incorporate by reference the above paragraphs as if fully stated herein.

148. The Minnesota Board of Teaching in conjunction with the Department of Education are the sole bodies entitled to assess the qualifications of applicants and issue teaching licenses.

149. Without reviewing their programs or offering any information or training on the requirements for Minnesota licensure, the Board has "approved" the teacher

preparation programs offered by at least 37 colleges and universities, many of which are private institutions run for-profit.

150. Without conducting any substantive review, the Board issues teaching licenses to all graduates of approved Minnesota teacher preparation programs.

151. The Board does not review out-of-state applicants to determine whether they satisfy the requirements of Minn. Stat. § 122A.23, subdivision 2.

152. The Board also does not tell out-of-state applicants what requirements it believes they need to fulfill, or how they might fulfill those requirements.

153. Instead, the Board simply refers all out-of-state applicants to one of the 37 approved Minnesota teacher preparation programs.

154. Without providing the institutions with any information or training on the statutory requirements for out-of-state applicants, the Board defers entirely to the institutions' discretion in determining which applicants require more coursework, and what specific courses they require.

155. If an approved institution recommends that an out-of-state applicant be issued a license, the Board issues the license without further review or consideration.

156. The Board's practice of delegating its authority to private, for-profit institutions violates Article I, Sections 2 and 8 of the Minnesota Constitution and its guarantees of equal protections under the law and due process under the law.

COUNT III – DECLARATORY JUDGMENT

157. Plaintiffs incorporate by reference the above paragraphs as if fully stated herein.

158. Under Minn. Stat. Ch. 555, the Uniform Declaratory Judgments Act, a dispute exists as to whether the Board of Teaching is appropriately exercising its quasi-legislative authority in interpreting and applying Minn. Stat. § 122A *et. seq.* when considering out-of-state applicants for Minnesota teaching licenses.

159. Specifically, the Board has wrongfully refused to recognize applicants' rights to licensure by the portfolio process articulated in Minn. Stat. § 122A.21.

160. The Board has also refused to grant licenses to out-of-state applicants who satisfy the express requirements of Minn. Stat. § 122A.23, subdivision 2.

161. The Board has also wrongfully and without justification ignored a legislative mandate to create streamlined procedures that would allow out-of-state applicants to demonstrate their education, training, and experience. *See* Minn. Stat. § 122A.23, subd. 1.

162. The Board has refused to articulate the requirements for licensure or the basis for its determinations.

163. The Board also wrongfully delegates decision-making authority to private, for-profit institutions.

164. The Board's abuse of its quasi-legislative authority has affected the rights of the public generally, including causing each Plaintiff injury-in-fact.

COUNT IV – INJUNCTION

165. Plaintiffs incorporate by reference the above paragraphs as if fully stated herein.

166. Plaintiffs have exhausted all available administrative remedies, or none are meaningfully available.

167. The Board frustrates a meaningful administrative review by: (i) refusing to articulate the bases of its decisions; (ii) refusing to issue formal denials and instead continuously seek additional information; and (iii) refusing to grant administrative appeals to those who seek it.

168. Administrative reviews are also unavailable to consider the Board's refusal to apply the appropriate legislative standards and adopt the required streamlined procedures.

169. Moreover, the authority of the Executive Director of the Board of Teaching is unrestricted by the findings of an administrative law judge. Plaintiffs are simply unable to get the relief they seek through the administrative process.

170. To the extent the Board has applied any standards, it has done so in an arbitrary and capricious manner.

171. There is no remedy at law available to Plaintiffs.

JURY DEMAND

172. Plaintiffs hereby request a jury on their due process claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A declaration interpreting the statutory requirements for a teaching license under Minn. Stat. § 122A.23, subdivision 2.

2. A declaration and injunction requiring the Board of Teaching to issue licenses to applicants who satisfy the requirements of Minn. Stat. § 122A.23, subdivision 2.

3. A declaration and injunction requiring the Board of Teaching to issue licenses to applicants who satisfy the requirements of Minn. Stat. § 122A.21.

4. A declaration and injunction that the Board of Teaching must pass streamlined procedures allowing individual applicants to receive a teaching license by demonstrating their experience and professional credentials as required by Minn. Stat. § 122A.23, subd.1.

5. A declaration or injunction requiring the Board of Teaching to explain the basis for its denials and to inform applicants of their right to an administrative appeal.

6. A declaration or injunction prohibiting the Board of Teaching from inappropriately deferring to private, for-profit Minnesota institutions to determine the qualifications of applicants.

7. Nominal damages for violating Plaintiffs' due process rights.

8. Such other and further relief, including an award of costs and disbursements, as the Court may deem just and equitable.

Dated: April 21, 2015

FAEGRE BAKER DANIELS LLP

s/Rhyddid Watkins

Ll. Rhyddid Watkins

Rhyddid.Watkins@FaegreBD.com

2200 Wells Fargo Center

Minneapolis, MN 55402

Telephone: (612) 766-7000

ATTORNEY FOR PLAINTIFFS

ACKNOWLEDGEMENT REQUIRED BY MINN. STAT. § 549.211, SUBD.1

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, subd. 3, sanctions may be imposed if, after notice and a reasonable opportunity to respond, the Court determines that the undersigned has violated the provisions of Minn. Stat. § 549.211, subd. 2.

Dated: April 21, 2015

FAEGRE BAKER DANIELS LLP

s/Rhyddid Watkins

Ll. Rhyddid Watkins

Rhyddid.Watkins@FaegreBD.com

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402

Telephone: (612) 766-7000

Facsimile: (612) 766-1600

ATTORNEY FOR PLAINTIFFS

EXHIBIT 1

Category Name	Achievement Data	Achievement Data	Achievement Data	Achievement Data	Achievement Data
Group Name	Graduation Rate Data	Graduation Rate Data	Graduation Rate Data	Graduation Rate Data	Graduation Rate Data
Sub-group Name	Regulatory Adjusted Cohort Graduation Rates: 2012-13	Regulatory Adjusted Cohort Graduation Rates: 2012-13	Regulatory Adjusted Cohort Graduation Rates: 2012-13	Regulatory Adjusted Cohort Graduation Rates: 2012-13	Regulatory Adjusted Cohort Graduation Rates: 2012-13
States/Data Elements	Regulatory Adjusted Cohort Graduation Rate, All Students: 2012-13	Regulatory Adjusted Cohort Graduation Rate, American Indian and Alaskan Native: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Asian and Pacific Islander: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Black: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Hispanic: 2012-13
AL	80.00%	86%	89%	74%	74%
AK	71.80%	57%	77%	65%	73%
AZ	75.10%	61.10%	84%	70%	68.90%
AR	84.90%	78%	81%	78%	82%
CA	80.40%	72.80%	90.90%	68.10%	75.70%
CO	76.90%	61%	85%	70%	65.40%
CT	85.50%	82%	93%	76%	70.20%
DE	80.40%	80%	88%	76%	78%
DC	62.30%	5	86%	61%	62%
FL	75.60%	77%	88.40%	64.60%	74.90%
GA	71.70%	64%	81.80%	64.40%	62.60%
HI	82.40%	62%	83.80%	75.20%	77%
ID	-	-	-	-	-
IL	83.20%	78%	91.70%	70.90%	76.30%
IN	87.00%	86%	89%	74%	82.50%
IA	89.70%	83%	90%	74%	80%
KS	85.70%	77%	89%	76%	79.90%
KY	86.10%	79%	87%	78%	80%
LA	73.50%	75%	85%	66%	73%
ME	86.40%	72%	95%	75%	81%
MD	85.00%	83%	94.80%	78.30%	75.10%
MA	85.00%	73%	90.20%	73.80%	66.80%
MI	77.00%	64%	87.30%	60.50%	67.30%
MN	79.80%	49%	78.20%	57.80%	59.00%
MS	75.50%	69%	92%	70%	79%
MO	85.70%	82%	91%	72%	81%
MT	84.40%	65%	94%	77%	79%

States/Data Elements	Regulatory Adjusted Cohort Graduation Rate, All Students: 2012-13	Regulatory Adjusted Cohort Graduation Rate, American Indian and Alaskan Native: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Asian and Pacific Islander: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Black: 2012-13	Regulatory Adjusted Cohort Graduation Rate, Hispanic: 2012-13
NE	88.50%	72%	77%	77%	78.60%
NV	70.70%	59%	81%	57%	64.40%
NH	87.30%	84%	86%	82%	77%
NJ	87.50%	76%	95.80%	76.40%	78.60%
NM	70.30%	64.30%	86%	69%	68.00%
NY	76.80%	62%	84.10%	62.90%	62.30%
NC	82.50%	77%	90%	78%	75.20%
ND	87.50%	63%	88%	80%	78%
OH	82.20%	68%	89%	63%	69.00%
OK	84.80%	84.40%	65%	77%	78.60%
OR	68.70%	52%	81%	57%	60.80%
PA	86.00%	75%	91.00%	73.00%	71.00%
PR	-	-	-	-	-
RI	79.70%	74%	85%	72%	69%
SC	77.60%	67%	88%	75%	73%
SD	82.70%	49%	85%	72%	69%
TN	86.30%	84%	90%	78%	81.30%
TX	88.00%	86%	93.70%	84.10%	85.10%
UT	83.00%	67%	80%	70%	70.40%
VT	86.60%	>=50%	89%	73%	83%
VA	84.50%	-	90.20%	76.80%	76.10%
WA	76.40%	56%	82.30%	65.80%	65.90%
WV	81.40%	70%	92%	75%	82%
WI	88.00%	76%	90%	66%	74.30%
WY	77.00%	41%	86%	66%	71%
US	†	†	†	†	†

EXHIBIT 2

Public High School Four-Year On-Time Graduation Rates and Event Dropout Rates: School Years 2010–11 and 2011–12

First Look

Public High School Four-Year On-Time Graduation Rates and Event Dropout Rates: School Years 2010–11 and 2011–12

First Look

APRIL 2014

Marie C. Stetser

Robert Stillwell

National Center for Education Statistics

U.S. Department of Education

Introduction

This National Center for Education Statistics (NCES) First Look report introduces new data for two separate measures of 4-year on-time graduation rates as well as event dropout rates for school year (SY) 2010–11 and SY 2011–12. Specifically this report provides the following:

- Four-year adjusted cohort graduation rate (ACGR)¹ data reported by state or jurisdiction and, for the first time, a national estimated 4-year cohort graduation rate;
- Averaged freshman graduation rate (AFGR) data by state or jurisdiction and a national estimated AFGR; and
- High school event dropout rate data by state or jurisdiction and a national estimated event dropout rate.

Both the AFGR and ACGR are 4-year on-time graduation rates that provide measures of the percent of students that successfully complete high school in 4 years with a regular high school diploma.² Event dropout rates provide a measure of the percentage of students who drop out in a single year. The tables in this report present descriptive information for the United States and for individual states and jurisdictions. The findings chosen for this report provide only a few examples of how the graduation and dropout data may be used. Compared to other measures of graduation rates, the ACGR is considered the most accurate measure available for reporting on-time graduation rates (Seastrom et al. 2006b). A 4-year ACGR is defined as the number of students who graduate in 4 years with a regular high school diploma divided by the number of students who form the adjusted cohort for that graduating class. The term “adjusted cohort” means the students who enter grade 9 plus any students who transfer into the cohort in grades 9–12 minus any students who are removed from the cohort because they transferred out, moved out of the country, or were deceased (34 C.F.R. § 200.19). For a more detailed discussion of how ACGR is calculated for a specific school year, see appendix B.

The AFGR is a proxy indicator for a cohort rate such as ACGR that utilizes aggregated counts of students by grade and the overall diploma count, as opposed to individual student-level data, to estimate an on-time graduation rate. The AFGR estimate is not as accurate as the ACGR; however, the AFGR can be estimated annually as far back as the 1960s using comparable aggregate data.

Both graduation rates represent the percentage of students who successfully complete high school in 4 years with a regular high school diploma. They do not represent the percentage of all of students who earn a high school credential. This distinction is important because a number of student groups are 1) not considered dropouts and 2) not considered *on-time* completers. For example

- Some students may have been held back one or more grades in high school but do, in the end, successfully receive a regular high school diploma.
- Many students complete high school with an alternative credential. Sometimes a student with an Individualized Education Plan (IEP) may receive alternative credentials indicating the

¹ The ACGR is referred to in regulations, which amended 34 C.F.R. §200.19 as the Four-Year Adjusted Cohort Graduation Rate.

² Under 34 C.F.R. §200.19(b)(1)(iv), a “regular high school diploma” means the standard high school diploma awarded to students in a state that is fully aligned with the state’s academic content standards and does not include a high school equivalency credential, certificate of attendance, or any alternative award. The term “regular high school diploma” also includes a “higher diploma” that is awarded to students who complete requirements above and beyond what is required for a regular diploma.

completion of their IEP and high school experience. Other students may leave high school having successfully achieved a high school equivalency diploma or other alternative credential.

- Other students, who are dually enrolled in both high school and postsecondary school, take more than 4 years to graduate due to the increased requirements. These students often receive both a regular high school diploma and an associate's degree upon completion.

Because the definition of on-time graduation considered in this report is based on a 4-year high school experience resulting in the receipt of a regular high school diploma, the students described in the preceding bullets, while counted within the cohort or enrollment base, are neither dropouts, nor on-time completers.

The 4-year on-time graduation rates presented in this report should not be confused with related rates intended to study different topics. For example, NCES also publishes completion rates calculated from household survey data collected by the Census Bureau. Completion rates indicate the percentage of the population, typically in a specified age range, holding high school credentials in general. They are not sensitive to how long a person might have taken to earn the credential, or to where the credential was earned. Some completion rates also include those earning alternative credentials that represent high school equivalency. Many students counted as “completers” for the calculation of a completion rate might not qualify as on-time graduates in the ACGR or AFGR. Additionally, the inverse of the ACGR or AFGR should not be confused with a dropout rate. Counts of students who have not graduated on time with a regular high school diploma do include dropouts, but also include those who will earn a regular diploma in more than 4 years and those who have or will earn alternative credentials. It is for this reason that NCES also calculates and reports on measures in addition to high school completion, such as the event dropout rate included in this report.

The high school event dropout rate indicates the proportion of students who were enrolled at some time during the school year and were expected to be enrolled in grades 9–12 in the following school year but were not enrolled by October 1 of the following school year. Students who have graduated, transferred to another school, died, moved to another country, or who are out of school due to illness are not considered dropouts. The event dropout rate is not comparable to other dropout rates released by the Department or elsewhere. Status dropout rates, for example, measure the percentage of a population that did not complete high school (e.g., *some* percentage of young adults aged 18–24 dropped out of high school).

The calculated totals in this report, identified as “United States” totals in tabulations and “national” estimates in text, include data for only the 50 states and the District of Columbia and exclude data for other jurisdictions.

This First Look provides users with an opportunity to access SY 2010–11 provisional data that have been fully reviewed and edited, and SY 2011–12 preliminary data that have been subjected to a limited data review and editing.³ Neither set of data have been available publicly prior to the release of this report. The data used in this report were collected as part of the U.S. Department of Education's *EDFacts* Initiative. NCES uses these data to report, analyze, and disseminate statistical data that

³ NCES has begun implementing a data release methodology based upon three stages of data review: Preliminary, Provisional, and Final. Preliminary release data may only include data initially reported by a state education agency (SEA), which has undergone cursory review and minimal editing. Preliminary data may be less complete due to late reporting or data quality concerns. Provisional release data have undergone a complete review and been subjected to NCES data quality control procedures. The preliminary SY 2011–12 data in this report will undergo further review and a revised provisional file will be released later in 2014. Additionally, NCES expects to release final SY 2010–11 data that include any final updates reported by SEAs prior to the closing of the SY 2010–11 data collection.

describe public elementary/secondary education. SEAs submit aggregate counts of students used to calculate the dropout and graduation rates or actual rates (in the case of reporting the ACGR). The rates included in this report have been reported in whole number percentages or percentage point ranges to prevent any potential disclosure of individual student data.

More detailed explanations of the definitions and methodology used to calculate these rates can be found in Appendix A: Collection Methodology and Sources of Error and Appendix B: Detailed Methodology for Calculation of Four-Year On-Time Graduation Rates and Event Dropout Rates.

Selected Findings

- For SY 2010–11, the estimated national⁴ 4-year ACGR for public high school students was 79 percent (table 1), and for SY 2011–12 it was 80 percent (table 2). This indicates that nearly 4 out of 5 students receive a regular high school diploma within 4 years of starting 9th grade for the first time.
- For SY 2010–11, American Indian/Alaska Native, Black, and Hispanic students had 4-year ACGRs below the national average at 65, 67, and 71 percent, respectively.⁵ White students and Asian/Pacific Islander students had ACGRs above the national average at 84 and 87 percent, respectively. Economically disadvantaged students, students with limited English proficiency, and students with disabilities all had ACGR rates below the national average for all students at 70, 57, and 59 percent, respectively (table 1).
- For SY 2011–12 American Indian/Alaska Native, Black, and Hispanic students had a 4-year ACGR below the national average at 67, 69, and 73 percent, respectively. White students and Asian/Pacific Islander students had 4-year ACGRs above the national average at 86 and 88 percent, respectively. Economically disadvantaged students, students with limited English proficiency, and students with disabilities all had 4-year ACGR rates below the national average for all students at 72, 59, and 61 percent, respectively (table 2).
- The national AFGR (a less precise estimate of an on-time graduation rate than the ACGR) tracked slightly above the ACGR estimates with a SY 2010–11 rate of 80 percent and a SY 2011–12 rate of 81 percent (tables 3 and 4). Like the ACGR, AFGR estimates for American Indian/Alaska Native, Black, and Hispanic students were lower than the national average while White and Asian/Pacific Islander rates were higher in both SY 2010–11 and SY 2011–12.
- In both SY 2010–11 and SY 2011–12, the AFGR for female students exceeded the graduation rate for male students by 7 percentage points. That is, 84 percent for females vs. 77 percent for males in SY 2010–11 and 85 percent for females vs. 78 percent for males in SY 2011–12 (tables 3 and 4).⁶
- The public high school event dropout rate for the United States remained constant at 3.3 percent for both SY 2010–11 and SY 2011–12 (table 5). In SY 2010–11, twenty-four states, the District of Columbia, and the U.S. Virgin Islands had an event dropout rate that exceeded the national dropout rate. Twenty-four states and Puerto Rico had an event dropout rate that was below the national dropout rate. In SY 2011–12, twenty states, the District of Columbia, and the U.S. Virgin Islands had an event dropout rate that exceeded the national dropout rate. Thirty states and Puerto Rico had an event dropout rate that was below the national dropout rate.

⁴ Estimates referenced as “national” include only the 50 U.S. states and the District of Columbia. For the purpose of comparison, Puerto Rico and the U.S. Virgin Islands are compared to the “national” dropout rate in bullet six but were not included in the calculation of that rate.

⁵ Black includes African American, Hispanic includes Latino, Asian/Pacific Islander includes Native Hawaiian or Other Pacific Islander, and American Indian includes Alaska Native. Race categories exclude Hispanic origin unless specified.

⁶ The ACGR is not collected by gender in the Consolidated State Performance Report.

References and Related Data Files

References

- Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S. Department of Education, 72 Fed. Reg. 59266-59279 (October 19, 2007); <http://www2.ed.gov/legislation/FedRegister/other/2007-4/101907c.html>.
- Seastrom, M., Chapman, C., Stillwell, R., McGrath, D., Peltola, P., Dinkes, R., and Xu, Z. (2006a). *User's Guide to Computing High School Graduation Rates, Volume 1: Review of Current and Proposed Graduation Indicators* (NCES 2006-604). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC. Retrieved January 27, 2014 from <http://nces.ed.gov/pubs2006/2006604.pdf>.
- Seastrom, M., Chapman, C., Stillwell, R., McGrath, D., Peltola, P., Dinkes, R., and Xu, Z. (2006b). *User's Guide to Computing High School Graduation Rates, Volume 2: Technical Evaluation of Proxy Graduation Indicators* (NCES 2006-605). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC. Retrieved January 27, 2014 from <http://nces.ed.gov/pubs2006/2006605.pdf>.
- The EDFacts Initiatives, retrieved January 27, 2014, from <http://www2.ed.gov/about/inits/ed/edfacts/index.html>.
- Title I—Improving the Academic Achievement of the Disadvantaged; Final Rule, 34 C.F.R. § 200 (2008); <http://www2.ed.gov/legislation/FedRegister/finrule/2008-4/102908a.pdf>.
- Title 34—Education, Other Academic Indicators, 34 C.F.R. § 200.19 (2009); <http://www.gpo.gov/fdsys/granule/CFR-2009-title34-vol1/CFR-2009-title34-vol1-sec200-19/content-detail.html>.
- U.S. Department of Education. (November 2012). *Four-Year Regulatory Adjusted Cohort Graduation Rate School Year 2010–11. Provisional Release: Data Notes* [Press release]. Retrieved January 27, 2014 from <http://www2.ed.gov/documents/press-releases/adjusted-cohort-graduation-rate.doc>.
- U.S. Department of Education (December 22, 2008). *High School Graduation Rate: Non-Regulatory Guidance*. Retrieved January 27, 2014 from <http://www2.ed.gov/policy/elsec/guid/hsrguidance.pdf>.
- U.S. Department of Education. (November 2012). *Provisional Data File: School Year 2010–11 Four-Year Regulatory Adjusted Cohort Graduation Rates* [Press release]. Retrieved January 27, 2014 from <http://www2.ed.gov/documents/press-releases/state-2010-11-graduation-rate-data.pdf>.
- Winglee, M., Marker, D., Henderson, A., Aronstamm Young, B., and Hoffman, L. (2000). *A Recommended Approach to Providing High School Dropout and Completion Rates at the State Level* (NCES 2000-305). National Center for Education Statistics, U.S. Department of Education. Washington, DC. Retrieved January 27, 2014 from <http://nces.ed.gov/pubs2000/2000305.pdf>.

Tables

Table 1. Public high school 4-year adjusted cohort graduation rate (ACGR), by race/ethnicity and selected demographics for the United States, the 50 states, the District of Columbia, and other jurisdictions: School year 2010–11

State	Percent of students								Students with disabilities
	Total	American Indian/ Alaska Native	Asian/ Pacific Islander	Hispanic	Black	White	Economically disadvantaged	Limited English proficiency	
United States¹	79	65	87	71	67	84	70	57	59
Alabama	72	80	77	66	63	78	62	36	30
Alaska	68	51	74	62	63	75	56	41	40
Arizona	78	62	87	72	74	85	73	25	67
Arkansas	81	85	75	77	73	84	75	76	75
California	76	68	89	70	63	85	70	60	59
Colorado	74	52	81	60	65	81	62	53	53
Connecticut	83	72	92	64	71	89	63	59	62
Delaware	78	77	90	71	73	82	71	65	56
District of Columbia	59	<>	<>	55	58	85	58	53	39
Florida	71	70	86	70	59	76	60	53	44
Georgia	67	68	79	58	60	76	59	32	30
Hawaii	80	60	81	79	77	78	75	60	59
Idaho ²	—	—	—	—	—	—	—	—	—
Illinois	84	78	92	77	74	89	75	68	66
Indiana	86	76	88	81	75	88	79	73	65
Iowa	88	79	88	75	73	90	78	70	70
Kansas	83	72	88	73	72	86	73	70	73
Kentucky ²	—	—	—	—	—	—	—	—	—
Louisiana	71	71	83	70	64	77	64	43	29
Maine	84	82	90	87	77	84	73	78	66
Maryland	83	74	93	72	76	89	74	54	57
Massachusetts	83	76	88	62	71	89	70	56	66
Michigan	74	62	85	63	57	80	63	61	52
Minnesota	77	42	72	51	49	84	58	52	56
Mississippi	75	71	90	79	69	82	70	54	32
Missouri	81	78	87	75	67	86	75	62	69
Montana	82	63	88	78	81	85	71	57	69
Nebraska	86	64	83	74	70	90	78	52	70
Nevada	62	52	74	53	43	71	53	29	23
New Hampshire	86	78	87	73	73	87	72	73	69
New Jersey	83	87	93	73	69	90	71	68	73
New Mexico	63	56	77	59	60	73	56	56	47
New York	77	64	86	63	64	86	69	46	48
North Carolina	78	70	87	69	71	83	71	48	57
North Dakota	86	62	88	76	74	90	76	61	67
Ohio	80	71	88	66	59	85	65	53	67
Oklahoma ²	—	—	—	—	—	—	—	—	—
Oregon	68	52	78	58	54	70	61	52	42
Pennsylvania	83	77	88	65	65	88	71	63	71
Rhode Island	77	66	75	67	67	82	66	68	58

See notes at end of table.

Table 2. Public high school 4-year adjusted cohort graduation rate (ACGR), by race/ethnicity and selected demographics for the United States, the 50 states, the District of Columbia, and other jurisdictions: School year 2011–12

State	Percent of students								Students with disabilities
	Total	American Indian/ Alaska Native	Asian/ Pacific Islander	Hispanic	Black	White	Economically disadvantaged	Limited English proficiency	
United States¹	80	67	88	73	69	86	72	59	61
Alabama	75	84	85	69	67	81	66	36	54
Alaska	70	54	76	70	61	76	59	47	46
Arizona	76	63	84	70	71	84	71	24	65
Arkansas	84	78	84	78	78	87	79	77	79
California	78	72	90	73	66	86	73	62	61
Colorado	75	58	82	62	66	82	61	53	54
Connecticut	85	84	92	69	73	91	71	63	64
Delaware	80	71	93	74	74	83	72	71	57
District of Columbia	59	<>	74	54	58	86	70	52	44
Florida	75	70	89	73	64	80	65	57	48
Georgia	70	67	82	60	62	78	61	44	35
Hawaii	82	65	84	76	76	79	80	56	74
Idaho ²	—	—	—	—	—	—	—	—	—
Illinois	82	79	93	76	68	89	73	66	69
Indiana	86	78	89	80	73	89	85	78	71
Iowa	89	73	89	77	74	91	80	74	73
Kansas	85	78	86	77	75	88	76	74	77
Kentucky ²	—	—	—	—	—	—	—	—	—
Louisiana	72	73	85	70	65	78	66	49	33
Maine	85	72	89	80	72	86	76	74	70
Maryland	84	79	93	73	77	90	75	55	57
Massachusetts	85	70	89	66	73	90	72	61	69
Michigan	76	66	87	64	60	82	64	63	54
Minnesota	78	45	74	53	51	84	59	51	56
Mississippi	75	71	90	79	69	82	70	54	32
Missouri	86	87	90	80	73	89	79	67	73
Montana	84	63	92	79	79	87	73	53	81
Nebraska	88	67	83	78	74	91	80	64	72
Nevada	63	54	74	54	48	72	58	23	24
New Hampshire	86	73	86	74	76	87	73	68	70
New Jersey	86	84	95	77	75	93	75	73	74
New Mexico	70	65	84	68	69	77	65	66	56
New York	77	63	86	63	63	87	68	44	48
North Carolina	80	74	87	73	75	85	75	50	60
North Dakota	87	63	86	73	76	90	74	68	68
Ohio	81	65	90	68	61	86	68	62	68
Oklahoma ²	—	—	—	—	—	—	—	—	—
Oregon	68	51	79	60	53	71	61	49	38
Pennsylvania	84	74	89	68	68	89	74	64	70
Rhode Island	77	58	79	67	67	82	66	69	59

See notes at end of table.

EXHIBIT 3

MPRnews

MN near bottom in on-time graduation for students of color

Tim Post · Feb 19, 2015

Education



The class of 2010 from St. Paul's Johnson High School at graduation. *Tim Post | MPR News 2010*

LISTEN **Story audio**

4min 23sec ([http://www.mprnews.org/listen/?](http://www.mprnews.org/listen/?name=/minnesota/news/features/2015/02/19/150219_post_20150219)

[name=/minnesota/news/features/2015/02/19/150219_post_20150219](http://www.mprnews.org/listen/?name=/minnesota/news/features/2015/02/19/150219_post_20150219))

For the third year in a row, Minnesota lags the rest of the country in on-time graduation for students of color.

Fewer than 60 percent of the state's black and Hispanic students graduate in four years, according to an MPR News analysis of the most recent federal data on state graduation rates, from the 2012-13 school year. The rate for the state's Native American students is the second worst in the nation at 49 percent.

Minnesota has the worst or second-worst graduation rates among reporting states in all four non-white student categories. No other state is in the bottom five in all four groups, and only Oregon comes close with three races in the bottom five.

Interactive: Graduation rates across the country

(<https://public.tableausoftware.com/profile/bwareham#!/vizhome/Graduationrates/Dashboard1>)

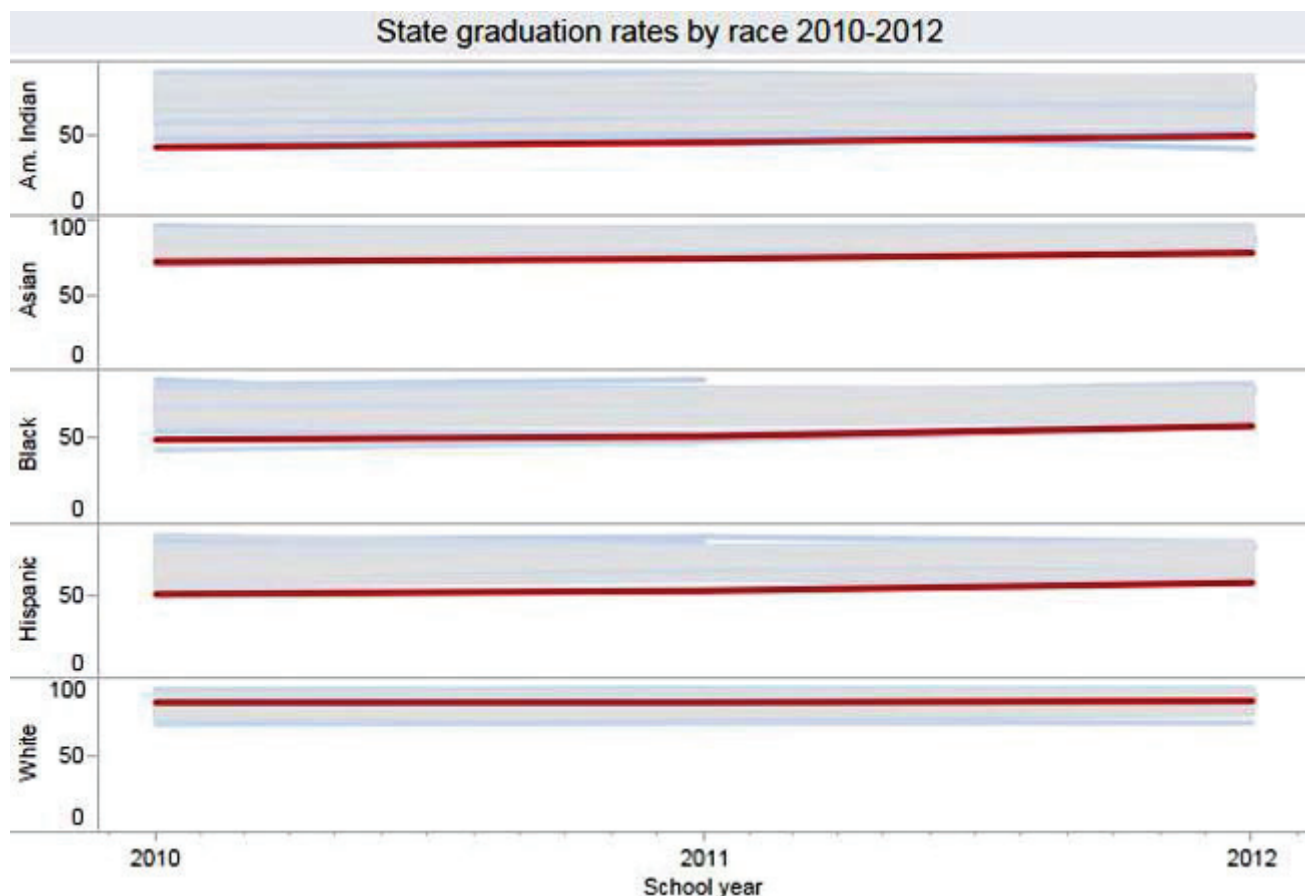
Those rates belie the glowing news that many Minnesotans are accustomed to hearing about the state's students, who overall consistently score near the top in national reading and math tests and college entrance exams like the ACT.

"This isn't so much about these young people failing," said state Rep. Carlos Mariani, DFL-St. Paul, who blames a systemic lack of attention to the performance of students of color. "We're failing them."

When it comes to graduating on time, Minnesota ranks in the middle of the pack with just shy of 79.5 percent of all students graduating in four years. For Asian-American students the on-time graduation rate is 77.7 percent.

While the rates for minority students are abysmal, 85 percent of white students graduate on time.

The state's graduation rate is one of the starkest examples of Minnesota's persistent achievement gap between white students and students of color. In part, that's because Minnesota has tougher graduation requirements than many other states, said Brenda Cassellius, the state's education commissioner.



The four-year-high school graduation rates for all states. Minnesota's rate is highlighted in red. The data come from state reports submitted to the U.S. Department of Education. *MPR News Graphic*

But she said that shouldn't be an excuse.

"We know in Minnesota that we hadn't done a good job of paying attention to the gap for many, many

years," Cassellius said.

For years, no one knew how Minnesota's graduation numbers truly compared nationally because the data was spotty and unreliable.

Only in the past few years has the federal government required all states to use the same formula to tally their rate, one that accounts for students moving in and out of districts.

With all states on that standard measurement since the 2010-11 school year, Minnesota has had a clearer view of its troubling graduation gap.

Still, some question whether national rankings are a fair gauge of how well states are doing relative to each other given their vastly different graduation requirements.

"It's actually rather remarkable to look at the diploma requirements across the country and realize what it takes to earn a diploma varies significantly," said Alissa Peltzman, vice president for state policy at Achieve, a nonpartisan education reform organization that helps states raise academic standards. "It's unfortunately not sufficient or meaningful to simply consider graduation rates in comparing student outcomes and preparation across the country."

According to Achieve, Minnesota, 22 other states and the District of Columbia offer students a diploma that proves they are fully prepared for college or a career.

However Minnesota compares to other states, low graduation rates for students of color have a ripple effect, said Mariani, executive director of the Minnesota Minority Education Partnership. He and other education experts are concerned because college — and many jobs — are off limits for students without a diploma.

The economic consequences continue from there, said Michael Rodriguez, a professor of educational psychology at the University of Minnesota's College of Education and Human Development.

"When kids drop out of high school their employment opportunities decrease dramatically, their income opportunities decrease dramatically," said Rodriguez, who has studied the phenomenon. "They're less likely to engage in good health, and then they become parents and then those children grow up in high poverty."

Not only does that hurt individuals, it's a drag on the entire state economy, he said.

Students of color represent a growing part of the state's future work force, and they'll need high school diplomas and post-secondary training, said Larry Pogemiller, commissioner of Minnesota's Office of Higher Education.

"We really have to up our efforts there so we don't stunt economic growth by lacking the workforce to do the work," he said.

Pogemiller wants to see an expansion of programs across the state that strive to keep students of color on track toward graduation.

The effort by Cloquet Public Schools has included tutors for Native American students in the district's high school, middle school and two elementary schools.

Each school building in the district, where 20 percent of students are American Indian, has a family liaison. That helps keep parents connected to their children's schools.

"Our students really need to feel connected within our school," said Tara Graves, Cloquet's American Indian Education director. "They need to feel a part of it. A way of doing that is to make sure that they're seeing themselves in that curriculum."

Teachers in the district have done that by introducing Native American literature to students just learning to read, or pairing high school students with mentors from the community.

Cloquet's four-year graduation rate for Native American students is 59 percent, 10 percentage points higher than the state average for that group.

Advocates of early childhood education say such programs could be the key to helping more students graduate on time — if the state can ensure that every three- and four-year-old from a low-income family attends preschool. But that would cost about \$150 million in additional education funding a year.

"There are some good programs in the later years, but to get at the root problem, to do it efficiently, you've got to start at the beginning," said Art Rolnick, a senior fellow at the University of Minnesota's Humphrey School of Public Affairs.

Rolnick said research has shown that students from low-income families who attend preschool are better prepared for kindergarten and go on to do better in later grades.

State education officials aim to increase the overall four-year graduation rate to 90 percent by 2020, with no student groups lower than 85 percent. If the new state data on graduation rates for the 2013-14 school year expected from the Minnesota Department of Education next week follows recent trends, the rates for all students likely will inch up.

So far, however, that marginal progress has not been enough to move the state's graduation rates for students of color from the bottom of the national list.

Stay Informed

The news on your schedule from MPR News Update

Email Address*

Zip Code

☒ MPR News Update AM Edition

☒ MPR News Update PM Edition

Subscribe

See our [Privacy Policy](#). Must be age 13.

EXHIBIT 4

1 HIGH SCHOOL ACADEMIC PREPARATION AND COLLEGE READINESS

- » In 2012-2013, increasing numbers of high school students participated in Advanced Placement and dual enrollment courses.
- » Minnesota ACT test-takers posted the highest average composite score in the nation for the eighth consecutive year.
- » The 2012 high school graduation rate for students of color was 27 percentage points lower than the rate for white students. The high school graduation rate for students eligible for free/reduced price lunch was 19 percentage points lower than the rate for all students.

The effectiveness of the higher education sector is impacted in part by the preparation level of high school graduates entering the state's colleges and universities. Students completing more rigorous courses in core academic subjects in high school consistently have higher high school graduation rates and score higher on standardized tests and college entrance assessments.

Minnesota's Public High School Graduation Rate

The 2012 four-year high school graduation rate for Minnesota public high schools was 78 percent (53,527 students). The graduation rate for white students was 84 percent (44,183 students) and 57 percent for students of color (9,344 students). Most groups graduated at higher rates compared to the preceding year, except for white students who graduated at the same rate.

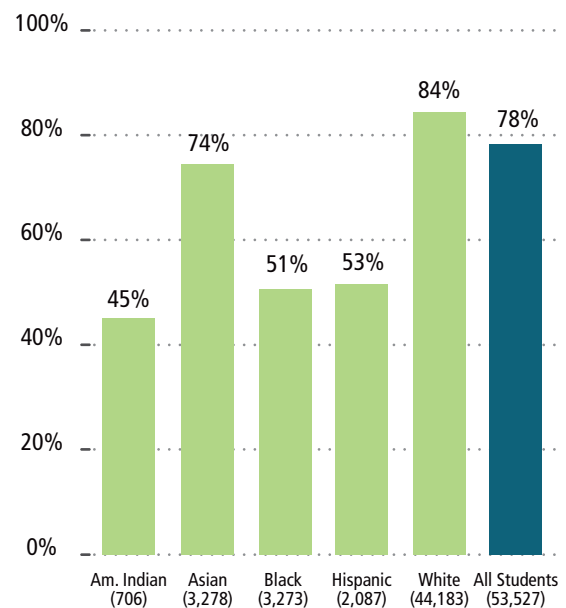
Key populations graduated at lower rates. In 2012, the graduation rates were:

- 51 percent (2,327 students) for English language learners;
- 56 percent (5,130 students) receiving special education services; and
- 59 percent (13,115 students) eligible for free/reduced price lunch.

Some non-graduates will later obtain GED credentials and enter postsecondary institutions. Each fall Minnesota's postsecondary institutions enroll about 1,000 new college freshmen who were GED recipients.

According to data from the American Council on Education, nearly 5,600 Minnesotans passed the GED test in 2012. Minnesota's pass rate was 81 percent, ranking 17th nationally. The average age of test candidates was 27. About half the test-takers left high school after grade 11 and 25 percent left after grade 10. Over the past decade, nearly 60,000 Minnesotans earned GED credentials.

**MINNESOTA PUBLIC
HIGH SCHOOL GRADUATION
RATES VARY BY RACE/ETHNICITY, 2012**



Source: Minnesota Department of Education

Measures of Academic Preparation

Three exam results illustrate the academic preparation of Minnesota high school students: the Minnesota Comprehensive Assessments, Advanced Placement exams and the ACT exam.

Minnesota Comprehensive Assessments

Minnesota Comprehensive Assessments measure student progress toward Minnesota's academic standards for K-12 education. All public school students in grades three through eight take reading and mathematics assessments. Students in grade 10 take reading assessments, and students in grade 11 take mathematics assessments. Students take the science assessment in high school when they take a life science or biology course.

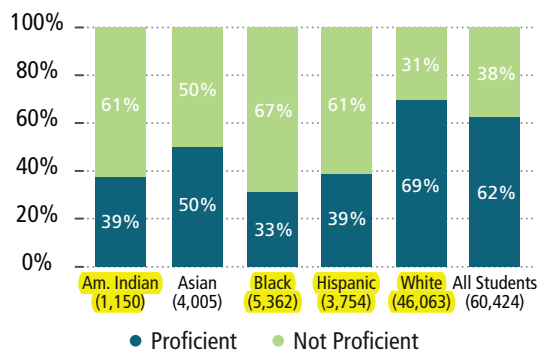
The statewide results of public high school students in 2013 indicated 62 percent were meeting the reading competency

standard set by the Minnesota Department of Education and 52 percent met the math standards. 2013 is the first year Minnesota's students took a new test based on more challenging reading standards. Due to this change, scores are not comparable across years. Grade 11 mathematics test results increased nine percentage points from last year. New standards in math were implemented in 2011 and comparisons to math results prior to 2011 should not be made.

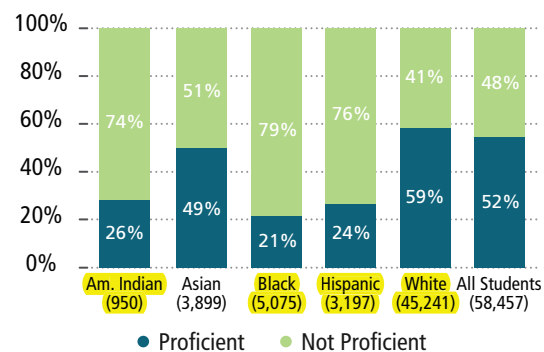
The results in math and reading also showed large achievement differences for lower-income students as indicated by free/reduced price lunch eligibility and students of color.

The Science MCA-II measures student performance on Minnesota's science standards. The science standards define what students should know and be able to do in a particular grade and are developed in partnership with Minnesota educators. About 53 percent of high school students were

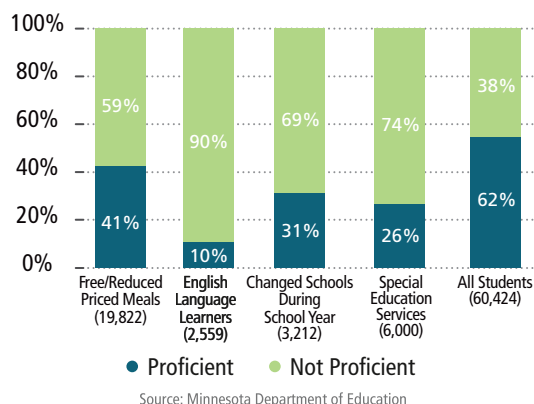
**READING GRADE 10 PROFICIENCY
VARIES BY RACE/ETHNICITY
MINNESOTA PUBLIC SCHOOL COMPREHENSIVE
ASSESSMENT, 2013**



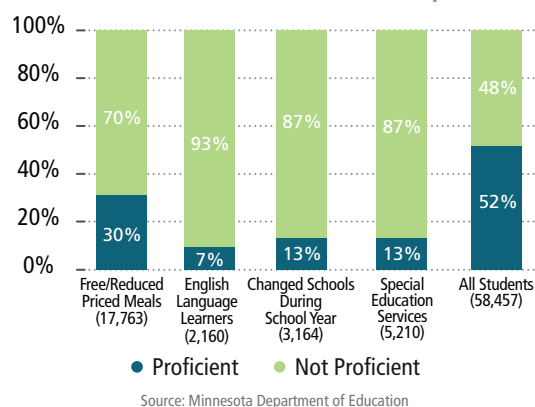
**MATHEMATICS GRADE 11
PROFICIENCY VARIES BY RACE/ETHNICITY
MINNESOTA PUBLIC SCHOOL
COMPREHENSIVE ASSESSMENT, 2013**



**READING GRADE 10
PROFICIENCY BY SPECIAL POPULATIONS
MINNESOTA PUBLIC SCHOOLS
COMPREHENSIVE ASSESSMENT, 2013**



**MATHEMATICS GRADE 11 PROFICIENCY
VARIES BY SPECIAL POPULATIONS
MINNESOTA PUBLIC SCHOOL
COMPREHENSIVE ASSESSMENT, 2013**



proficient in 2013, reflecting a consistent increase in the percentage of proficient scores each year since 2008.

Advanced Placement Exams

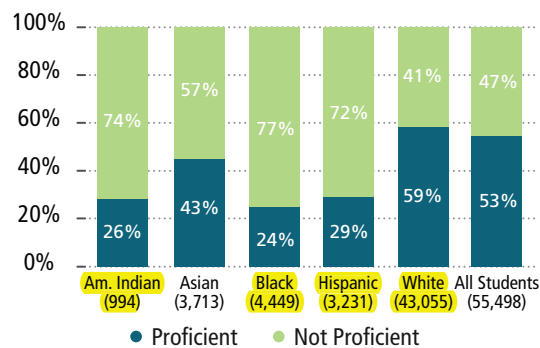
Advanced Placement (AP) is a College Board program offering high school students the opportunity to take rigorous, college-level courses and earn college credit while in high school. The content in AP courses is structured similarly to college coursework. The Minnesota Department of Education has provided high schools with supplemental

funding to support the delivery of AP courses. AP courses are offered in about 270 Minnesota high schools, although offerings in rural districts are still limited. Costs of AP exams are reimbursed by the Minnesota Department of Education for students from lower-income backgrounds.

During the 2012-2013 school year, 38,772 Minnesota high school students took 64,709 AP examinations in 34 subjects. Minnesota high schools have increased access to AP exams among American Indian, Asian, Black and Hispanic student populations while increasing overall performance at a higher rate than the nation for each subgroup. Of all Minnesota AP test takers:

- The number of students taking the AP exam increased 4 percent from 37,364 in 2012 to 38,772 in 2013.
- The number of subject exams taken increased 4 percent from 62,023 in 2012 to 64,709 in 2013.
- Fifteen percent of test-takers were students of color. The number of students of color taking the exam increased 12 percent from the previous year from 5,169 in 2012 to 5,793 in 2013, as compared to white students, which increased 4 percent.
- AP exam scores of 3 to 5 were achieved on 42,031 exams, an increase of 3 percent from the previous year. Students usually receive college credit for scores of 3 to 5.

HIGH SCHOOL SCIENCE PROFICIENCY VARIES BY RACE/ETHNICITY MINNESOTA PUBLIC SCHOOL COMPREHENSIVE ASSESSMENT, 2013



High school students take the science assessment when they take a life science or biology course.

Source: Minnesota Office of Higher Education

HIGH SCHOOL STUDENTS IN MINNESOTA OUTSCORED THE NATION IN THE ADVANCED PLACEMENT TEST, 2013

Minnesota					Nation
Race/Ethnicity	Number of Test Takers	Number of Exams Taken	Number of Scores 3 to 5	Percent of Exams Receiving Scores 3 to 5	Percent of Exams Receiving Scores 3 to 5
American Indian	158	229	118	52%	46%
Asian	3,244	6,299	3,971	63%	69%
Black	1,316	1,959	775	40%	30%
Hispanic	1,075	1,728	878	50%	43%
White	31,276	51,871	34,770	67%	65%
Other	852	1,535	1,031	67%	59%
No response	851	1,088	488	45%	46%
All Students	38,772	64,709	42,031	65%	59%

Note: The number of Minnesota test-takers who were students of color increased 12 percent from the previous year. White students increased 4 percent. An AP score of at least 3, on a scale of 1 to 5, is an indicator of an ability to perform successful work at most colleges.

Source: College Board

ACT College Entrance Exam

Results from the ACT college entrance exam provide another indicator of Minnesota high school students' college and workforce readiness. It is recognized that the knowledge and skills needed for college are equivalent to those needed in the workplace¹. Seventy-four percent of Minnesota's 2013 high school graduates took the ACT exam. In 2013 Minnesota's average composite score of 23 was the highest in the nation among the 28 states in which more than half the college-bound students took the test. Minnesota has led the nation in average composite ACT scores for eight consecutive years. The national composite score was 20.9 out of a total of 36.

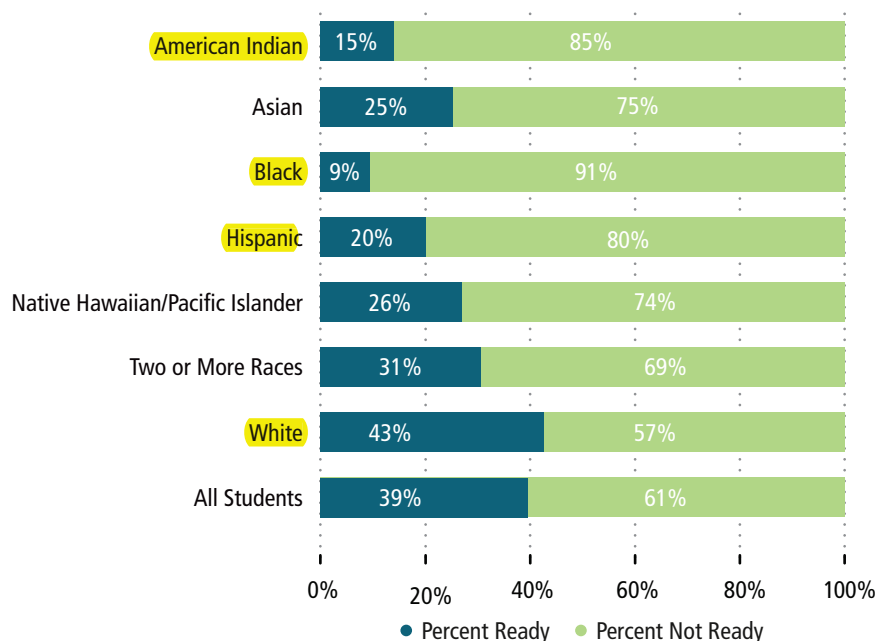
While Minnesota had the highest average composite score in the nation, a significant proportion of high school graduates were not prepared for college-level work after high school graduation, according to ACT. ACT developed college readiness benchmarks in each of the four testing areas of its college entrance exams. Based on ACT research, these benchmarks define the score needed to have a 75 percent chance of earning a grade of "C" or better in related college-level courses. Thirty-nine percent of Minnesota's ACT test-takers

were academically prepared to succeed in all four subject areas: college-level English, social science, algebra and biology. Minnesota students of color were less college ready overall than white students.

Dual Enrollment Programs

Dual enrollment programs allow high school juniors and seniors in Minnesota to enroll in college-level courses while still in high school. New Minnesota legislation allows eligible public school grade 10 students to enroll in one Career and Technical Education (CTE) course as identified by the Minnesota State College and University System. In order to be eligible, a grade 10 student must have taken the grade 8 MCA reading test and met the composite proficiency level of "meets or exceeds" and also meet the specific course requirements and pre-requisites of the college-level CTE courses(s) they wish to enroll in.

**COLLEGE READY* ACT TEST-TAKERS
VARIES BY RACE/ETHNICITY, 2013**



*Meeting college ready benchmarks in all four subjects:
English, Math, Reading and Science.

Source: ACT

¹ ACT. (2006). *Reading Between the Lines: What the ACT Reveals About College Readiness in Reading*. Retrieved from http://www.act.org/research/policymakers/pdf/reading_summary.pdf

High school students can participate in dual enrollment programs in several ways:

- Take courses at a postsecondary institution (used by about one-third of high school students).
- Take courses offered at their high school taught by a qualified high school instructor or college instructor, sometimes referred to as concurrent enrollment or “College in the High School”.
- Take courses offered online taught by a college instructor.

Dual enrollment programs provide students with a wide variety of college-level class offerings and the opportunity to pursue challenging coursework. Though private colleges participate in dual enrollment programs, the majority of high school students take courses offered through public postsecondary institutions. The number of high school students enrolled in college-level courses has doubled in the past 10 years.

**MINNESOTA HIGH SCHOOL STUDENTS
ENROLLED IN COLLEGE-LEVEL COURSES
IS INCREASING, 2000-2012**

Year*	Number of High School Students In College-Level Courses
2000	11,494
2001	12,952
2002	14,314
2003	14,558
2004	15,447
2005	19,840
2006	19,514
2007	20,144
2008	21,066
2009	22,438
2010	23,591
2011	25,741
2012	27,084

*Measured by fall enrollment in a Minnesota postsecondary institution.

Source: Minnesota Office of Higher Education

EXHIBIT 5



Teacher Supply and Demand

Fiscal Year 2015

Report

To the

Legislature

As required by

Minnesota Statutes,

section 127A.05, Subdivision 6

COMMISSIONER:

Brenda Cassellius, Ed. D.

Teacher Supply and Demand

January 2015

FOR MORE INFORMATION CONTACT:

Hue Nguyen

Assistant Commissioner

Office of Deputy Commissioner

T: 651-582-8241

Hue.Nguyen@state.mn.us

Fiscal Year 2015

Report to the Legislature

As required by

Minnesota

Statutes

Section 127A.05, Subdivision 6

Research Question #4: What factors influence teacher preparation institutions' ability to prepare effective teachers?

Teacher-testing requirements were mentioned as a barrier by 73 percent of the institutions. The other major impediments mentioned by 48 percent of the institutions were the cost of higher education for students and the lack of scholarships. A minority of institutions also mentioned resources for complying with accountability provisions (16 percent), resources for faculty (16 percent), low teacher salaries (12 percent), and support for the teaching profession by the public (8 percent).

Research Question #5: What are the forecasts for student enrollments for the next 10 years?

Student enrollments in Minnesota's public schools are expected to increase by 2 percent during the next 10 years. This figure represents a growth rate that is much more modest than the most recent enrollment forecasts offered by the National Center for Education Statistics (NCES; 2013 forecast to 2022 with a growth rate of 13 percent).

Between 2014 and 2024, enrollments in elementary schools (Grades K–5) are expected to decrease by 5 percent while enrollments in high schools are expected to increase by 11 percent. Enrollments in middle schools will increase by 8 percent until about 2019 and then decrease by 4 percent through 2024.

The relatively small numbers of students in the racial and ethnic groups make separate forecasts for these specific groups too inaccurate to trust. However, it is possible to calculate the number of students of color as whole. It is expected that Minnesota's public school population will continue to become more racially/ethnically diverse, with the percentage of school populations representing students of color increasing by about 1 percent per year. By 2024, it is expected that 38 percent of the student population will be made up of non-Caucasian students.

The forecasts of English Language Learners (ELL) also were too inaccurate to trust. The future enrollments of these students are less related to the numbers of ELL students currently in the system and the existing population of immigrants, but rather future immigration rates.

3.2 Final Conclusions

The available data suggest a slight increase in the demand for teachers, as evidenced by the percentages of district hiring officers' indicating that they have increased student-teacher ratios and eliminated vacant positions in recent years. These percentages are less than they were in the 2012 survey. The supply of teachers appears to have decreased somewhat, based on the numbers of new licenses awarded to completers of Minnesota's teacher preparation institutions.

The single indicators of supply-demand balance provide conflicting data. On the one hand, districts and schools require fewer special permissions than in the past. However, the percentages of districts indicating that it is impossible or very difficult to hire qualified teachers to fill vacancies in hard-to-staff areas are nearly double those seen in the 2012 survey.

However, four trends should be of concern to policymakers. The first involves the diversity of Minnesota's public school population. The past 5 years have witnessed increases in the numbers of students needing free or reduced price lunch, the numbers of students with special needs and students with limited English proficiency. Public schools are becoming more economically

diverse as well, with the percentage of students representing non-Caucasian racial and ethnic groups increasing by 1 percent per year. Yet Minnesota's teacher workforce remains 96 percent Caucasian. This disparity in diversity of the teaching workforce and student population may affect student academic achievement of students of color and Caucasian students alike (Dee, 2001).

Second, while the specific teacher licensure areas experiencing shortage remain the same, the percentage of districts indicating that it is difficult or impossible to hire qualified teachers in these areas is about double that seen in the 2012 survey.

Third, a larger percentage of districts and charter schools are indicating difficulty securing short-term and long-term substitute teachers. Respondents to the district survey also expect to have more difficulty hiring substitute teachers over the next 5 years.

Finally, testing requirements for teachers top the list of factors that challenge teacher preparation institutions' efforts to recruit and prepare teachers, and 63% of districts indicate that testing requirements represent either a small (27%) or large barrier (36%) to hiring teachers. It may be useful to determine if the issue applies to all three teacher tests ("basic" skills, pedagogy, and content) and what features of the tests are of concern.

11. Tell us in the space below other factors that are barriers for your district in hiring and retaining effective teachers. Please type answer in the boxes below.

Other factors that are barriers for hiring

All responses provided here:

- -Not enough candidates who have the appropriate mindset to ensure all students regardless of circumstance achieve in school. -Not enough candidates with cultural competence.
- Lack of reciprocity with neighboring states. 2. Loss of teaching prospects to North Dakota schools. 3. Testing requirements that make little educational sense. Is there a reason that teachers seeking licensure in Early Childhood and primary elementary education are required to pass tests in college algebra? 4. Testing bureaucracy. Example- We hired a licensed music teacher from North Dakota and he was licensed in MN for one year until he passed MN testing requirements. He took his tests in July of 2014 and passed ALL required tests, he had the "pass" results sent to him and he sent this information, payment, and application in to MDE licensing. After contacting the Board of Teaching, they were not able to issue a "bridge" license due to their interpretation of the statute. Due to the fact that he did not have the "official" scores until after school started he was not able to obtain a license until two weeks into the school year. We hired an additional substitute teacher for over a week to assure we had a "licensed" teacher in the classroom. The music teacher then had to apply for a short call sub license for the next so he would be temporarily licensed while he waited for his official results to be processed. 5. Inability to offer competitive wages in high need areas. Students graduating with tech, math, science, etc. degrees can enter the private workforce at far higher wages than the 34K we are able to offer to 1st year teachers.
- Small school and in Rural Minnesota. We are all fighting for the same candidates. 2. Salary comparisons between large and small districts. 3. Licensing requirements. 4. Society and media's negative views on education. 5. Accountability based upon test scores. 6. Salaries in other areas of employment with degrees. 7. Costs of higher education and student loan debt. 8. Reduced number of applicants for positions. 9. Colleges and Universities only graduating so many candidates per positions. They are limiting the number of candidates that get into their programs each year, in for example speech communications. 10. Colleges and Universities no longer offering certain licenses, such as tech ed.
- lack of teacher candidates of color 2) minimal resources for recruiting 3) Challenges of creating career ladders in the organization due to seniority rights of teachers 4) Fewer students entering teaching professional because of low salaries and workload
- A lot of times its the timing the universities take to get final grades posted, and then for the teachers to get everything in to MDE to get their license.
- A portion (about 40% of classroom space) is in need of renovation. Classrooms in communities with newer schools offer a better physical environment. Housing in the community is difficult for a new teacher to find.
- Ability to pay competitive wage with the private sector.
- All of our staff are required to have AMI certification which is a Master's Degree level teaching program. There is no recognition for this training and the highly trained, highly qualified staff are then also required to have a MN State Teaching License. This places a huge burden on staff both financially and academically as they need to complete dual licenses in order to teach at our school. It is very difficult to find individuals who have completed training in both areas. This also puts a burden on administration as we search to find staff and substitutes.
- Applicant Pool. Limited in most areas.
- Applicants do not appear to be well prepared.
- Applicants wanting to move to or stay in a rural area.
- As a charter school we use our general budget dollars for additional costs in bussing, leasing our building, and paying property taxes. If we, a charter school could own our building then we would be able to use some the additional dollars saved from leasing and paying property taxes to increase the salaries of our teachers. In addition, charter schools are not on a equal playing ground when it comes to health benefits for our employees compared to "traditional" large public school districts. If we were able to have opportunities for similar health benefits for our employees it would also help retain and hire teachers.

- As a charter school, we do not always get a lot of applicants
- As a small district, it is difficult to compete for experienced teachers.
- As we continue to experience declining enrollment we need multiple licensed teachers or we will be forced to try to hire teachers part time and that will be very difficult.
- At times, there is not much competition for positions.. Due to lack of licensed personnel
- Attracting licensed teachers to small rural districts is extremely difficult. Very often they are the "lone individual" in a department. Over time, it seems that we become "training" sites and as soon as possible they move on as they have no community connections. From a special ed perspective, people are less interested in holding that position and the reasons I consistently and frequently hear are "paperwork", "liability", and "meeting the expectation of parents". In our Ed. District as well in the member districts, it is becoming more common to have to hire staff on variances or as community experts. The ongoing training is extensive and requires a large time equipment by peers and administration as they are not equipped for all of the facets of being a special education teacher. This all placed additional burden on those who are doing all they can to be effective in their own positions. Salaries for teachers is more and more a factor across the board. Teachers are coming out with huge student loans and starting at a salary that doesn't compare to many other professional positions with comparable 4 year degrees. All of the teacher accountability requirements are also being talked about and I have overheard "it just isn't worth it" more than once. Finally, I have seen some good applicants (at least on paper) inquire about teaching who have experience but have not been licensed in MN. Getting the license is costly and time consuming so several of those people have decided not to pursue education again - I believe that if they have been successful teachers out of state and re-locate to MN, we should honor that and have the ability to employ them without making it more difficult. In general, it seems that the difficulty with hiring and retaining educational staff is at a crisis level.
- Availability of licensed personnel
- Barriers for hiring experienced, effective teachers have been primarily salary and benefits. We cannot pay as much as larger districts do, or provide benefits to the extent that other districts do. Consequently, teachers with families have had a difficult time coming on board, as our health insurance is paid for the teacher only.
- Because of funding we don't have a very high salary schedule so if teachers are looking at other districts they won't choose us because of our lower salaries
- Because of our commitment to smaller class sizes and limitations in funding, we have a difficult time compensating teaching staff in the same manner as other schools in our area of the state. We are seeing success with smaller class sizes, but because area schools can compensate similar teaching positions at a rate of at least 10,000.00 more in salary annually, it is tough to compete.
- Because we are a small pre-K-12 school finding someone to teach all of the sciences will be extremely difficult. As will find a PE/Health teacher K-12. Good Ag/Industrial Tech teachers are impossible to find. There is a huge shortage in this area
- Being a Charter School we will not be able to match a traditional public school salary scale due to the funding charter school receive.
- Being in Northwest Rural Minnesota, our geographical location is a large barrier for hiring employees. We are in a rural community, weather conditions are harsh, and young people are more attracted to the metro areas. We have a shortage or lack of housing options, and there is a difficulty obtaining a Minnesota Teaching License. It has been extremely difficult to get our transferred teachers from out of state to acquire a MN teaching license.
- Being located in a rural area creates some barriers in the hiring process.
- Being very rural.
- Candidates meeting licensure requirements/expectations necessary within the State of Minnesota.
- Charter school funding inequities limit the compensation parity for licensed teachers relative to traditional school systems.
- Charters overall don't get the same level of funding as districts so it is hard to offer a competitive wage and retain teachers.
- Competing with North Dakota for new teachers. Pay is better and they have no testing requirements.
- Competition among district and from states near us without the testing requirements.

- Competition with private sector for certain license areas.
- competitive salaries
- Competitive salaries and compensation. Location of the district outside the metro area.
- Content majors with teaching licensure. High level math/science. Experienced AP teachers. Pay/pay-scale. Retention. Part-time FTEs.
- Contract pay schedules
- Cost of 4 year degree vs. starting teacher salary Demands placed on teaching profession Negative light that is portrayed about education Public pensions under fire
- Custodians and Bus Drivers Very few people now in the state have a boiler license. Bus drivers good luck finding one. The difficulty in obtaining this license is also impossible to find. In
- demands of jobs in special education and salary
- Different License requirements for the various categories taught in Science and Vocational. The Funding Formula change in Sped will create significant havoc. The Paperwork requirements in Sped that Minnesota places on top of the Federal requirements are a very large impediment to retaining quality Sped teachers and delivery adequate student services.
- Due to funding cannot afford to pay teachers much.
- Due to our small size, hiring licensed teachers for very part-time positions is very challenging. Right now we have one teacher on a variance teaching art, technology and environmental education which then equals a full time position.
- ECFE Parent Educator is always difficult. This position is about 3 hours a week. Since we are so rural it is hard to obtain teachings for part-time positions
- Educators and education in general has taken a great of criticism the past few years. I beleive it deters our brightest and best from entering the field.
- Experience and effectiveness in Urban Education
- Fairmont Area Schools is located in rural south central MN. Many new teachers desire teaching positions in or near metropolitan areas. Our entry level teaching salary is \$36,308. With the rising cost of a college degree, entry level salaries will need to be increased significantly over the next few years to attract qualified teachers.
- Financial resources to attract good candidates.
- Finding appropriately licensed MN teachers with Montessori training (or the desire to complete)
- Finding licensed career and technical teachers
- Finding qualified teachers in areas of shortages. Really have trouble finding licensed teachers for our Dual Language Program. Need to have both an elementary license and be proficient in Spanish. This has been our toughest area.
- Finding teachers that are willing to live in a very small town, or willing to drive a few miles. Our teacher pay is lower than a first year teacher's pay in the traditional public schools around our area. We can't compete with their salaries. We also ask our teachers to wear many hats; we need to have very flexible and willing people to perform a variety of jobs and work together as a team.
- Finding teachers who want to work with students from a low-income background and who will be successful with our population is extremely challenging.
- First of all, this survey was not set up well for Special Education Cooperatives. The Northwest Regional Interdistrict Council #382-52 was not even listed in your drop down box for districts other than "01"! Surprised I even received the survey. The choosing of what county we are located in or represent was also a challenge since the NWRIC covers 5 counties in the NW Minnesota. One of our greatest barriers is location. Many people are not willing to move to a very rural area when jobs are available in other areas. The next barrier is that Special Education does not seem to be an appealing career choice any more. Fewer and fewer students are pursuing a license in those areas. I anticipate many retirements in the next few years and am concerned that I will not be able to fill any of the position with a licensed person. One barrier for hiring Speech/Language Clinicians is the requirement that they must have a Masters' Degree to be licensed to work in school districts. Colleges are limiting the amount of students admitted into Masters' programs and creating a shortage in

schools. All but one of my Speech/Language Clinicians is working under a limited-license granted by the board of teaching. We need to change the rules to allow 4-year Communication degree majors to be licensed to work in schools. I have not hired a fully licensed (masters' degree) speech teacher for many years. We just keep training in those working under the limited license for 2-3 years and then they move away or decide to pursue a degree in some other field. Must time and energy is put into retraining.

- Focus on categories of licenses.
- For charter schools, and especially new charter schools, our most significant barrier is funding and being able to attract and retain teachers with a decent salary.
- For many years we were able to recruit excellent teachers from North Dakota. They have increased teacher salaries and do not put new teachers through such a ridiculous set of tests and other hoops to obtain a license. ND also has the rule of 85. If I were a young teacher and had to choose between MN & ND, it would be hard to choose MN.
- Funding Benefits Salary schedule
- Funding for small schools needs to be improved for us to stay competitive in hiring and retaining teachers. Because we are a charter school and cannot levy, we are limited by the general funding formulas.
- Funding is always an issue. We have a very difficult time competing with other school districts in the amount of salaries we start staff at, and any increases they can expect. We have been lucky in not needing to reduce staff, but it is difficult to attract them simply because we can't pay them enough to walk in the door. Funding additional benefits has also been almost impossible.
- Generally there is a drastic reduction in applicants in ALL teaching areas, including Elementary Education.
- Geographic location
- Geographic location of being a smaller rural school. New hires want the comforts and choices of a larger economic community. If this is not in commuting distance they don't even apply for the job. Not as many young adults going into education as a post-secondary choice.
- Geographical location - rural small town near the Twin Cities. Lack of teachers in specific fields where pay is greater in the private industry: math, science, SPED.
- Getting candidates is difficult. Out of state candidates won't even apply because of all the hoops they have to jump through and the cost of the license and tests is excessive. A teacher with a valid North Dakota license can teach in several states but not Minnesota. Loosen the requirements and make teacher quality a local responsibility. I want good teachers and I think I can get that with North Dakota standards.
- Getting qualified people to even apply for our open positions out in rural MN is a huge barrier.
- Greater-MN location - Non-Metro
- Having a small district and not allowing science teacher to teach in multiple areas (Chemistry/Physics) under the same license
- hiring out of state teachers
- I believe the pay level for teachers needs to be examined. Increasing the wage (additional funding to school) will expand the number of people who consider teaching as a profession. The wages paid to teachers are a real problem for all Minnesota schools.
- In a small district such as ours, teachers with multiple skill areas and holding multiple licenses are worth their weight in gold. We attempt to allow student interest and desire to drive our course offerings through the registration process. This puts tremendous pressure on our ability to staff various courses within a subject area due to the license requirements.
- In our geographical location it is difficult to find any substitutes for paraprofessionals and even hard to find highly qualified paras. The population just doesn't have the capacity to supply this workforce. The number of applicants for elementary teachers has dropped dramatically over the past few years. We used to get 30-40 applications for a position and this past summer we received 5-10 for an open 5th grade position. I feel one reason for the shortage is the negative picture that continues to be painted for educators. A lot of pressure is placed on teachers and they have a lot of social and emotional barriers to overcome with a lot of students. They work wonders with children, but are then told they are not doing their job over and over again. This perception is driving highly qualified individuals away from the profession.

- In the western suburbs, we have stiff competition from larger districts like Wayzata and Minnetonka who pay better. We have a very difficult time filling any position that is < 1.0 FTE.
- Inability to pay prevailing wages for STEM fields
- Initial starting pay for hard to find areas does not compete with private sector positions - ie - math, chemistry. We start teachers at too low of salary to be competitive. When looking at preparation time, cost of education and diminishing respect for the teaching profession we are seeing more of our students not looking towards teaching as a viable future. If you look at the number of students entering the field of teaching and the number of positions open there seems to be fewer available for positions. When this is tied to geographic locations in the state you see even greater shortages as you venture further from the metro area.
- International educators find it very difficult to get licensed in Minnesota. For example, numerous licensed educators in Korea have more or less given up getting licensed in Minnesota. These teachers are a great resource to Sejong or other Minnesota schools but have a hard time navigating the licensure procedures whether that is alternative or regular licensure.
- It is difficult to obtain a second teaching license. In a small school we need teachers to be able to teach more than one subject area and it is very difficult for teachers to add a license. Classes are not easily available for teachers to take while teaching. Distance from colleges and available classes is a burden.
- lack of appeal for our geographic location compensation and benefits
- Lack of applicants due to salary constraints.
- Lack of funding
- Lack of quality licensed candidates
- License-Colleges don't give flexible course offerings to meet variance requirements within 3 years.
- Licensing requirements in Science and Special Education make it very difficult to find candidates for a small rural school. In most situations, a teacher in a small, rural school will have multiple assignments requiring multiple licensures. Offering part-time positions in these areas has not been successful - these folks are able to find full-time employment in larger districts. Additionally, we are finding that colleges or universities do have not candidates enrolled in these programs.
- Licensing requirements particularly when hiring certified teachers from other states. The amount of testing and/or courses to get certified in Minnesota is ridiculous!
- Licensing requirements placed on us by the board of teaching are making it very difficult to hire in areas like science and SPED, ASD. The hoops that prospective teachers have to jump through to get a license in MN is causing a shortage in of licensed staff in all areas. We can't hire licensed teachers from neighboring states because of they don't meet our over the top licensing requirements. The Board of teaching has too much control in deciding who gets a license to teach in MN.
- Licensure for Theatre, Dance and Vocal Arts instructions. Public institutions do not offer Theatre & Dance Licenses.
- Limited pool of applicants in Special Education. Not all schools are preparing teachers the same.
- Limited pool of Deaf and Hard of Hearing teachers.
- Limited supply of teachers graduating from preparation programs.
- Location
- Location Economy
- location size salary
- location teacher licensing no licensure reciprocity between states
- Location and available workforce
- Location and low salary schedule
- location being more rural starting salaries budget reductions
- Location of our School District Low number of qualified candidates MTLE too difficult outside of area of study

- Low number of applications for open positions. Often have to take non qualified applicants.
- low socioeconomic teaching experience
- Many teachers are poorly trained at their universities.
- Mid-year hires very difficult.
- Minnesota licensure requirements are different than surrounding states and this causes a lot of problems.
- MN is always thinking it is better than other states and its standards really make hiring some areas very difficult, e.g., physics/chemistry licensure. Other states allow more liberal, broad science license to teach.
- MTEL - Makes no sense. MN Colleges certify the programs of study are completed by all teachers. Board of teaching certifies the teachers, School administrators have three years of probational data to determine teacher effectiveness. The MTEL should be given as a score only feedback. Accountability is already in the system.
- Multiple science classes that each require their own license. Finding people with the correct license combinations is very hard. Special Education requirements are so extreme they greatly reduce the number of teacher who want to teach special education.
- Need to have a more competitive wage.
- Needs of the students continue to increase, our budget does not. We need to do something with contracts to allow districts to compete with business world.
- Negative climate that surrounds public education. Difficult parents that blame teachers or the school for their child's problems. Relatively low pay. Multitude of demands placed on teachers today (standardized testing, SPED, mental health, etc.)
- No reciprocity between states for licensing. Limited quality applicants with the appropriate licensure. Increase in special populations needing Special Education or EL licensure. Limited programs to obtain Media Specialist licensure, difficulty and length of those programs and need for this license.
- No teacher licensing reciprocity
- None
- Not a large enough supply of teachers who are top quality candidates in most every field, especially in the special ed area.
- not a real barrier but just a small pool of candidates for open positions
- Not as competitive salary and benefits compared to larger area schools.
- Not as many candidates coming out of teacher programs Tenure of teachers not as long as used to be in general Shortage of subs that used to be sometimes hired in a particular district Smaller district-not as large variety of course offerings and opportunities
- Not enough capacity at universities for turning out speech teachers. We do not need the speech degree requirements for all of our students receiving speech services. If our new special education teachers have to get additional certification by five years, we may have to let them go after three if they do not have required certification. We could have tenure requirements due to licensing in other areas. There is too much messing around with special education certifications.
- Not enough colleges producing graduates for all licensure areas, poor teaching programs at some of the universities
- Not enough teachers with appropriate licensures.
- Not many applicants
- Number of candidate pool for open teaching positions.
- Only having part-time positions available.
- Our biggest factor is our pay and benefits. In order to keep the PreK-6 open in Ivanhoe we had to close the 7-12 and sign a tuition agreement. We also signed a decrease in benefits AND a pay freeze over the next 3 year. Teachers are only being paid 29,000 starting, which is well below the neighboring districts.

- Our district has a desire to hire a diverse teacher population. Part of this requires us to recruit teacher candidates from other states. There are MN state licensure requirements that at times pose as an obstacle for these candidates. For instance, our district recruits teachers for our Bilingual/immersion programs who happen to be from other states. The teachers have had a difficult time with licensing and it has caused some to debate on whether or not they stay with our district.
- Our district has a hard time competing with other suburban districts due to funding issues as well as the district being in Statutory Operating Debt for many years. It is difficult to be competitive in salaries with Minneapolis, Osseo, Anoka etc. Small districts like Brooklyn Center don't have the resources (about 12-15 people in our central office) of other districts so it is difficult to recruit, train, and retain teachers. The talent pool is thin as far as high quality teaching candidates and principals candidates. Out of 45 principal applicants, we had 2 quality candidates.
- Our funding is so low that we cannot find teachers who will work for what we can afford to pay them.
- Our high school offers an two year college degree in partnership with our local community college. High school teachers must have a masters degree in the content area they teach to offer the college credit. The pool of high school teachers with these qualifications, who are also capable of coaching or advising activities, is extremely small. Secondly, licensure requirements and work load requirements for special education teachers is making it nearly impossible to fill these positions with qualified individuals.
- Our largest struggle in hiring is finding qualified special education teachers, there are just not enough that are willing to drive to our location and meet the needs that we need to serve.
- Our location and lack of housing, financial problems with high cost of transporting student and low numbers.
- Our location and the fact that since we are a small school we don't have the funds to offer competitive salaries.
- Our rural location/salary schedule
- Our salaries are not competitive with Rochester and metro area school districts and our school district is driving distance to both these areas.
- Out state we don't have many people in our community that are willing to come to the out state for hard to fill fields. When looking at Salary we have lost teachers that have decided to go to the Metro and teach because of the pay and benefits. I wish we were on the same playing field with our Metro colleagues.
- Parenting License is difficult to obtain and not worth the cost for the minimal hours position.
- Part time positions based on student enrollment
- Partial Positions Limited out state applicant pools. No applicants Difficulty obtaining MN licenses for VI teachers Doctorate required for Physical Therapist Can't compete with Medical agencies for SLPs, OTs, PTs, Nurses Delayed licensing process from MDE
- Pau scale and remote location.
- Pay We are a small district surrounded by much larger districts. Pay is much better other places.
- Pay Lack of affordable housing
- Pay & Benefits
- Pay and benefits - we cannot compete with business and industry *CTE teachers are very difficult to attract due to the lack of pay and benefits relative to business and industry *The pools of candidates in most positions are very shallow *The quality of teacher candidates in general has dramatically decreased *We are concerned about the college system preparation programs and the low standard they have in place for program entrance - we need more teachers and better teachers coming out of our colleges CTE, AG, Industrial Arts, FACS, and Technology Ed teachers are almost impossible to find. The college system has dropped most of these programs or are producing very few new teachers in these critical areas. We will be forced to eliminate these programs in our school system due to the lack of good teachers available to hire. This area of need is at a critical stage and I am afraid it is too late to ramp-up the supply before the bottom falls out and these important programs are gone. The State of MN and the Department of Education has devalued these programs for so long, the college systems eliminated their teacher preparation programs and school districts have shut these programs down. In addition to the teacher shortage, these programs also require ongoing capital investments in facilities and equipment, they have been too easy for school boards to cut during a budget crisis. If we do not get facility and equipment support, the shortage of teachers will not matter. From the workforce development perspective, we have created a huge problem for our high tech manufacturers and industries.

- Processing time with the licensing system at key time periods. Time lags between testing requirements and results.
- Purely Financial considerations.
- Qualifies candidates in specialist positions in special education
- Remoteness, Lack of funds for higher salaries.
- Retainment of teachers is difficult as we are limited in providing annual raises.
- Rural Area Salary
- rural location, not enough licensed applicants, travel to several locations
- Rural location. Especially hard to find teachers licensed in specialty areas (i.e. parent education, industrial arts, etc.). Part time positions are hard to fill.
- Rural school located 50 miles from nearest university.
- Rural, out-state location makes it difficult to get a good pool of applicants for any job openings.
- Salaries
- Salaries and benefits
- Salaries of the metro schools is much higher than rural district. The rural districts become training grounds.
- salaries too low
- Salary and benefits
- Salary not as high as other big school district.
- School finance is the biggest barrier to hiring new people. Young people are not attracted to a profession where they will be under-compensated and under-funded.
- Science Teachers because of Licensure. Low availability of ECCE Teachers, Coordinators and Parent Educators
- Shortage of properly licensed and qualified applicants.
- Shortage of specialist type teachers in rural area.
- Since the charter school is not a traditional school, the charter school does have difficulty attracting quality teacher candidates.
- small district we need to find teachers to work in multiple fields
- Small pool of applicants
- Small pool of qualified applicants.
- Small rural schools have only one science teacher at the high school. They need to be licensed in life sciences, earth sciences, chemistry and physics. Typically they are not.
- Small schools in rural Minnesota that have high poverty struggle to hire new teachers.
- Some of the factors that our school District faces is that we are a very small school District in a very rural area, we have two schools in our District that are located around 80 miles apart, we have a hard time trying to find teachers with a license in the field that we are trying to fill at the Indus School, these positions are usually for 7-12 grade class, such as Math and English. This school is located in Birchdale Minnesota which is a very remote area, that is located in between International Falls and Baudette Minnesota. We have had to fill for various in order to have teachers placed in these positions, because of this.
- Some positions are part time due to the size of our school.
- Special ed license requirements are too restrictive.
- Special Education at the secondary level, having to be highly qualified in all core subject areas. Dual Language Spanish immersion, difficulty passing all MTLE's

- Specialty Areas are hard to find in out state areas. Due to our Diverse Student Population we have difficulty finding bilingual support staff Transfer of Out of state Licensures huge barriers
- Speech pathologist - there are not enough programs, existing programs are not taking enough applicants, and there is a huge demand. I don't understand why there have been "gates" created, but this situation is beyond frustrating. I have a highly qualified person who has applied to 15-20 schools across the country, in addition to MN. She is 1 of 200+ and programs are taking 10-15. Special Ed - especially EBD, SLD. People are not going into this field and I don't blame them. Kids are harder and they are spending more time having to worry about paperwork (IEPs, etc) than teaching (which is why they went into education). My best sped teachers are burning out after 3-5 years and there aren't many people waiting to take their place. In rural MN we get 1-2 apps for sped positions and they are not quality applicants. The last 3 we've hired have been regular ed teachers on variances that are going back to school. This is not sustainable. School Psychs - I don't think we can pay these people enough to seriously consider a job in education. If you look at job postings, you will see many districts looking. Again, demand exceeds supply by a huge margin. Science - in rural MN this is a supply/demand issue as well, especially in Physical Sciences. I think MDE/the state has created licensing structures that are not reasonable. Teachers can learn the content - we just need licensed teachers that we can grow into good teachers, but we aren't even getting good applicants.
- State teacher testing requirements. The small number of qualified teacher applicants.
- State testing and licensing requirements are factors in our ability to hire teachers of color - particularly teachers of color from other states.
- Stereotypes about charter schools
- Stress of the position with all the new accountability standards. Money - low wage compared to business world.
- Teacher workload and burn out.
- Teachers that are excellent and have a teaching degree from Mexico or another country but are not considered teachers in MN. These teachers have to start the teacher training process all over again in order to teach in MN. This is very frustrating especially when we would like to have foreign languages spoken in our schools and with our children. Native speakers are so wonderful to have as teachers.....wish the red tape was not so thick!
- Teachers willing to Teach at risk Students! Teachers Salaries!
- Teaching candidates from other states (IA, SD, ND, WI, NE) won't come to Minnesota.
- The applicant pool for virtually all subject areas has significantly diminished in the last three years. Many less applicants to choose from.
- The biggest problem is getting qualified substitute teachers. The other thing is getting long term subs in foreign language, upper level science, and upper level mathematics courses.
- The cost of benefits (ACA).
- The economy is relational. All-Day, Every Day Kindergarten has sucked up many elementary teachers. There continues to be a shortage of quality and qualified SPED teachers and Upper Level Science Teachers. This is compounded when you live in rural MN and can't match higher paying district salaries. There are no post-secondary schools in MN that have Industrial Technology/STEM teacher programs. We have cut our own legs here and need to fix that ASAP. Too much pressure and focus was on all students going to four-year colleges and now we have a shortage of skilled labor for the trades area and no one to teach it. The constant change by the legislature with standards, testing and political whims effect students everyday and we can't compete as we are always in a state of change and can't get traction on what we are doing. With that as the background, who wants to enter education as a profession????? When will the state help us and promote education as a great career?? Media campaign????
- The extreme requirements to become licensed as a special education teacher has been very difficult. Very few programs even give people the opportunity to graduate with a bachelor's degree. The testing has been a turn-off to individuals and a significant barrier. Not having reciprocity between states for licensure results in about 5 people not accepting my positions each year (I just had someone from Colorado ask about MN licensure because they are considering moving to town; when she found out the requirements she said she would stay in CO). The number of special education licenses is a significant barrier, particularly in small towns. Our location and not being close to colleges is difficult. The colleges are getting better at offering online courses,

but not all of the courses are online and not all people like online. I tried to work with universities to see if they would allow us a hybrid model and had very poor response.

- The funding District 885 receives to maintain competitive salaries (ISD 885 is one of the lowest funded district's per pupil, receiving \$1000 less/pupil than many of our immediate neighbors).
- The lack of alignment between the goals and mandates of the WBWF legislation and the former, but still present state graduation requirements make it almost impossible for high schools to successfully prepare students for their futures!
- The licensing standards can be difficult for teachers, but I do believe that the standards should be high. The time it takes to process the license of new teachers can sometimes be frustrating. We have jobs waiting and it sometimes takes a while for them to get the license.
- The MTLE exams are almost to the point of prejudicial. I do not understand how giving a timed test to teacher candidates will determine if he/she is going to be a quality teacher. For example, I do not care or find it essential information if a science or math or any teacher is able to complete 50 math problems in 50 minutes. If any testing is needed then have it be in there licensure area not a so called BASIC math, writing, reading test. It is time to respect our universities and trust them to have the teacher candidates to be ready to be productive teachers. I totally disagree with the testing requirements of college students. We are losing way to many potentially strong candidates due to the testing requirements.
- The need for teachers with multiple licenses. Very few out there. Some of the licenses don't cover needs in a small school. Example: most teachers come out of school with Chemistry or Physics. In a small school they need both.
- the overall public perception regarding teaching in general. The increased requirements at the University level, i.e. TPA.
- The pool of "good" candidates in shrinking. Also, the best seem to want to gravitate toward the metro. Many new grads have stated that colleges are not encouraging students to enter the field. Also, college preparation of potential graduates needs improvement concerning licensure process and issues. Many do not realize the steps in obtaining licensure and trust the college will submit the necessary paperwork for getting licensure. Most colleges can't be trusted to complete the license paperwork and get it submitted like their supposed to.
- The pool of applicants has reduced significantly in recent years. Many of the teachers who have subbed are now being hired leaving very little subs available. Quality sped teachers and service providers continues to be the area of highest need given the needs of the children have increased drastically. Additionally, finding licensed science teachers in rural districts is a challenge. We had to eliminate a business teacher position this year due to no licensed applicants. We tried a community expert license last year that was not successful.
- The requirement for Speech--Language teachers to have a graduate degree and the minimal number of very qualified students that the colleges are taking into this program. The length of time for these individuals to be on a variance should be increased. Many of our 4-year degreed individuals are much better then some of our Master-degreed individuals, so this requirement is becoming a huge question.
- The sheer number of college students pursuing degrees in any education field are shrinking drastically. This shortage of teacher candidates will have a negative impact, especially in rural districts. Also, public scrutiny has played a role in this.
- There are not enough qualified candidates.
- There are not enough special education and mathematics teachers.
- There is a limited number of applicants in specific areas and the teacher contract pay is low compared to non-educational jobs.
- There is simply not a pool of candidates. I will begin advertising for a life science teacher soon for next year and I do not anticipate I will get a single candidate. In my opinion the MTLE has become a major barrier for students who may once have considered education as a career. Teacher pay is also an issue. Too frequently, candidates with the skills to be good teachers can do much better financially in other careers. Geography is an issue in my district. We are considered to be too far from almost everywhere.
- There seems to be a shortage of qualified candidates coming into the field in northern Minnesota. There are several reasons for this including rising college costs, low pay for teachers, testing and licensing requirements too rigorous compared to other states, and limited schools for specific licensure (like ag, special ed, speech, etc).

- Three year limit for variances.
- Very few Physics, Chemistry, Ag and FACS teachers coming out of college.
- Very small pool of candidates, especially in the music, business, and science areas.
- We are 25 miles from Fargo, ND and our salary schedule is quite short of Fargo's and West Fargo's. This is becoming an issue for us and other schools. Also, they have the Rule of 85 for retirement and Minnesota lost the Rule of 90. This will also be a factor in retention of teachers.
- We are a large rural school district – a number of applicants come from small area school districts. We have noticed a reduction in the qualified applicants for all positions.
- We are a licensed desert in our area in Central Minnesota. Rural and not much to choose from. Getting licensed teachers has seemed very difficult. Particularly at secondary level regarding specialty disciplines/licensure and early childhood/preschool, technology specialist are a pipe dream right now.
- We are a rural school and that is a big factor on being able to get and maintain employees.
- We are a small rural school that may not be able to pay or offer the opportunities as larger metro areas can.
- We are a small rural school. We have great difficulty in attracting teachers willing to work part-time in our rural areas. We do not have an enrollment that allows full-time positions in many areas. Science, Computers, and specialty areas are very hard for us to fill. Science with the multiple licenses has been very difficult to fill. Computer teachers are very hard to fill as we can only afford part-time people. It would be great to have more ability in the use of variances from year to year.
- We are a small school that often times does not have a need for a full time teacher in a specialty position. We often encounter a need for a less than full time teacher who holds multiple licensures.
- We are a special education cooperative in rural southern Minnesota and have a very difficult time competing with salaries and benefits offered by districts in the Twin Cities area.
- We are a very rural district, already many staff do not live in the district but live in the area's regional center. And the unemployment level is very low with a large variety of jobs available and they are competitive jobs due to great benefit packages.
- We are a very small district (850 students p-12) who come from 3 very small communities. I often tell people that we don't have people roaming the streets of Cosmos looking for a full time (or even part-time chemistry/physics) job. The same can be said for health/PE and DAPE ...the same can be said for music. Ten years ago I hired a PE Health teacher whose application came with 82 others. This summer I hired a PE Health teacher whose application came with 4 others. One of the struggles besides licensed teachers not living in or around small towns is teachers struggle to pass the MTLE. I think the MTLE is very important but when I hear of a choir director trying to get his band license but can't pass the MTLE because he doesn't know the history of Russian music from the 1500's I think that is a bit beyond high school band. I currently have a "special permission" health PE teacher who has tried the MTLE for Adaptive PE twice and is having difficulty getting past all the special ed disabilities test. I also have a social studies teacher who we retain as a full time sub who is struggling to pass the MTLE test on psychology because he doesn't know psychologists from the early 1900s and what they represented. Again...a little above high school unless we are teaching AP or Concurrent enrollment. Again, I feel strongly that MTLE is keeping the very poor teachers out but it may be a bit too rigorous in some areas. Just musing...
- We are a very small school that has always prided itself on hiring fully licensed teachers. This year many school districts saw a shortage in applicants for positions in many areas. In talking with two teachers that are on limited licenses they have said that the tests being timed and the mere scope of them in order to get licensed is not always easy. The frustration of these individuals is evident as they talk about these tests. The time constraint knowing that they only have a certain amount of time to get their license is also very strenuous for the individual as well as the districts. The colleges are not making things easy either as in order for experienced teachers to get another licensure they have to "quit" their real teaching jobs and student teach! This is quite a hardship for the district that needs to have the teacher in place, but thankful that they are willing to add additional licensure. This is very troublesome especially in the special education department. Our district for the first time in several years has two teachers on limited licenses and one on a variance. These are also not long enough. These teachers are doing a terrific job, doing what we want them to do, the students love them and in our district it is very strenuous to get people to apply for our jobs! Future teachers from other states are no longer coming to Mn. for licensure as in the past because of the difficulty of obtaining a license with all of the extra requirements beyond their own state licensing. it is quite intimidating to think that one was good enough to be licensed and teach in another state and that Mn. would require such an additional burden

to get licensed. The other issue is the staffing at MDE - with the shortage of teachers AND the shortage of staff at MDE to assist us we are at their mercy to get approvals in a timely manner. They have done their very best to accommodate but certainly feel for their workload. We hope that things can change for the future educators of Minnesota.

- We are an Arts charter school with a small budget and are increasingly seen as an alternative school for kids who are not being served in their district Sped programs. This creates an interesting atmosphere that some teachers are frustrated by.
- We are in rural Minnesota without a lot to draw in new, younger teachers
- We are located in a rural areas and availability of licensed professionals in education in certain fields can be difficult. Especially if we need to replace some one right away.
- We are located in a very rural northern minnesota community
- We cannot find licensed, qualified teachers for our CTE and elective courses. The MTLE requirements also prevent us from hiring what would be qualified teachers. Salary and benefits are a huge barrier when it comes to hiring teachers for our district.
- We do not get many qualified applicants. Many who apply are newly licensed.
- We live in a very rural community and not all teachers are willing to live in a rural community. Funding to pay teachers enough to want to live in our area. Finding Science teachers that fit the correct specific licensure area.
- We would appreciate more flexibility in hiring people who are licensed in other states. Because of Minnesota State Requirements, it is cumbersome for students out of state to get licensed.
- We're a small school district located in Greater MN. Our salary schedule and benefits are not competitive with larger districts or districts located in suburban or metropolitan areas.
- What we are able to pay compared to large districts make us a stepping stone for larger districts which leads to turn over every few years.
- When we cannot find a licensed teacher, we get a variance. Variances are only good for a maximum of 3 years. If a teacher is successful on a variance for 3 years, they should be able to get a license. We have difficulty providing compensation packages that are competitive with larger districts. Often when we do get a good teacher, they leave us for higher paying districts after we have invested in their effective development. The current teacher testing system is a barrier. We had a physical education teacher candidate who could not pass the math portion. He will never use that level of math in a physical education class. Why does he need to pass this test? We also have had experienced candidates from other states but our state does not recognize certain aspects of their license. For example, another state may grant a K-6 license and the candidate has taught Kindergarten for 5 years in that state. However, our state only licenses them 1-6 and not K. This is ridiculous.
- Young people are not choosing to go into special education field, for many reasons, so colleges are not producing the number of graduates with special education licenses. From my perspective, the most significant barrier was the fact that a new college grad could graduate from college with all credits, recommendation for licensure and then couldn't pass the reading and math tests so couldn't be licensed. Hopefully this barrier is being addressed. It is also my understanding that young people are choosing not to go into special education because of the contentiousness of the field, with parents seemingly to have more power over educational decisions than the school. I have also talked to college students who indicate they are afraid of the paperwork burden of special education, so they are choosing not to get that licensure. Here is another issue.....We had an early childhood special education teacher vacancy. We recruited from another agency in another state. The person was licensed as an ECSE teacher in the other state. Minnesota would not acknowledge her license and indicated that she needs to take 20-25 additional "general education" courses in human relations, basic assessment, etc. in order to be licensed in Minnesota in ECSE. This is just incredulous as she has been working in the exact same field in another state, with the exact same job responsibilities and yet MN indicates she is not able to be licensed until she takes more classes!

EXHIBIT 6

[REDACTED]

From: [REDACTED]
Sent: Wednesday, September 11, 2013 5:41 PM
To: [REDACTED]
Subject: Fwd: PILOT REVIEW

Sent from my iPhone

Begin forwarded message:

From: "VanAernum, JoAnn (MDE)" <joann.vanaernum@state.mn.us>
Date: September 6, 2013 10:07:02 AM CDT
To: [REDACTED]
Subject: RE: PILOT REVIEW

Hi [REDACTED]:

I know there is no "appeal" for the PILOT decision, as the PILOT itself was actually an "appeal" (second evaluation) of the initial licensure review.

The Executive Director of the Board of Teaching, Karen Balmer, resigned Sept.30th. We do not have a replacement. So, you could send your inquiry to the Chairman of the Board of Teaching, John Bellingham, c/o Board of Teaching, 1500 Highway 36 West, Roseville, MN 55113.

Best wishes,

JoAnn Van Aernum
Teacher Education Specialist
Minnesota Department of Education
Minnesota Board of Teaching
651-582-8866

This email response is informal, like a telephone call, and it is meant to be advisory only and does not represent a written, official position of the Minnesota Board of Teaching or the Department of Education. This message is intended only for the use of individual or entity to which it is addressed and may contain information that is confidential. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, disruption, or copying of this communication is strictly prohibited. If you received this communication in error, please immediately notify the sender and then delete the communication from your electronic mail system. Thank you.

From: [REDACTED]
Sent: Friday, September 06, 2013 9:58 AM
To: VanAernum, JoAnn (MDE)
Subject: Re: PILOT REVIEW

Thank you Joann. Please let me know to whom I would address an appeal. If there is no "appeal," please let me know who supervises this process. I have numerous questions regarding the response of the committee and I need to know to whom to address them to.

Sincerely,

[REDACTED]

Sent from my iPhone

On Sep 6, 2013, at 8:52 AM, "VanAernum, JoAnn (MDE)" <joann.vanaernum@state.mn.us> wrote:

Good Morning [REDACTED]

Please find attached notification regarding your teacher licensure application.

Sincerely,

JoAnn Van Aernum
Teacher Education Specialist
Minnesota Department of Education
Minnesota Board of Teaching
651-582-8866

This email response is informal, like a telephone call, and it is meant to be advisory only and does not represent a written, official position of the Minnesota Board of Teaching or the Department of Education. This message is intended only for the use of individual or entity to which it is addressed and may contain information that is confidential. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, disruption, or copying of this communication is strictly prohibited. If you received this communication in error, please immediately notify the sender and then delete the communication from your electronic mail system. Thank you.

[REDACTED] Notification memo.pdf>

EXHIBIT 7



Board of Teaching request for an appeal

Hoffman, Allen (MDE) <Allen.Hoffman@state.mn.us>

Wed, Nov 13, 2013 at 9:21 AM

To: [REDACTED]
Cc: "Manley, Kathy (MDE)" <Kathy.Manley@state.mn.us>

Good morning [REDACTED]: My name is Allen Hoffman and I am currently the Interim Director of the Minnesota Board of Teaching. My apologies for the tardy response. I am currently in this temporary position on a very part time basis(one day/week) so have not responded to all concerns in a timely manner.

I will refer to your letter for an appeal to review the denial of your license on September 26th 2013.

You have been informed of the reason that your application was denied and what needs to be done in order to re-apply and be eligible for a license. I have had a chance to review this denial and agree with Ms. Manley's assessment of your situation.

Ms. Manley provided me with some further insight into the denial of your request. That includes the following:

- You supplied a transcript which indicates that you have a degree in Sociology (non-teaching) from the University of Minnesota
- Your transcripts do not provide any information demonstrating coursework that would satisfy the requirement to meet Minnesota standards for the Standards of Effective Practice, the Special Education Core or Special Education Content. All of these are required by Board of Teaching rules to be eligible for licensure in the state of Minnesota.
- You did provide 4.5 pages of documentation of Professional Development activities in a variety of topics. The reviewer was able to find only scant evidence relating to Special Education. The one piece of evidence that was noted was a 90 minutes professional development session on 'understanding disability and the continuum of services'. In a typical Special Education preparation program in Minnesota, this topic would be addressed in a semester long course.
- There is little evidence that you had proper or adequate instruction in understanding the complexities of disabilities or assessment related to disabilities either before or during an on the job training program.

All of these are problematic as the Board of Teaching is required legislatively to ensure that the standards that have been promulgated for licensure in all license categories are fully addressed by each candidate seeking licensure. We are not able to substantiate this at the present time, and consequently have informed you of the denial of your application.

While you are certainly within your right to request the hearing to which you refer. Please do know that it will be considered a contested case hearing before an administrative law judge. The Board of Teaching will have an attorney from the Attorney General's office representing the board demonstrating that the rules were applied in a fair and consistent manner to your request. You would be free to have counsel present as well.

What I want you to understand is that the administrative law judge does not have the authority to change the rules used to determine your eligibility for a license. It is his/her responsibility to ensure that the procedures were applied in a fair and consistent manner. The assessment made by the an experienced reviewer indicates that your preparation, as indicated above, does not meet the standards required. This is something that the administrative law judge would not have the authority to change.

Please let me know if you are still interested in an administrative hearing. While this is a possibility, I do not

necessarily think that this would provide what you are looking for at this time. It appears that your best option at this time is that indicated by the reviewer, to contact a teacher preparation institution and ask them to review your work and help you determine what you would need to be eligible for a Minnesota teaching license in the state of Minnesota.

Please let me know your intentions at you earliest convenience.

Do not hesitate to contact if me you would like to talk or have any questions.

Allen Hoffman

Interim Executive Director

Minnesota Board of Teaching

651-582-8888

Mon, Dec 9, 2013 at 12:08 PM

To: "Hoffman, Allen (MDE)" <Allen.Hoffman@state.mn.us>

Mr. Hoffman,

Thank you for your reply.

At the time of my application I submitted only the required materials, however I have other documentation which may help to aid in your decision in licensing. Is there any other information I can provide you with in order to help in building a clearer picture of my qualifications?

I am interested in setting up a time for a hearing as well. Please let me know when an appeal can be scheduled to review my request.

[Quoted text hidden]

EXHIBIT 8



Board of Teaching request for an appeal

[REDACTED]
To: erin.doan@state.mn.us

Tue, Jan 21, 2014 at 8:32 PM

Ms. Erin Doan,

My name is [REDACTED] and I originally applied for teaching certification August 12, 2013. I received a letter of denial on September 26th, 2013 and requested an appeal on October 23rd, 2013. I received an email from Allen Hoffman on November 13, 2013 that did not provide a thorough review of my case. I requested on December 9th, 2013 a hearing for my application. I never received a response.

At the time of my application I submitted only the required materials, however I have other documentation which may help to aid in your decision in licensing. At this point, is there any other information I can provide you with in order to help in building a clearer picture of my qualifications?

I am interested in setting up a time for a hearing as well. Please let me know when an appeal can be scheduled to review my request.

Sincerely,

[REDACTED]
[REDACTED]

EXHIBIT 9

Application for Licensure via Portfolio

Portfolio Process Discontinued

Due to budget reductions and policy changes, the Licensure via Portfolio process has been discontinued. Interested candidates and past candidates who were unsuccessful are encouraged to contact a Minnesota college or university to complete a teacher preparation program. Many programs are offered in flexible formats to accommodate candidates.

In 2011, the Minnesota Legislature authorized the creation of alternative programs that will eventually offer new options (though, to date, no programs have been created by eligible providers). A list of Minnesota colleges and universities offering programs can be found on the ***Train to Become a Teacher in Minnesota*** page.

EXHIBIT 10

30.02(f) ERIN DOAN 3/24/2014

Page 1

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 80-1320-31189

In the Matter of the Denial of the Application of
Ms. Marina A Bibo for a Full Minnesota Teaching
License

DEPOSITION OF BOARD OF TEACHING
WITNESS DESIGNEE Erin Doan PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 30.02(f)

TAKEN: 24 March 2014 BY: Jacqueline McKone

30.02(f) ERIN DOAN 3/24/2014

Page 38	Page 40
<p>1 program?</p> <p>2 A. That's correct. They must demonstrate equivalent</p> <p>3 to student teaching or full student teaching,</p> <p>4 pedagogy, and content.</p> <p>5 Q. Let's walk through the study slightly and very</p> <p>6 quickly. You just listed three factors they must</p> <p>7 consider. Is that how you determine -- strike</p> <p>8 that question. How are they trained to determine</p> <p>9 whether a teacher preparation program is</p> <p>10 essentially equivalent to a Minnesota teacher</p> <p>11 preparation program?</p> <p>12 A. That would be specific to the licensure area that</p> <p>13 they are reviewing.</p> <p>14 Q. What does it mean to be essentially equivalent?</p> <p>15 A. Again, that there would be demonstration of a</p> <p>16 student teaching or equivalent experience, that</p> <p>17 there would be evidence of field-specific methods,</p> <p>18 and pedagogical training. There are several</p> <p>19 components within that pedagogical training. The</p> <p>20 ones that are reviewed most closely are those that</p> <p>21 are in statute for reading, for human relations,</p> <p>22 and also for American Indian education, in</p> <p>23 addition to whatever content coursework is</p> <p>24 required for Minnesota programs.</p> <p>25 Q. So you've just broken it down. Would you say</p>	<p>1 Q. We'll get to that in just a second. I just want</p> <p>2 to understand first of all --</p> <p>3 A. That's the traditional model.</p> <p>4 Q. So as you understand the student teaching, the way</p> <p>5 these application specialists are reviewing this,</p> <p>6 they are looking to determine whether there was a</p> <p>7 ten-week period in which the applicant spent with</p> <p>8 both a teacher supervisor and an education</p> <p>9 facility itself, a graduate school or an</p> <p>10 undergraduate program, in the same classroom?</p> <p>11 A. The way that student teaching is normally</p> <p>12 demonstrated in its traditional form would be that</p> <p>13 it comes in on a transcript showing credits</p> <p>14 bearing certain number of credits for a particular</p> <p>15 number of weeks.</p> <p>16 Q. I'm just trying to understand what the requirement</p> <p>17 is. So for a program to be essentially equivalent</p> <p>18 to a Minnesota program, it has to have student</p> <p>19 teaching?</p> <p>20 A. Correct.</p> <p>21 Q. What does that student teaching have to entail to</p> <p>22 be essentially equivalent to a Minnesota --</p> <p>23 A. The way it's defined in Minnesota is that it's a</p> <p>24 ten-week period working with a university</p> <p>25 supervisor and a cooperating mentor teacher.</p>
Page 39	Page 41
<p>1 there's generally three big buckets of things they</p> <p>2 are going to look for to determine equivalence?</p> <p>3 A. Yes.</p> <p>4 Q. The first one you said is student teaching?</p> <p>5 A. Or an essential equivalent.</p> <p>6 Q. What is student teaching?</p> <p>7 A. Student teaching in a Minnesota program at this</p> <p>8 time would be a minimum of a full-time ten-week</p> <p>9 experience as teacher in a K-12 classroom within</p> <p>10 the licensure scope that the candidate is seeking.</p> <p>11 Q. So if you've completed the student teaching</p> <p>12 portion, that just means you have ten weeks within</p> <p>13 the general scope that you're applying for</p> <p>14 licensure; is that right?</p> <p>15 A. Ten weeks supervised student teaching within a</p> <p>16 classroom with university supervision and a</p> <p>17 classroom mentor teacher.</p> <p>18 Q. So if someone does ten weeks of student teaching</p> <p>19 with all different types of mentors, if they don't</p> <p>20 have a university person present, they haven't</p> <p>21 done the student teaching?</p> <p>22 A. Not in the way it's described, but there's also a</p> <p>23 provision within the rule, and within statute</p> <p>24 actually, that talks about an essentially</p> <p>25 equivalent experience.</p>	<p>1 Q. Where is that codified or defined?</p> <p>2 A. I can't quote that off the top of my head.</p> <p>3 Q. Is there a place that it's written down in the</p> <p>4 rules or regulations?</p> <p>5 A. I believe it's under the 8700.7600, but we need to</p> <p>6 look it up.</p> <p>7 Q. I'm going to hand you for your reference</p> <p>8 8700.7600. Is that what you wanted?</p> <p>9 A. That's where I would start. Yes.</p> <p>10 Q. Read it to yourself and have a quick review. If</p> <p>11 it's not there, it's not a problem at all. I</p> <p>12 don't of course expect you to have encyclopedic</p> <p>13 knowledge of what all the rules are. I just</p> <p>14 generally interested as to if you happen to have</p> <p>15 them.</p> <p>16 A. It's here somewhere. I can spend time looking for</p> <p>17 it, or not.</p> <p>18 Q. I'll leave it at that. I appreciate the help.</p> <p>19 You believe there's actually specifications that</p> <p>20 student teaching must be a) ten weeks long?</p> <p>21 A. Yes.</p> <p>22 Q. And b) must also include a university person</p> <p>23 supervising the process?</p> <p>24 A. Yes.</p> <p>25 Q. And c) must also have a mentoring teaching as well</p>

11 (Pages 38 to 41)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 42	Page 44
<p>1 supervising the ten-week process?</p> <p>2 A. Yes.</p> <p>3 Q. And then d) I guess you'd say it also must be in</p> <p>4 the general scope and subject matter that the</p> <p>5 applicant is seeking a license in; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Failing any one of those, they would not have</p> <p>9 student teaching and would have to defer to the</p> <p>10 essentially equivalent of student teaching; is</p> <p>11 that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Let's talk about that latter part now. What would</p> <p>14 be considered essentially equivalent to student</p> <p>15 teaching?</p> <p>16 A. The language that is used for our licensing</p> <p>17 executives to be able to assess essential</p> <p>18 equivalence was the language that was instituted</p> <p>19 in 2011 that would require what is -- Minnesota</p> <p>20 alternative program is required to provide. So</p> <p>21 they are looking for some sort of mentorship that</p> <p>22 would happen prior to time spent as a teacher of</p> <p>23 record, in addition to ongoing mentorship</p> <p>24 throughout their teaching experience, and without</p> <p>25 going into the language, that's all I feel</p>	<p>1 A. I'm saying if they were not granted a license it</p> <p>2 would have to do primarily with the review of the</p> <p>3 entire package of their training, not only on the</p> <p>4 student teaching or student teaching equivalent.</p> <p>5 Q. I just want to know: If you have a teacher with</p> <p>6 38 years of teaching experience teaching K through</p> <p>7 6 exclusively in a particular state and she's</p> <p>8 applied to Minnesota, without a demonstration that</p> <p>9 she satisfies those enumerated categories in 245,</p> <p>10 you're going to say sorry, that's not essentially</p> <p>11 equivalent to student teaching?</p> <p>12 A. Not based on student teaching alone. There are</p> <p>13 too many factors to be considered for me to just</p> <p>14 say yes categorically we would deny that teacher.</p> <p>15 Q. Okay. So there's no strong factors, they are soft</p> <p>16 factors that you can be sufficient in one but make</p> <p>17 up for in another?</p> <p>18 A. I wouldn't --</p> <p>19 MS. RUTHVEN: Objection. Misstates her</p> <p>20 prior testimony.</p> <p>21 MR. WATKINS: I'm not stating her testimony</p> <p>22 at all. I'm asking a question.</p> <p>23 THE WITNESS: I wouldn't say that, but I'm</p> <p>24 not comfortable saying that we would look solely</p> <p>25 at student teaching alone and say a teacher with</p>
Page 43	Page 45
<p>1 comfortable saying.</p> <p>2 Q. So to satisfy the essentially equivalent, you're</p> <p>3 going to look to Minnesota Statute 122A.245, which</p> <p>4 is the new legislation that was passed in 2011?</p> <p>5 A. Yes. I believe so.</p> <p>6 Q. That lists out that six categories of things that</p> <p>7 the alternative teacher preparation program that</p> <p>8 Minnesota is looking to create must include?</p> <p>9 A. That's correct.</p> <p>10 Q. You must satisfy all of those things to be</p> <p>11 considered essentially equivalent for student</p> <p>12 teaching?</p> <p>13 A. Yes.</p> <p>14 Q. So if someone has been a teacher of record for 38</p> <p>15 years, not doing it? That's not good enough on</p> <p>16 its own to be considered essentially equivalent to</p> <p>17 student teaching?</p> <p>18 A. Not without the component of mentorship. No.</p> <p>19 More often, it will depend on how that teacher was</p> <p>20 licensed originally and what training they</p> <p>21 received. Not solely dependant on their student</p> <p>22 teaching or their experience as a teacher of</p> <p>23 record.</p> <p>24 Q. So there might be other ways to demonstrate</p> <p>25 essentially equivalent to student teaching?</p>	<p>1 38 years of experience --</p> <p>2 BY MR. WATKINS:</p> <p>3 Q. I'm not asking if the application is going to be</p> <p>4 granted or denied. I haven't given you enough</p> <p>5 facts to know that. I'm just asking you: On that</p> <p>6 fact alone, that would be considered essentially</p> <p>7 equivalent to student teaching?</p> <p>8 A. Those are the components that are looked for are</p> <p>9 those described in 245.</p> <p>10 Q. So by not having that, despite having 38 years of</p> <p>11 teaching experience --</p> <p>12 A. It would be a concern.</p> <p>13 Q. It would be a concern, but that would not be</p> <p>14 essentially equivalent to student teaching;</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. The next thing you talked about was field-specific</p> <p>18 methods, is that right, the next bucket of</p> <p>19 information?</p> <p>20 A. Yes.</p> <p>21 Q. So what does it mean then for a school to be</p> <p>22 essentially equivalent to Minnesota program as far</p> <p>23 as field-specific methods work?</p> <p>24 A. Again, that's going to differ but licensure area,</p> <p>25 but field-specific methods would include not only</p>

12 (Pages 42 to 45)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 46	Page 48
<p>1 those methods that are appropriate for the age</p> <p>2 group that's being targeted or the scope of that</p> <p>3 license but would also include specific</p> <p>4 requirements depending on the licensure area. So</p> <p>5 content-specific methods coursework.</p> <p>6 Q. So let's take the example of a K through 6</p> <p>7 license. Do you know what field-specific methods</p> <p>8 would be required to be equivalent to a Minnesota</p> <p>9 program?</p> <p>10 A. In general, there would be methods offered in core</p> <p>11 subject areas; math, reading literacy, social</p> <p>12 studies, and science in addition to art, music,</p> <p>13 health, and physical education.</p> <p>14 Q. I'm going to ask you to repeat slowly all the</p> <p>15 categories I have. Math, reading, literacy,</p> <p>16 science?</p> <p>17 A. Social studies, art, music, health, and physical</p> <p>18 education.</p> <p>19 Q. Is that all of the areas for a K through 6</p> <p>20 license, or are there more?</p> <p>21 A. Those are content-specific methods that would be</p> <p>22 looked for in a Minnesota program.</p> <p>23 Q. So to be essentially equivalent to a Minnesota</p> <p>24 program, the out-of-state program must include</p> <p>25 field-specific teaching methods for all of those</p>	<p>1 is teaching exclusively mathematics or hard</p> <p>2 sciences in the K through 6 environment, and they</p> <p>3 have come from a school where that is appropriate,</p> <p>4 like California, or New York, or Florida, and they</p> <p>5 are doing nothing but the hard sciences, in their</p> <p>6 teacher preparation program, if they lack</p> <p>7 something like field-specific teaching methods in</p> <p>8 art, you're going to tell this person I'm sorry,</p> <p>9 your teacher preparation program is not</p> <p>10 essentially equivalent to our teacher preparation</p> <p>11 program?</p> <p>12 A. For a full K-6 license in Minnesota, that would be</p> <p>13 accurate.</p> <p>14 Q. So you would -- how would that person handle that?</p> <p>15 They would have to go back and take classes in how</p> <p>16 to instruct K through 6 art?</p> <p>17 A. They would be granted some sort of temporary</p> <p>18 permission to be in the classroom while they went</p> <p>19 back to pick up the pieces that were missing from</p> <p>20 their training program.</p> <p>21 Q. How many courses that are required for each of</p> <p>22 these -- how many field-specific methods in</p> <p>23 mathematics do you need to take to be essentially</p> <p>24 equivalent to a Minnesota program?</p> <p>25 A. There isn't a defined number of classes for each</p>
Page 47	Page 49
<p>1 subjects that you just listed?</p> <p>2 A. That's correct.</p> <p>3 Q. If there's a lack of one, it would not be</p> <p>4 essentially equivalent to a Minnesota program; is</p> <p>5 that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. For example, if someone has been teaching hard</p> <p>8 sciences, the math, the beautiful stuff, the</p> <p>9 physics, chemistry, those are not in middle</p> <p>10 school, but they don't have a health or art</p> <p>11 training for example, how to teach middle school</p> <p>12 kids art, you're going to say sorry, you're not</p> <p>13 qualified as essentially equivalent to the</p> <p>14 Minnesota program?</p> <p>15 A. Those are requirements for full licensure.</p> <p>16 Q. So they would not qualify?</p> <p>17 MS. RUTHVEN: I'm just trying to clarify.</p> <p>18 You're asking about middle in your hypothetical?</p> <p>19 You walked through K 6.</p> <p>20 MR. WATKINS: Quite right. I apologize for</p> <p>21 that.</p> <p>22 MS. RUTHVEN: Sorry.</p> <p>23 MR. WATKINS: You're very right.</p> <p>24 BY MR. WATKINS:</p> <p>25 Q. So K through 6 license, and you got somebody who</p>	<p>1 of those areas, but the presence of methods</p> <p>2 training in each of those areas is required.</p> <p>3 Q. How do you determine if the classes includes</p> <p>4 methods training? How do you know that?</p> <p>5 A. Primarily we start with a transcript review. If</p> <p>6 the information is not on a transcript review, we</p> <p>7 would ask for additional documentation, or</p> <p>8 actually it would come from licensing executives</p> <p>9 in their communications with candidates to ask for</p> <p>10 any additional supplemental documentation which</p> <p>11 normally comes to them in the form of a syllabus</p> <p>12 or a program description.</p> <p>13 Q. How do you know what the math courses in</p> <p>14 field-specific methods of teaching math as opposed</p> <p>15 to this is what math is for elementary school</p> <p>16 kids?</p> <p>17 A. I don't understand the question.</p> <p>18 Q. What does it take for a class in math taught at an</p> <p>19 education-providing program designed to end in</p> <p>20 licensure for somebody in the K through 6 range to</p> <p>21 be considered field-specific teaching methods in</p> <p>22 math?</p> <p>23 A. The syllabus or the program description would</p> <p>24 detail evidence of providing pedagogical training</p> <p>25 in that specific content area, not just a content</p>

13 (Pages 46 to 49)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

<p style="text-align: right;">Page 50</p> <p>1 course in whatever the topic may be.</p> <p>2 Q. I'm just kind of assuming, and perhaps I'm wrong,</p> <p>3 but if you're an educator and you're going into a</p> <p>4 teacher preparation program you're not taking a</p> <p>5 math course to learn about math to prove your own</p> <p>6 education. Every course you're taking is</p> <p>7 presumably designed to help you become an educator</p> <p>8 in that subject area. Is that not generally how</p> <p>9 these thing work?</p> <p>10 A. I don't make that general assumption. No.</p> <p>11 Q. Really? Okay. So you wouldn't assume that a math</p> <p>12 course had a teacher preparation program for K</p> <p>13 through 6 that that math course would actually be</p> <p>14 designed to teach teachers how to teach math?</p> <p>15 You're saying it's quite possible it's just to</p> <p>16 improve that person's education in the general</p> <p>17 field of mathematics?</p> <p>18 A. That's quite possible that teachers at</p> <p>19 institutions across the country would major in an</p> <p>20 area or take a math class in a specific area, but</p> <p>21 their field-specific methods would need to come</p> <p>22 from their teacher preparation program, which the</p> <p>23 content half of that training and the pedagogical</p> <p>24 half of that training are not necessarily an</p> <p>25 exclusive group at one institution.</p>	<p style="text-align: right;">Page 52</p> <p>1 coursework in those subject areas, and there's no</p> <p>2 exception to that; is that correct?</p> <p>3 MS. RUTHVEN: I just want to clarify. The</p> <p>4 coursework that she's outlined is for K-6 not for</p> <p>5 if you wanted, like, a 7-12 math license. So I</p> <p>6 want --</p> <p>7 MR. WATKINS: I'll do it again.</p> <p>8 BY MR. WATKINS:</p> <p>9 Q. If someone comes in and applies for a K through 6</p> <p>10 license from California, the first thing you're</p> <p>11 going to do is say, all right, the teacher</p> <p>12 preparation program you did in California has to</p> <p>13 be essentially equivalent to a Minnesota</p> <p>14 preparation program; correct?</p> <p>15 A. Yes.</p> <p>16 Q. So the first thing you say is regardless of their</p> <p>17 education, experience, training, anything else</p> <p>18 matters not. The very first step is: Is their</p> <p>19 preparation program from out of state essentially</p> <p>20 equivalent to the Minnesota programs; correct?</p> <p>21 A. Yes.</p> <p>22 Q. The very first thing or one of the things you look</p> <p>23 for is student teaching; correct?</p> <p>24 A. Correct.</p> <p>25 Q. Even if they -- as we said, even if they had 38</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Let's go back to my example. If you have a K</p> <p>2 through 6 educator in California who teaches</p> <p>3 exclusively reading and literacy type of classes,</p> <p>4 but in their teacher preparation program, they</p> <p>5 didn't have any reading or literacy-specific</p> <p>6 pedagogical methodology for teaching, is there</p> <p>7 anything that applicant can do, or are they told</p> <p>8 I'm sorry, despite your years of teaching, you</p> <p>9 need to go back to university and get a course in</p> <p>10 how to teach field-specific methods in literacy or</p> <p>11 reading?</p> <p>12 A. If they can provide evidence that they have</p> <p>13 already done that somewhere in their training,</p> <p>14 that would be reviewed additionally. If they</p> <p>15 cannot, they would be asked to complete that</p> <p>16 training in Minnesota.</p> <p>17 Q. So years of teaching experience would not satisfy</p> <p>18 that requirement?</p> <p>19 A. No. Not at this time.</p> <p>20 Q. So as I understand this, every single applicant</p> <p>21 coming from out of state to the State of Minnesota</p> <p>22 must demonstrate 1) the student teaching portion</p> <p>23 that we've already talked about, 2) they must also</p> <p>24 demonstrate field-specific methods in the numerous</p> <p>25 subjects you just identified as far as actual</p>	<p style="text-align: right;">Page 53</p> <p>1 years of teaching experience, if they didn't</p> <p>2 actually satisfy the requirements of having a</p> <p>3 university person part of that program and a</p> <p>4 teacher mentor part of that program, they don't</p> <p>5 technically have student teaching, and they have</p> <p>6 to demonstrate essentially equivalent to student</p> <p>7 teaching; correct?</p> <p>8 A. They have to demonstrate student teaching or an</p> <p>9 essentially equivalent.</p> <p>10 Q. Right, and a student teaching does require a</p> <p>11 ten-week program, a minimum of a ten-week program</p> <p>12 in --</p> <p>13 A. In Minnesota.</p> <p>14 Q. I'm sorry. We're talking about someone coming to</p> <p>15 Minnesota. So to be essentially equivalent to the</p> <p>16 Minnesota student teaching requirement, you have</p> <p>17 to have a ten-week program that you can</p> <p>18 demonstrate you completed, and that ten-week</p> <p>19 program must have included a university person,</p> <p>20 and it must have included a teacher mentor;</p> <p>21 correct?</p> <p>22 A. If they can demonstrate student teaching on a</p> <p>23 transcript, normally they are not going to go back</p> <p>24 to ask who was the cooperating teacher, or who was</p> <p>25 the university mentor. Many of the things that</p>

14 (Pages 50 to 53)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 54	Page 56
<p>1 you described are assumptions based on a</p> <p>2 accreditation at a university.</p> <p>3 So again, it becomes a different situation</p> <p>4 whether you're talking about someone who is</p> <p>5 classically trained through university teacher</p> <p>6 preparation program, or whether they were trained</p> <p>7 through an alternative pathway. There are</p> <p>8 assumptions that can be made based on higher</p> <p>9 education accreditation.</p> <p>10 If it shown that they're student teaching</p> <p>11 present on a transcript, we're not going to go</p> <p>12 back and say did your program have nine weeks or</p> <p>13 ten and deny it based on that. There are</p> <p>14 assumptions that are able to be made based on</p> <p>15 accreditation.</p> <p>16 Q. What if it was through an alternative preparation</p> <p>17 program; would you go through and actually verify</p> <p>18 if there were ten weeks and they satisfied the</p> <p>19 requirements?</p> <p>20 A. Most alternative teacher preparation programs that</p> <p>21 are coming in we would be looking at those</p> <p>22 programs under the essentially equivalent.</p> <p>23 Q. I just mean an applicant themselves. Just an</p> <p>24 applicant coming in. Give me an example of an</p> <p>25 alternative pathway to licensure across the</p>	<p>1 subject to less scrutiny than if they did an</p> <p>2 alternative licensing program?</p> <p>3 A. No that's not correct.</p> <p>4 Q. How is that not correct?</p> <p>5 A. Each candidate who applies for licensure has a</p> <p>6 review of their materials to determine whether</p> <p>7 their background, whether their training is</p> <p>8 essentially equivalent to what's expected for a</p> <p>9 teacher trained in Minnesota. Regardless of the</p> <p>10 course.</p> <p>11 Q. You're making assumptions that are different. So</p> <p>12 for university graduate through a program through</p> <p>13 university you're going to assume the university</p> <p>14 person was present, and you're going to assume it</p> <p>15 was a ten-week program; correct?</p> <p>16 A. I'm not going to assume the number of weeks that</p> <p>17 were associated with that. I'm saying if the</p> <p>18 student teaching is demonstrated on a transcript</p> <p>19 there are certain requirements for teacher</p> <p>20 preparation and accreditation of those</p> <p>21 institutions that are able to be put in place.</p> <p>22 So if we see student teaching present on a</p> <p>23 transcript, then the assumption is able to be made</p> <p>24 that student teaching was done under that model at</p> <p>25 that institution.</p>
Page 55	Page 57
<p>1 nation.</p> <p>2 A. There are many alternative pathways. There are</p> <p>3 district-sponsored alternative pathways where</p> <p>4 school districts in some states, Texas for</p> <p>5 example, Florida for example, that train their own</p> <p>6 teachers. That would be an alternative. The</p> <p>7 National Teacher Project --</p> <p>8 Q. Let's take that one. My brother is a teacher in</p> <p>9 Texas so I'm familiar with that. If a teacher</p> <p>10 from Texas is alternatively trained through the</p> <p>11 school district itself, just for example, are you</p> <p>12 going to look at that student teaching portion and</p> <p>13 determine whether that required ten weeks of the</p> <p>14 university person in the classroom along with an</p> <p>15 actual teacher mentor in the classroom for the</p> <p>16 ten-week period?</p> <p>17 A. We would be looking at the components of their</p> <p>18 teacher training within that program. Yes.</p> <p>19 Q. Are there any teacher preparation programs in the</p> <p>20 country that you've said those are good enough,</p> <p>21 they satisfy the student teaching requirements?</p> <p>22 A. No. Candidates are interviewed -- reviewed</p> <p>23 individually as they come in.</p> <p>24 Q. So if they have gone through a traditional</p> <p>25 licensure method through a university, they are</p>	<p>1 Q. So if it's done through alternative preparation</p> <p>2 program, you look more detailed at specifically</p> <p>3 how they did the student teaching?</p> <p>4 A. We would look at what the components of their</p> <p>5 student teaching or equivalent experience what the</p> <p>6 components of that requirement would be. Yes.</p> <p>7 Q. If I could just look with you, I'm going to show</p> <p>8 you 122A.245. This is the new 2011 statute that</p> <p>9 we've before talking about; correct?</p> <p>10 A. Yes.</p> <p>11 Q. If we look at Subdivision 2, it lists out six</p> <p>12 additional criteria that must be satisfied by the</p> <p>13 alternative teacher preparation programs; correct?</p> <p>14 A. Correct.</p> <p>15 Q. These are the six criteria under Subdivision 2</p> <p>16 that you're talking about to be essentially</p> <p>17 equivalent to student teaching?</p> <p>18 A. That's correct.</p> <p>19 Q. Then the next category of things your licensing</p> <p>20 people look at is whether the applicant has</p> <p>21 field-specific teaching methods included in their</p> <p>22 teacher preparation program?</p> <p>23 A. Correct.</p> <p>24 Q. You listed nine different subject matters where</p> <p>25 you're expecting at least some field-specific</p>

15 (Pages 54 to 57)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 58	Page 60
<p>1 teaching methods and pedagogical methodology; 2 right?</p> <p>3 A. What we've described is for K-6 licenses.</p> <p>4 Q. Okay. Lovely. Now we get to talk about the 5 pedagogy requirement. So to be essentially 6 equivalent to a Minnesota school, the applicant 7 must also demonstrate that they have pedagogy 8 that's essentially equivalent to Minnesota 9 teaching programs; is that right?</p> <p>10 A. That's correct.</p> <p>11 Q. How do they do that?</p> <p>12 A. Those are done -- the review or the comparison is 13 made with the Standards of Effective Practice in 14 Minnesota, which would be under 8710.2000.</p> <p>15 Q. Then the applicant once demonstrating the 16 field-specific teaching methods and the student 17 teaching they then must demonstrate they also 18 satisfy all the criteria listed on 8710.2000?</p> <p>19 A. Yes.</p> <p>20 Q. I believe you got 8710.2000 in front of you. To 21 look at this together, which subdivisions must 22 have they satisfied within 8710.2000?</p> <p>23 A. An initial review for licensure would be tied to 24 the requirements at the subpart level. So subject 25 matter, student learning, diverse learners,</p>	<p>1 talking about K through 6 for obvious reasons, and 2 if I say otherwise, I'll let you know.</p> <p>3 BY MR. WATKINS:</p> <p>4 Q. If you apply for a K through 6 license, how do you 5 determine whether Subpart 4 has been met by the 6 out-of-state teacher preparation program in a 7 manner that's essentially equivalent to the 8 Minnesota preparation programs?</p> <p>9 A. There are a number of different concepts that are 10 embedded within that diverse learner subpart. The 11 majority of states in the United States do have 12 agreements about human relations coursework or 13 diversity coursework that is required in 14 traditional teacher preparation that would 15 normally appear in a course on a transcript that 16 looked something like multicultural education or 17 some similar title. If that is not evident, the 18 candidate who is applying would be asked for 19 additional information to support that specific 20 area.</p> <p>21 There is documentation that is provided on 22 the Minnesota Department of Education Web site 23 that allows a candidate to detail out how they 24 have met multicultural education requirements for 25 the State if they do not have such a course on</p>
Page 59	Page 61
<p>1 instructional strategies, learning environment, 2 communication planning and instruction, 3 assessment, reflection and professional 4 development, collaboration, ethics, and 5 relationships. So those are the categories of 6 information that are looked for.</p> <p>7 Q. So as the third bucket, an out-of-state applicant 8 would have to demonstrate that they satisfy each 9 and every subdivision listed in 8710.2000?</p> <p>10 A. The initial review is done by subpart.</p> <p>11 Q. So each subpart must be satisfied?</p> <p>12 A. Yes.</p> <p>13 Q. How do you determine whether a subpart is 14 satisfied?</p> <p>15 A. To look at primarily the courses and the syllabi 16 or other descriptive information that's provided.</p> <p>17 Q. So if you were to look at Subpart 4 for example, 18 diverse learners, how would you look at syllabi to 19 determine whether the out-of-state teacher program 20 covered this subpart sufficiently to be 21 essentially equivalent to a Minnesota license? 22 For example, sticking with our K through 6.</p> <p>23 MS. RUTHVEN: Do you want to stipulate to 24 K-6, and if you change it -- I don't mean to be -- 25 MR. WATKINS: We'll assume we're always</p>	<p>1 their transcript.</p> <p>2 In addition, training in exceptionality, 3 both gifted education and special education, would 4 be a part of that understanding as well because 5 that would be something that they were looking for 6 on a transcript, but again, candidates could also 7 be asked for additional information at that time.</p> <p>8 Q. How many courses for example do Minnesota state 9 programs require their applicants to take in 10 diverse learners?</p> <p>11 A. There isn't a course number requirement. The 12 requirement is that that training is provided.</p> <p>13 Q. So it could be provided in 60 seconds and the 14 training is provided?</p> <p>15 A. No. The question was how many courses is 16 required. There is not a requirement for one 17 course nor is there a requirement for five 18 courses. The training has to be embedded. 19 Candidates for programs are allowed to demonstrate 20 how they have met those standards when they apply 21 for program approval by demonstrating which 22 courses meet which standards.</p> <p>23 Q. I'm worried here because as I understood your 24 answer you just said the programs when they apply 25 for licensure are required to show. I only mean</p>

16 (Pages 58 to 61)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 62	Page 64
<p>1 with an individual applicant, or is that the same?</p> <p>2 A. When programs apply for approval -- what I'm</p> <p>3 getting as is the essential equivalency. You're</p> <p>4 saying is there a requirement in Minnesota, and</p> <p>5 correct me if I'm wrong, for a particular number</p> <p>6 of courses. The answer is no. There is not a</p> <p>7 requirement for one, or five, or ten.</p> <p>8 Q. This could be satisfied -- we're still looking at</p> <p>9 the Standard 3 on diverse learners. This could be</p> <p>10 satisfied by a continuing education type luncheon</p> <p>11 where someone is discussing some of these issues?</p> <p>12 Could that satisfy an Minnesota program?</p> <p>13 A. That would not be approved in the Minnesota</p> <p>14 program. No.</p> <p>15 Q. What would be required to be approved in the</p> <p>16 Minnesota program?</p> <p>17 A. Most Minnesota programs have a full course that</p> <p>18 addresses multicultural education.</p> <p>19 Q. Is it required to have a course to be approved in</p> <p>20 Minnesota?</p> <p>21 A. It is required to have a course that addresses</p> <p>22 those things. It is not required to have a course</p> <p>23 titled Multicultural Education.</p> <p>24 Q. For an out-of-state applicant, must they</p> <p>25 demonstrate this has been satisfied by at least</p>	<p>1 Standard 5, all the way through I think it was at</p> <p>2 least Standard 10; correct?</p> <p>3 A. That's not -- no. That's not fair to say.</p> <p>4 Q. Why not?</p> <p>5 A. There's not such a process for every specific</p> <p>6 requirement. Again, if there are pieces that are</p> <p>7 missing, as a licensing executive is reviewing a</p> <p>8 candidate's application, they will ask the</p> <p>9 candidate for more information on the information</p> <p>10 that is deemed to be missing.</p> <p>11 Q. Right, but again, an applicant must demonstrate</p> <p>12 that their preparation program included</p> <p>13 field-specific methods -- sorry. We're in</p> <p>14 pedagogy now. An applicant coming from out of</p> <p>15 state who has completed an out-of-state</p> <p>16 preparation program must demonstrate that that</p> <p>17 program included pedagogy sufficient to satisfy</p> <p>18 all ten of these sub factors; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. In addition to of course the field-specific</p> <p>21 teaching methods in the several subjects you've</p> <p>22 listed as well as the student teaching; correct?</p> <p>23 A. Correct.</p> <p>24 Q. How many of these applications do you get through</p> <p>25 a year? Between three or four is my guess. Is it</p>
Page 63	Page 65
<p>1 one particular course in their teacher preparation</p> <p>2 program?</p> <p>3 A. By training in a course that was part of their</p> <p>4 program. Yes.</p> <p>5 Q. So just by way of example, if you had an applicant</p> <p>6 who was a lawyer, maybe clerked on the 8th Circuit</p> <p>7 for Judge Heaney and worked under the 8th Circuit</p> <p>8 to get rid of the terrible disparity between the</p> <p>9 location and the funding for different schools</p> <p>10 between white and non-white students, and they</p> <p>11 spent years working on that in terms of how to</p> <p>12 implement that and so on, writing a book on it for</p> <p>13 example, but they didn't take a class in their</p> <p>14 preparation program specifically that dealt with</p> <p>15 diverse learners, but here they had 8 to 10 years</p> <p>16 of complex in-depth legal analysis working with</p> <p>17 one of the more revered legal scholars in our area</p> <p>18 on this exact issue, is that enough, or no?</p> <p>19 A. They would be asked to demonstrate how they met</p> <p>20 those components with the process that is</p> <p>21 prescribed by MDE. It would not be an immediate</p> <p>22 division made by looking at their transcript.</p> <p>23 They would be asked to provide further</p> <p>24 information.</p> <p>25 Q. That's going to be the same for Standard 4,</p>	<p>1 more?</p> <p>2 A. Many more.</p> <p>3 Q. Is there a shorthand way of doing this, or does it</p> <p>4 actually take this long of a process to go</p> <p>5 through?</p> <p>6 A. It takes this long of a process to go through.</p> <p>7 For Minnesota applicants, the review is done</p> <p>8 during the process of program approval for</p> <p>9 out-of-state applicants. Because the program has</p> <p>10 not been reviewed in Minnesota, the review does</p> <p>11 take longer as they are asking for additional</p> <p>12 information to answer questions.</p> <p>13 Q. After to those three buckets, I think you listed</p> <p>14 reading, human relations, and American Indian</p> <p>15 Studies?</p> <p>16 A. Those are statutory requirements. Yes.</p> <p>17 Q. Let's talk about the reading. You don't have to</p> <p>18 tell me the specific statute, but what's the</p> <p>19 statutory requirement for completion of reading as</p> <p>20 well?</p> <p>21 A. The requirements for reading are different</p> <p>22 depending on the subject area or the license field</p> <p>23 that you're talking about.</p> <p>24 Q. Do you happen to know any of the statutes that</p> <p>25 talk about that?</p>

17 (Pages 62 to 65)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 66	Page 68
<p>1 A. Most of them are in -- no. There's a statutory 2 requirement for reading. Most of the specifics 3 about how that gets carried out are embedded in 4 rule. 5 Q. Do you know any of the statutes or rules? 6 A. Not off the top of my head. 7 Q. That's an additional requirement for all 8 out-of-state teacher applications; correct? 9 A. Yes. 10 Q. The next one you mentioned was a human relations 11 component? 12 A. Yes. Which speaks to the multicultural education 13 that we just spoke about. 14 Q. What is the human relations requirement? 15 A. The human relations requirement is basically a set 16 of I believe five -- I'm not looking at the 17 documentation in front of me, but I believe there 18 are five key components of multicultural education 19 that are expected for teacher candidates, and 20 again, that process can be viewed in more detail, 21 or those five pieces, on the Minnesota Department 22 of Education Web site. I don't have that in front 23 of me. 24 Q. When you say human relations component, is there a 25 specific statute that deals with that as well?</p>	<p>1 Q. Do you know of any statutes or regulations that 2 require that to be demonstrated as well? 3 A. There is a statute. I can't give you the citation 4 off the top of my head. 5 Q. Is that a requirement for all Minnesota licensed 6 teachers? 7 A. Yes. 8 Q. The same for the human relations component and 9 reading? 10 A. Yes it is. 11 Q. I'm going to recap. You have an applicant coming 12 in from another state seeking a K through 6 13 license. Regardless of all training, education, 14 experience, anything else, all of those 15 out-of-state applicants are going to have to 16 demonstrate that their teacher preparation program 17 is essentially equivalent to a Minnesota teacher 18 preparation program; correct? 19 A. Correct. 20 Q. To do that, they are going to have to first of all 21 demonstrate that they did either student teaching 22 or the essentially equivalent of student teaching; 23 correct? 24 A. Correct. 25 Q. They are also going to have to demonstrate that</p>
Page 67	Page 69
<p>1 A. I don't recall if it's a statute or rule. 2 Q. Is there a rule that deals with that? 3 A. There are -- yes. The rules in 8710.2000 that we 4 just spoke about deal with the human relations 5 requirement. 6 Q. There was also a regulation that specifically 7 required human relations as well, correct, at one 8 point? 9 A. Yes. 10 Q. That rule has been repealed; correct? 11 A. Correct. Although the requirement for 12 multicultural education has not. 13 Q. When you say multicultural education, are we 14 talking about Subpart 4, Standard 3, Diverse 15 Learners from -- 16 A. At this point, yes. 17 Q. There's not an additional requirement on top of 18 that? 19 A. I don't believe there is any longer, but again, 20 that's not a decision I work with on a daily 21 basis. Our licensing executives would have to 22 speak to that. 23 Q. You mentioned American Indian Studies; is that 24 right? 25 A. Yes.</p>	<p>1 they took courses in field-specific methods, and 2 those courses would depend on the application; 3 correct? 4 A. On the licensure field. Correct. 5 Q. As a third requirement, they also have to 6 demonstrate that they have sufficient pedagogical 7 education which would be Minnesota Rule 8710.2000; 8 correct? 9 A. Correct. 10 Q. So they have to demonstrate that their teacher 11 preparation program satisfied each and every 12 subpart within 8710.2000? 13 A. Correct. 14 Q. In addition to those three things, they also have 15 to satisfy the statutory requirement for reading, 16 human relations, and American Indian Studies; 17 correct? 18 A. Correct. 19 Q. Once they have done all of those six things, what 20 else do they have to do to get a license? 21 A. The final piece that we spoke earlier about was 22 their content preparation for elementary 23 education. Normally that is done through liberal 24 studies and evidence of coursework in the areas 25 we've already described.</p>

18 (Pages 66 to 69)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 70	Page 72
<p>1 For other licensure fields, the content</p> <p>2 major that you were looking at would be dependent</p> <p>3 on what licensure field you were looking at, but a</p> <p>4 major within the content area. So for life</p> <p>5 science, you would be looking for biology majors.</p> <p>6 For chemistry license, you would be looking for</p> <p>7 chemistry majors, or perhaps chemical engineering.</p> <p>8 Q. So lastly after those six things, the applicant</p> <p>9 has to demonstrate that they have a degree or some</p> <p>10 sort of formal education in the content area they</p> <p>11 are trying to teach as well?</p> <p>12 A. A major, or the equivalent.</p> <p>13 Q. So that's good. To be clear, they've got those</p> <p>14 six requirements, and in addition, they have to</p> <p>15 show they have a major or equivalent in the</p> <p>16 content area they are looking for teaching?</p> <p>17 A. Correct.</p> <p>18 Q. If you're in elementary education teaching, for</p> <p>19 example K through 6, generally do four-year</p> <p>20 schools offer degrees in elementary education?</p> <p>21 A. Some do, but as I said, that's normally</p> <p>22 accomplished through a liberal studies</p> <p>23 preparation, and again, licensing executives look</p> <p>24 for evidence of coursework across the spectrum in</p> <p>25 the subjects that we talked about.</p>	<p>1 Q. Just to circle back in on what we've been talking</p> <p>2 about, there are as you identified five licensing</p> <p>3 executives that deal with this at the BoT;</p> <p>4 correct?</p> <p>5 A. That review the applications coming in on behalf</p> <p>6 of MDE. Yes.</p> <p>7 Q. They take the initial cut at this?</p> <p>8 A. Yes.</p> <p>9 Q. What are the qualifications to becoming a</p> <p>10 licensing executive with the MDE?</p> <p>11 A. I've not been a part of their hiring process.</p> <p>12 Q. Do you know if those people all hold bachelor's</p> <p>13 degrees?</p> <p>14 A. I don't know.</p> <p>15 Q. Do they have experience in the teaching world?</p> <p>16 A. I don't know.</p> <p>17 Q. You've mentioned then that apart from the one time</p> <p>18 the BoT did instructions to them with regard to</p> <p>19 the special education training you don't know the</p> <p>20 last time the Board of Teaching did training with</p> <p>21 these licensing executives?</p> <p>22 A. No.</p> <p>23 Q. You don't know when the Department of Education</p> <p>24 did any training with them; correct?</p> <p>25 A. No.</p>
Page 71	Page 73
<p>1 Q. They would just look to see if there's something</p> <p>2 equivalent to the major in the general field of</p> <p>3 elementary education?</p> <p>4 A. Yes. So if they had a liberal studies</p> <p>5 preparation, they are looking to see did they have</p> <p>6 coursework in writing, did they have coursework in</p> <p>7 communications, in reading, in math. Most of the</p> <p>8 time, most liberal studies preparation programs</p> <p>9 and a four-year degree are able to meet those</p> <p>10 requirements.</p> <p>11 Q. These criteria that we've talked about, again,</p> <p>12 they are necessarily going to apply to every</p> <p>13 single out-of-state applicant coming in to</p> <p>14 Minnesota?</p> <p>15 A. Yes.</p> <p>16 MR. WATKINS: Break?</p> <p>17 MS. RUTHVEN: Yes please.</p> <p>18 (Whereupon a short break was taken from</p> <p>19 10:49 a.m. to 11:04 a.m.)</p> <p>20 BY MR. WATKINS:</p> <p>21 Q. Just to remind you, you're still under oath, same</p> <p>22 as if you were in a court of law. The oath will</p> <p>23 continue all day despite our breaks. Do you</p> <p>24 understand?</p> <p>25 A. Yes.</p>	<p>1 Q. So what is the next requirement? What happens</p> <p>2 after the licensing executives take a cut at these</p> <p>3 applications? What happens next?</p> <p>4 A. Any issues they are looking to clarify -- I just</p> <p>5 want to clarify too. Based on what we talked</p> <p>6 about leading up to this point, what we've</p> <p>7 described is the academic preparation that we</p> <p>8 haven't described fully all of the things that are</p> <p>9 checked for prior to licensure. This is just the</p> <p>10 background, the academic background that is being</p> <p>11 searched through for qualifications.</p> <p>12 Q. Let's keep adding to the list by all means. So</p> <p>13 what else is required after -- so those are all</p> <p>14 the requirements to --</p> <p>15 A. What we've talked about is for the requirements of</p> <p>16 their preparation. That's what's being looked</p> <p>17 for, but before a license can actually be issued,</p> <p>18 there are a number of other requirements that must</p> <p>19 be presented. So testing. In the State of</p> <p>20 Minnesota, teacher testing is obviously a part of</p> <p>21 that. Would you like me to detail those, or is it</p> <p>22 okay to just say testing?</p> <p>23 Q. The categories of other things they have to</p> <p>24 satisfy?</p> <p>25 A. Testing, background checks, and certainly there is</p>

19 (Pages 70 to 73)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

<p style="text-align: right;">Page 94</p> <p>1 correctly?</p> <p>2 A. Yes you did.</p> <p>3 Q. Are you familiar with that passage?</p> <p>4 A. I am familiar with the passage.</p> <p>5 Q. Do you know what it means?</p> <p>6 MS. RUTHVEN: Objection. Calls for a legal</p> <p>7 conclusion.</p> <p>8 THE WITNESS: I have been a part of the</p> <p>9 process to implement that language.</p> <p>10 BY MR. WATKINS:</p> <p>11 Q. Then hopefully you know what it means.</p> <p>12 A. I have my own understanding of what it means.</p> <p>13 Q. What is your understanding of what this means?</p> <p>14 A. That we are changing the system as it has been in</p> <p>15 order to more -- in order to recognize the</p> <p>16 credentials that people are bringing to the State</p> <p>17 of Minnesota in order to be licensed in Minnesota.</p> <p>18 Q. Do you know what it means where the statute there</p> <p>19 says the Board of Teaching must? Are you familiar</p> <p>20 with the verb must?</p> <p>21 A. Yes.</p> <p>22 Q. What does it mean?</p> <p>23 MS. RUTHVEN: Objection. Calls for a legal</p> <p>24 conclusion.</p> <p>25 BY MR. WATKINS:</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Currently there are procedures in place for</p> <p>2 looking at what an essentially equivalent</p> <p>3 experience is to student teaching, which would not</p> <p>4 have been true prior to 2011.</p> <p>5 Q. What are those procedures?</p> <p>6 A. The criteria that we discussed earlier under 245.</p> <p>7 Q. Anything else that's been actually adopted and is</p> <p>8 in place today?</p> <p>9 A. We're in process right now of changing statute,</p> <p>10 which requires the help of the Minnesota</p> <p>11 legislature, to allow us to change requirements</p> <p>12 for 7-12 licensure as it's translated to Minnesota</p> <p>13 as well, but again, some of the changes require</p> <p>14 changing the statute and not just changes to</p> <p>15 operating procedure.</p> <p>16 Q. I'm not sure I followed that. I don't think that</p> <p>17 was exactly responsive to my question. Can you</p> <p>18 identify other criteria and streamlined procedures</p> <p>19 that have currently been adopted by the BoT as</p> <p>20 required by the amendment to Subdivision 1?</p> <p>21 MS. RUTHVEN: Objection. This line of</p> <p>22 questioning is outside of Judge Schlatter's order</p> <p>23 on motion in limine in which she specifically said</p> <p>24 in her memorandum portion, "Scope of this</p> <p>25 proceeding. Solely applicant is entitled to a</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. You can answer. That's a silly objection.</p> <p>2 A. That we're required to streamline the procedure</p> <p>3 for licensing for out-of-state candidates.</p> <p>4 Q. This is a mandate from the Minnesota state</p> <p>5 legislature; correct?</p> <p>6 A. Yes it is.</p> <p>7 Q. This a mandate given to the Board of Teaching on</p> <p>8 March 7, 2011?</p> <p>9 A. Yes it is.</p> <p>10 Q. Has this mandate been followed and concluded?</p> <p>11 A. It has not reached an end point, no, but there</p> <p>12 have been changes to the system since that point.</p> <p>13 Q. As of today, does the BoT have criteria and</p> <p>14 streamlined procedures to recognize the experience</p> <p>15 and professional credentials of the person holding</p> <p>16 the out-of-state diploma or degree?</p> <p>17 A. There have been changes to the criteria for</p> <p>18 applicants to demonstrate their credentials coming</p> <p>19 into the state, but I do not -- I would not say</p> <p>20 that this is a finished process. No.</p> <p>21 Q. So is the answer to my question no that there's no</p> <p>22 criteria and streamlined procedures at this time?</p> <p>23 A. No. That's not correct.</p> <p>24 Q. What criteria and streamlined procedures are there</p> <p>25 currently in place?</p>	<p style="text-align: right;">Page 97</p> <p>1 license and does not extend to an opinion</p> <p>2 concerning the board's treatment of another</p> <p>3 state's applicant's general matter." You can</p> <p>4 continue.</p> <p>5 THE WITNESS: The pieces that I was</p> <p>6 describing are criteria that the Board -- or</p> <p>7 recommendations for changing the criteria that's</p> <p>8 looked at when an applicant applies to the</p> <p>9 Department of Education and the Minnesota Board of</p> <p>10 Teaching.</p> <p>11 The Board has adopted recommendations that</p> <p>12 were made under that streamlined change process,</p> <p>13 however some of the implementation of those</p> <p>14 recommendations requires statutory change in order</p> <p>15 for the Board to have that authority, and that's</p> <p>16 continuing at this time.</p> <p>17 BY MR. WATKINS:</p> <p>18 Q. We'll talk about those, but I want to know: What</p> <p>19 has been actually implemented as of right now?</p> <p>20 A. A change in the way that experience is looked at</p> <p>21 in terms of what is essentially equivalent to</p> <p>22 student teaching has already been made.</p> <p>23 Q. Is there anything else that's been done apart from</p> <p>24 the student teaching streamlined procedure?</p> <p>25 A. That's the only thing that I would call complete</p>

25 (Pages 94 to 97)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 98	Page 100
<p>1 at this time, or even close to complete.</p> <p>2 Q. So in the three years since the enactment of this</p> <p>3 particular passage in Subdivision 1, there's been</p> <p>4 one criterion streamlined procedure that's been</p> <p>5 adopted and implement by the BoT; correct?</p> <p>6 A. There's been one that is in place. There have</p> <p>7 been several that have been adopted</p> <p>8 recommendations by the BoT.</p> <p>9 Q. As far as actually in place and applicable to</p> <p>10 applicants today, there's one?</p> <p>11 A. Solidly. Yes.</p> <p>12 Q. The one is what we talked about, and that's</p> <p>13 student teaching requirement can be satisfied not</p> <p>14 only by the rigorous requirement that they have a</p> <p>15 ten-week program that included a university</p> <p>16 educator as well as a teacher mentor in the</p> <p>17 classroom, but the exception now is that they can</p> <p>18 comply with 122A.245, Subdivision 2; correct?</p> <p>19 A. To the six criteria that we described earlier.</p> <p>20 Yes.</p> <p>21 Q. So they have to satisfy those six criteria, and</p> <p>22 that's deemed essentially equivalent to student</p> <p>23 teaching?</p> <p>24 A. Yes. They can use that interpretive essentially</p> <p>25 equivalent experiences. Yes.</p>	<p>1 A. Not --</p> <p>2 Q. What does student teaching mean in this sentence</p> <p>3 here?</p> <p>4 A. In this sentence, a candidate teaching in the</p> <p>5 classroom with supervision, however the pieces</p> <p>6 that we've described that are required of</p> <p>7 Minnesota programs being a certain number of weeks</p> <p>8 limit would not apply in this case.</p> <p>9 Q. So when this statute uses student teaching, you</p> <p>10 read it differently from when the legislature uses</p> <p>11 student teaching in 122A.23. So in 122A.23, they</p> <p>12 are talking about student. That's a ten-week</p> <p>13 course with the university instructor in the</p> <p>14 classroom along with the student mentor in the</p> <p>15 classroom; correct?</p> <p>16 A. Correct. If we --</p> <p>17 Q. Then when we talk about Subdivision 2 of 245, the</p> <p>18 same legislature uses the same term student</p> <p>19 teaching, it now means something less than that;</p> <p>20 correct?</p> <p>21 A. They are interpreted differently.</p> <p>22 Q. In addition to that part, Part 1, Subdivision 2,</p> <p>23 to be essentially equivalent to student teaching,</p> <p>24 the out-of-state applicant must also, I'm going to</p> <p>25 read this, follow along, "A research-based and</p>
Page 99	Page 101
<p>1 Q. That would mean looking at Requirement 1 that to</p> <p>2 satisfy the essentially equivalent to a student</p> <p>3 teaching the teacher preparation program must have</p> <p>4 a minimum of 200 hour instructional phase that</p> <p>5 provides intensive preparation and student</p> <p>6 teaching before the teacher candidate assumes</p> <p>7 classroom responsibilities. Did I read that</p> <p>8 correctly?</p> <p>9 A. You read that correctly.</p> <p>10 Q. So this actually also requires student teaching in</p> <p>11 Part 1 of Subdivision 2?</p> <p>12 A. No. Not as you've described it. No.</p> <p>13 Q. It would --</p> <p>14 MS. RUTHVEN: You're looking at 245?</p> <p>15 BY MR. WATKINS:</p> <p>16 Q. I'm turning your attention to 245, Subdivision 2,</p> <p>17 and we'll read together Bullet Point 1. This</p> <p>18 requires, again, the teacher preparation program</p> <p>19 must include 200 hour instructional phase that</p> <p>20 provides intensive preparation and student</p> <p>21 teaching; correct?</p> <p>22 A. Correct.</p> <p>23 Q. So the essentially equivalent to student teaching</p> <p>24 is a program that includes 200 hours and student</p> <p>25 teaching plus --</p>	<p>1 results-oriented approach focused on best teaching</p> <p>2 practices to increase student proficiency and</p> <p>3 growth measured against state academic standards."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes.</p> <p>6 Q. So if this includes 200 hour instructional phase</p> <p>7 that includes intensive preparation and student</p> <p>8 teaching, they must also do this research-based</p> <p>9 and results-oriented approach as part of their</p> <p>10 preparation program; correct?</p> <p>11 A. Correct. Though I don't view that as a separate</p> <p>12 requirement.</p> <p>13 Q. I thought you said they have to complete the six</p> <p>14 things in Subdivision 2.</p> <p>15 A. They do. I'm saying that as part of intensive</p> <p>16 preparation I would assume that Number 2 would be</p> <p>17 included in intensive preparation. Number 2 as</p> <p>18 you're reading it is also a description of what</p> <p>19 can be included in that intensive preparation. I</p> <p>20 don't see these as all distinct layers.</p> <p>21 Q. Number 3 would be the same strategies to combine</p> <p>22 pedagogy and best teaching practices?</p> <p>23 A. Yes.</p> <p>24 Q. Number 4 as well, "Assessment, supervision, and</p> <p>25 evaluation of teacher candidates to determine</p>

26 (Pages 98 to 101)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 102	Page 104
<p>1 their specific needs throughout the program, and</p> <p>2 to support the efforts to successfully complete</p> <p>3 the program." Did I read that correctly?</p> <p>4 A. You did. I see that as a part of their student</p> <p>5 teaching experience.</p> <p>6 Q. Number 5 is, "Intensive ongoing and multiyear</p> <p>7 professional learning opportunities that</p> <p>8 accelerate teacher candidate professional growth,</p> <p>9 support student learning, and provide a workplace</p> <p>10 orientation, professional staff development,</p> <p>11 mentoring and peer review focused on standards of</p> <p>12 professional practice." It just keeps going. Did</p> <p>13 I read that right?</p> <p>14 A. Yes.</p> <p>15 Q. Is that a subpart of one of the requirements in</p> <p>16 Part 1?</p> <p>17 A. It is describing the experience that's expected.</p> <p>18 Q. Number 6, "A requirement that the teacher</p> <p>19 candidates demonstrates to the local site team</p> <p>20 under Subdivision 5 satisfactory progress toward</p> <p>21 requiring a standard license from the Board of</p> <p>22 Teaching." Is Number 6 also required?</p> <p>23 A. It's a required piece of programs that would exist</p> <p>24 in Minnesota. This piece really details how</p> <p>25 licensure recommendation gets handled. So that</p>	<p>1 teaching process assessment, supervision, and</p> <p>2 evaluation of teacher candidates to determine if</p> <p>3 their specific needs throughout the program and</p> <p>4 support their efforts to successfully complete the</p> <p>5 program have all been met.</p> <p>6 In addition to that, they must also have</p> <p>7 intensive ongoing and multiyear professional</p> <p>8 learning opportunities that accelerate teacher</p> <p>9 candidate professional growth, support student</p> <p>10 learning, and provide a workplace orientation,</p> <p>11 professional staff development, and mentoring and</p> <p>12 peer review focus, and standards of professional</p> <p>13 practice, and continuous professional growth, and</p> <p>14 in addition to those five things, they must also</p> <p>15 demonstrate to somebody within the BoT they are</p> <p>16 entitled to a license to successfully complete</p> <p>17 student teaching; is that correct?</p> <p>18 A. That's not how Number 6 is interpreted in my mind.</p> <p>19 Q. Are 1 through 5 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Explain to me how Number 6 is also added on to</p> <p>22 those other factors.</p> <p>23 A. Number 6 details what is expected of a Minnesota</p> <p>24 alternative program. It may not look exactly the</p> <p>25 same way. For instance, it would not make sense</p>
Page 103	Page 105
<p>1 may not be the exact process that's happening in</p> <p>2 other states, but there has to be a recommendation</p> <p>3 for licensure in those other states, but that's</p> <p>4 detailed in other --</p> <p>5 Q. I just mean the streamlined procedure that you</p> <p>6 guys have developed at the BoT to recognize the</p> <p>7 essentially equivalent of student teaching. Is</p> <p>8 that also required for completion of Number 6 as</p> <p>9 well?</p> <p>10 A. It requires that they have been recommended for</p> <p>11 licensure in another state.</p> <p>12 Q. To get this right, there's one streamlined</p> <p>13 procedure in place to recognize the essentially</p> <p>14 equivalent of student teaching; correct?</p> <p>15 A. Correct.</p> <p>16 Q. That streamlined procedure is they can have</p> <p>17 essentially equivalence of student teaching if</p> <p>18 they have completed a 200 hour instructional phase</p> <p>19 that provides intensive preparation and student</p> <p>20 teaching, and that preparation program must</p> <p>21 include a research-based and result-oriented</p> <p>22 approach focused on best teaching practices. That</p> <p>23 program must also include strategies to combine</p> <p>24 pedagogy and best teaching practices.</p> <p>25 They must also have during the student</p>	<p>1 for an alternative program in California to</p> <p>2 satisfactorily make a recommendation according to</p> <p>3 these terms to the Board of Teaching.</p> <p>4 The Board of Teaching does not have the</p> <p>5 authority to make that ruling in California, but</p> <p>6 what it is expecting is that there was a</p> <p>7 recommendation toward licensure in that state.</p> <p>8 Q. From somebody?</p> <p>9 A. From their program.</p> <p>10 Q. So Number 6 would add onto that long list of</p> <p>11 things also that issuing school made a</p> <p>12 recommendation that the candidate be given a</p> <p>13 teaching license?</p> <p>14 A. Yes. That's a part of the licensure application</p> <p>15 process in Minnesota anyway.</p> <p>16 Q. That is the streamlined procedure for determining</p> <p>17 essentially equivalent to student teaching?</p> <p>18 A. What has been streamlined is that there is --</p> <p>19 licensure executives are allowed to recognize</p> <p>20 something other than student teaching spelled out</p> <p>21 on a transcript with a certain number of credits</p> <p>22 tied to it that was a certain number of weeks.</p> <p>23 They are allowed to look at other equivalent</p> <p>24 experiences as detailed by this criteria.</p> <p>25 Q. So they are allowed to look at other things and</p>

27 (Pages 102 to 105)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

30.02(f) ERIN DOAN 3/24/2014

Page 106	Page 108
<p>1 have to satisfy all six of those requirements in</p> <p>2 order to be essentially equivalent to student</p> <p>3 teaching?</p> <p>4 A. Yes.</p> <p>5 Q. So again, my example of a teacher with 38 years of</p> <p>6 experience teaching K through 6 and being given</p> <p>7 copious numbers of awards for her work in K</p> <p>8 through 6 there's no way to know without more</p> <p>9 facts if she would have the essentially</p> <p>10 equivalence to student teaching; correct?</p> <p>11 A. Just with that description, no.</p> <p>12 Q. You would need to know whether her student program</p> <p>13 actually had student teaching for ten weeks</p> <p>14 through a university where a teaching mentor was</p> <p>15 also in the classroom, or she could satisfy all</p> <p>16 six of these criteria; correct?</p> <p>17 A. She would be demonstrating evidence to the Board</p> <p>18 of Teaching that he or she had an essentially</p> <p>19 equivalent experience to student teaching if not a</p> <p>20 student teaching experience as outlined in a</p> <p>21 traditional program.</p> <p>22 Q. These requirements under Subdivision 2, that being</p> <p>23 deemed under the Board of Teaching's understanding</p> <p>24 is essentially equivalent to student teaching, is</p> <p>25 that the Board of Teaching's understanding of what</p>	<p>1 A. I would speculate to say at the end of this</p> <p>2 legislative session.</p> <p>3 Q. Are there any documents that have been created by</p> <p>4 the Board of Teaching that reflect these new</p> <p>5 criteria, these new procedures?</p> <p>6 A. There are several documents that were provided</p> <p>7 earlier in relation to the barriers that are seen</p> <p>8 by out-of-state candidates and recommendations</p> <p>9 that have been made based on streamlining</p> <p>10 processes so that candidates would not face those</p> <p>11 barriers.</p> <p>12 Q. So there do exist some documents in the Board of</p> <p>13 Teaching --</p> <p>14 A. Yes.</p> <p>15 Q. Have those been produced to Faegre?</p> <p>16 A. Yes they have.</p> <p>17 Q. Have they been produced in their entirety?</p> <p>18 A. To my knowledge, yes.</p> <p>19 Q. So we have in our possession everything that would</p> <p>20 be considered a streamlined procedure or in the</p> <p>21 process of being adopted as a streamlined</p> <p>22 procedure; correct?</p> <p>23 A. To my knowledge, yes.</p> <p>24 Q. Great.</p> <p>25 MS. RUTHVEN: I just want to clarify on</p>
Page 107	Page 109
<p>1 the Minnesota legislature meant when they said</p> <p>2 that you must develop streamlined procedures?</p> <p>3 MS. RUTHVEN: Objection. Calls for</p> <p>4 speculation.</p> <p>5 THE WITNESS: That's one piece among many.</p> <p>6 BY MR. WATKINS:</p> <p>7 Q. But you understand that to be a streamlined</p> <p>8 procedure?</p> <p>9 A. I do.</p> <p>10 Q. There are no other streamlined procedures</p> <p>11 currently in place; correct?</p> <p>12 A. Not fully implemented. In progress.</p> <p>13 Q. How many are in progress?</p> <p>14 A. At this time, we have changes for secondary</p> <p>15 licensure that are in place as well as a number of</p> <p>16 changes to application procedures; those that</p> <p>17 require signatures from school districts, those</p> <p>18 that require others to add information into the</p> <p>19 process for temporary permissions. There are a</p> <p>20 number of ways that a candidate would face</p> <p>21 challenges within the system, not just the</p> <p>22 implementation of issuing a full license.</p> <p>23 Q. Where are all those in the process? How far out</p> <p>24 are we from seeing streamlined procedure Number 2</p> <p>25 coming in effect?</p>	<p>1 that. I think there may be some supplementation</p> <p>2 coming on that, but we were going to talk about</p> <p>3 supplementing anyway. I think from the time that</p> <p>4 the -- you have everything through when the</p> <p>5 document requests went out. There may be some</p> <p>6 additional documents.</p> <p>7 THE WITNESS: Since that time.</p> <p>8 MS. RUTHVEN: Since you signed on the</p> <p>9 document requests.</p> <p>10 THE WITNESS: Correct.</p> <p>11 MR. WATKINS: We'll look forward to that</p> <p>12 because so far I've seen nothing that talks about</p> <p>13 any of those things that you just mentioned. I've</p> <p>14 read every single sheet of paper that's been</p> <p>15 produced in this case, and there's not one on</p> <p>16 those areas. If there are new ones, I'd love to</p> <p>17 see them. If I've missed them, we've given a</p> <p>18 specific request, perhaps they can be identified</p> <p>19 by Bates, but I don't believe there to be any in</p> <p>20 there.</p> <p>21 BY MR. WATKINS:</p> <p>22 Q. Now, continuing to look at the Subdivision 1, the</p> <p>23 third sentence, it also says --</p> <p>24 A. Could I stop? Are you going back to 122A.23?</p> <p>25 Q. Yes. If you look at the second to last line from</p>

28 (Pages 106 to 109)

Merrill Corporation

877-489-0367

www.merrillcorp.com/law

EXHIBIT 11

LICENSE



Inquiries should include the Name, License Type and File Folder Number of the licensee as listed on this license, and should be directed to the Educator Licensing Section, 1500 Highway 36 W. Roseville, MN 55113-4266, or call (651)582-8691

[illegible]

SERIAL NUMBER:

FUNCTION NUMBER	Renewal Conditions / Limitations / Comments
01	<p>You have been issued a full-time limited license. This license is valid for full-time employment in the issued field and student level as requested by the school district or charter school for this school year or a portion thereof from the date of issuance to the following June 30. This license may include summer school instruction and/or services. You are encouraged to contact a Minnesota college/university approved to offer this preparation program to determine what additional coursework may be required to obtain Minnesota licensure.</p> <p>.</p> <p>This is your first of three full-time limited licenses permitted under Minnesota Rules.</p> <p>This license may be renewed after July 1.</p> <p>.</p>

EXHIBIT 12



Minnesota Board of Teaching

June 5, 2014

[REDACTED]
St. Paul, MN 55108

Dear [REDACTED],

Thank you again for taking time to meet with me via telephone to discuss your concerns regarding your restricted 7-12 English Language Arts teaching license. It is my understanding that you were incorrectly advised through a Minnesota teacher preparation program as to the need for you to complete a full student teaching prior to applying for full licensure. The additional information you have provided to me regarding your course work and activities since the issuance of your current license provided evidence that should now be formally considered through the licensure application process.

In order to apply for a full 5-12 Communication Arts and Literature license, you will need to complete the application to add a field to an existing MN license, found on the MDE website.

http://education.state.mn.us/mdeprod/idcplg?IdcService=GET_FILE&dDocName=003630&RevisionSelectionMethod=latestReleased&Rendition=primary

Please complete the entire application and follow the instructions carefully, with the exception of seeking a college or university recommendation in section #5. Enclose official copies of all transcripts for courses that you have completed since you last applied for licensure with Educator Licensing. Your new coursework will now be considered in order to meet remaining standards for full licensure in Communication Arts and Literature.

Once your completed application with conduct review, fee, test score information and official transcripts are gathered, please mail them directly to my attention at the address below in order to facilitate their review and processing. Should you have any questions, please do not hesitate to contact me for further clarity.

Sincerely,

A handwritten signature in cursive script that reads "Erin R. Doan".

Erin R. Doan
Interim Executive Director

EXHIBIT 13



Minnesota Board of Teaching

June 5, 2014

[REDACTED]
Minneapolis, MN 55403

Dear [REDACTED],

Thank you again for taking time to meet with me via telephone to discuss your concerns regarding your restricted 7-12 English Language Arts teaching license. **It is my understanding that you were incorrectly advised through a Minnesota teacher preparation program as to the need for you to complete a full student teaching prior to applying for full licensure.** The additional information you have provided to me regarding your course work and activities since the issuance of your current license is evidence that should now be formally considered through the licensure application process.

In order to apply for a full 5-12 Communication Arts and Literature license, you will need to complete the application to add a field to an existing MN license, found on the MDE website.
(http://education.state.mn.us/mdeprod/idcplg?IdcService=GET_FILE&dDocName=003630&RevisionSelectionMethod=latestReleased&Rendition=primary)

Please complete the entire application and follow the instructions carefully, with the exception of seeking a college or university recommendation in section #5. Enclose official copies of all transcripts for courses that you have completed since you last applied for licensure with Educator Licensing. Your new coursework will now be considered in order to meet remaining standards for full licensure in Communication Arts and Literature.

Once your completed application with conduct review, fee, test score information and official transcripts are gathered, please mail them directly to my attention at the address below in order to facilitate their review and processing. Should you have any questions, please do not hesitate to contact me for further clarity.

Sincerely,

A handwritten signature in cursive script that reads "Erin R. Doan".

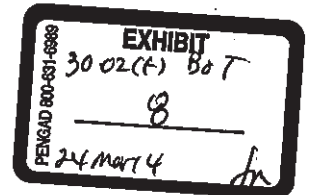
Erin R. Doan
Interim Executive Director

EXHIBIT 14

Minnesota Department of
Education

July 26, 2012

Members, Minnesota Board of Teaching
1500 Highway 36 West
Roseville, Minnesota 55113
Dear Members,



I would like to thank the members of the Board of Teaching for their service to the state of Minnesota. Your work is essential to ensuring our state is well prepared to support and sustain an excellent teaching corps to serve every student in every school.

I write today to urge the Board to review and address several concerns that have been brought to my attention as I meet with teachers, principals and superintendents across the state. If addressed immediately, we can mitigate barriers that will hamper our efforts to attract and retain a well-qualified, professional teaching corps, now and for the long-term.

First and foremost, I would strongly encourage you to revisit the current implementation and administration of the Minnesota Teacher Licensure Examination (MTLE) to determine whether it is the appropriate tool to measure the readiness of teaching candidates. I often receive questions from teachers and administrators about whether Minnesota is using effective assessments to measure teacher readiness. Senator Olson echoed these concerns during confirmation hearing for new board members, as did several legislators during hearings regarding this subject. Specifically, I would ask you to examine the following questions that continue to arise regarding the MTLE, including:

- Does it adequately measure effective teaching and content knowledge?
- Is the cut score set appropriately to provide us with the best teachers?
- Is sufficient feedback given to teacher candidates both before and after the MTLE is administered?
- Are the timelines for administration appropriate, and how do those timelines impact hiring? Do retake timelines impact the pool of candidates?
- Does the MTLE as currently structured place barriers to our efforts to diversify our teaching corps and to attract high quality out of state candidates?
- Can the MTLE be offered in multiple languages to accommodate all teaching candidates?

BOT000442

Additionally, recent news reports have brought to my attention that the status of the alternative teacher certification program approval process that arose out of the 2011 legislation has not yielded any new candidates. As you know, this was a high priority for both Governor Dayton and the Legislature as a strategy to attract highly qualified mid-career professionals to address shortages in high need areas, help close achievement gaps and diversify our teaching corps. I understand developing this approval process is a complex and lengthy endeavor; however, more than one year later, it is still unclear how the BOT is moving forward to ensure its success. In particular, please attend to the expedited process for out-of-state candidates as outlined in statute. It's been reported to me that there are currently several hundred qualified teachers standing by to serve our children. If the Department can assist you in finalizing work in this area, we stand ready.

As Minnesota's Commissioner of Education, I am committed to a collaborative and productive relationship with the Board of Teaching. I look forward to working with you on these and other issues to increase the pipeline of effective teachers and leaders to support our schools, our districts, and most importantly, our students.

Sincerely,



Brenda Cassellius
Commissioner of Education

CC: Karen Balmer
Richard Wassen
Rose Chu
Charlene Briner

EXHIBIT 15

Carlos Mariani Rosa
State Representative

District 65B
Ramsey County St. Paul



Minnesota House of Representatives

COMMITTEES: CHAIR, K-12 EDUCATION POLICY AND OVERSIGHT, WAYS AND MEANS, EARLY CHILDHOOD FINANCE AND POLICY DIVISION, K-12 EDUCATION FINANCE DIVISION

February 11, 2013

To the Members of the MN Board of Teaching:

As Chair of the Education Policy Committee in the Minnesota State House, I respectfully submit this letter of support for your efforts to create a streamlined process for out of state candidates pursuing Minnesota licensure. This will be the third hiring season since the legislature passed statute MN Statute 122A.23 requiring that a pathway be created for out of state candidates "to recognize the experience and professional credentials of the person holding the out-of-state diploma or degree and allow that person to demonstrate to the board the person's qualifications for receiving a Minnesota teaching license."

I would like to specifically highlight the urgent need that our schools and districts currently have in accessing the widest and most diverse teaching candidates when filling open positions. Candidates who have taught or become licensed in another state currently face a significant lack of clarity and inconsistency in how their previous experience, knowledge and credentials are recognized by the MN Department of Education.

I urge the Board of Teaching to take the immediate, necessary steps to establish a clear, objective set of criteria that acknowledge the knowledge and prior experience these candidates bring to the MN workforce.

Respectfully,


Representative Carlos Mariani
Chairman of the Education Policy Committee

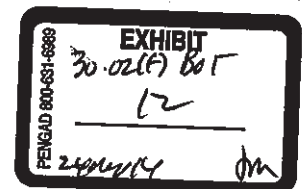


EXHIBIT 16

April 12, 2013

To the Members of the MN Board of Teaching:

As stakeholders in the MN education community, we respectfully submit this letter of support for your efforts to create a streamlined process for out of state candidates pursuing MN licensure. This will be the third hiring season since the legislature passed statute MN Statute 122A.23 requiring that a pathway be created for out of state candidates "to recognize the experience and professional credentials of the person holding the out-of-state diploma or degree and allow that person to demonstrate to the board the person's qualifications for receiving a Minnesota teaching license."

We highlight the urgent need that our schools and districts have to access the widest and most diverse teaching candidates when filling open positions. Candidates who have taught or become licensed in another state currently face a significant lack of clarity and inconsistency in how their previous experience, knowledge and credentials are recognized by the MN Department of Education.

We urge the Board of Teaching to take the immediate, necessary steps to establish a clear, objective set of criteria that acknowledge the knowledge and prior experience these candidates bring to the MN workforce.

Respectfully,



Carlos Mariani
Chair, Education Policy Committee
Minnesota House of Representatives

Bernadeia Johnson
Superintendent
Minneapolis Public Schools

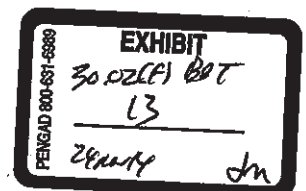
Al Fan
Executive Director
Charter School Partners

Chris Stewart
Director
African-American Leadership Forum

Crystal Brakke
Executive Director
Teach For America

Angela Chang
Principal
Minneapolis College Prep

Jon Bacal
Chief Entrepreneurship Officer
Venture Academy



BOT000233

EXHIBIT 17

Senator Terri E. Bonoff
Chair Higher Ed/Workforce Development
326 Minnesota State Capitol
St. Paul, MN 55155
Office: (651) 296-4314



Senate
State of Minnesota

April 24, 2013

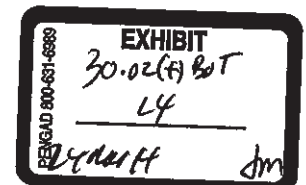
Members of the MN Board of Teaching
1500 Highway 36 West
Roseville, MN 55113

Dear Members of the MN Board of Teaching,

Enclosed is a copy of Representative Mariani's letter about out of state candidates pursuing Minnesota licensure. I concur and join Representative Mariani in urging the Board of Teaching to take the immediate, necessary steps to establish a clear, objective set of criteria that acknowledge the knowledge and prior experience these candidates bring to the MN workforce.

Best Regards,

Senator Terri E. Bonoff



Recycled Paper
50% Post-
Consumer Fiber

Sen.terri.bonoff@senate.mn
@terribonoff

BOT000738

Carlos Mariani Rosa
State Representative

District 65B
Ramsey County St. Paul



Minnesota House of Representatives

COMMITTEES, CHAIR K-12 EDUCATION POLICY AND OVERSIGHT, WAYS AND MEANS, EARLY CHILDHOOD FINANCE AND POLICY DIVISION, K-12 EDUCATION FINANCE DIVISION

February 11, 2013

To the Members of the MN Board of Teaching:

As Chair of the Education Policy Committee in the Minnesota State House, I respectfully submit this letter of support for your efforts to create a streamlined process for out of state candidates pursuing Minnesota licensure. This will be the third hiring season since the legislature passed statute MN Statute 122A.23 requiring that a pathway be created for out of state candidates "to recognize the experience and professional credentials of the person holding the out-of-state diploma or degree and allow that person to demonstrate to the board the person's qualifications for receiving a Minnesota teaching license."

I would like to specifically highlight the urgent need that our schools and districts currently have in accessing the widest and most diverse teaching candidates when filling open positions. Candidates who have taught or become licensed in another state currently face a significant a lack of clarity and inconsistency in how their previous experience, knowledge and credentials are recognized by the MN Department of Education.

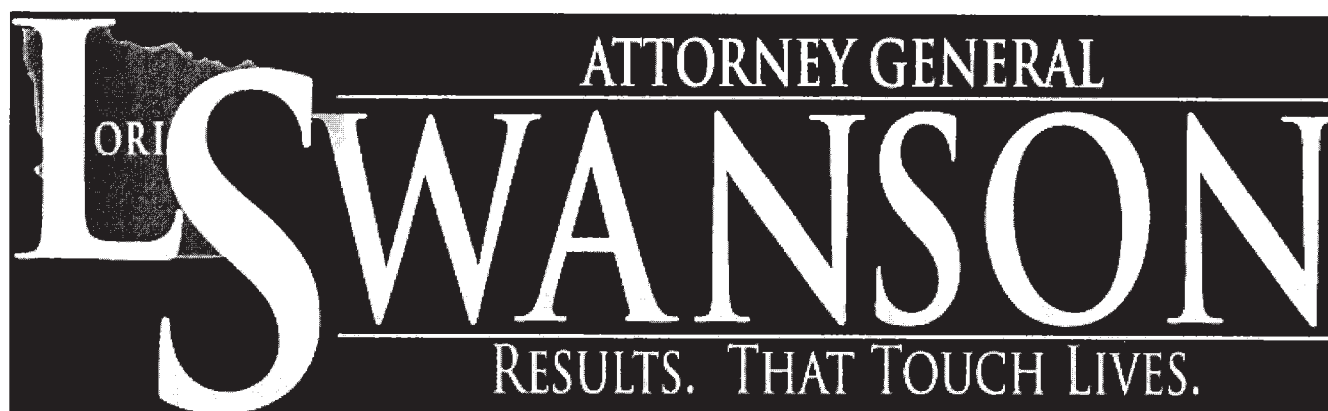
I urge the Board of Teaching to take the immediate, necessary steps to establish a clear, objective set of criteria that acknowledge the knowledge and prior experience these candidates bring to the MN workforce.

Respectfully,


Representative Carlos Mariani
Chairman of the Education Policy Committee



EXHIBIT 18


[Home](#)
[About Lori Swanson](#)
[Lori in the News](#)
[Lori's Record](#)
[Lori's Photobook](#)

Capella settles over student loan gifts;

The online school became the first university to settle with the Minnesota attorney general's student-loan investigation.

Attorneys general in Minnesota and New York announced a settlement Tuesday with Minneapolis-based Capella University after an investigation found that financial aid officers received money, trips, gifts, golf and other entertainment from companies making student loans.

This is the first settlement between a Minnesota college and the attorneys general and the latest in a nationwide investigation into allegedly too-cozy relationships between some college financial aid offices and student loan companies.

Capella, a for-profit, online university, is not required to pay a fine or restitution to students. As part of the settlement, Capella signed a College Loan Code of Conduct created by New York Attorney General Andrew Cuomo that prohibits colleges from receiving anything of value from lenders.

Twenty-two schools have agreed to abide by Cuomo's code of conduct. Eight of them will reimburse \$3 million to students from revenue-sharing deals.

Separate investigations by the university and the attorneys general found that Capella's director of financial aid, Timothy Lehmann, was paid \$12,400 in consulting fees from Student Loan Xpress, a lender on the school's preferred lender list. Such lists are put out by financial aid directors to help students navigate a crowded field of players vying for their loans.

Capella University President Michael Offerman said the university's internal investigation found Lehmann did "work that was worth the \$12,000." Such consulting work is in violation of Capella's policies.

Lehmann also received many perks, including rounds of golf, wine, golf accessories, clothing and "thousands of dollars in honoraria," according to a news release from Cuomo's office.

Lehmann also served on at least 10 lending-industry advisory boards, including Wells Fargo and St. Paul-based NorthStar Education Finance. Such boards typically meet at least annually, often at swanky hotels or in locations such as Las Vegas or Florida. Lenders pay for travel, meals and lodging for such events—a practice that would change under the settlement.

Lehmann has been on paid administrative leave since mid-April, and

[CONTRIBUTE NOW](#)

[JOIN OUR TEAM](#)


Offerman said "he is not involved at all in the financial aid operations." Lehmann could not be reached for comment.

The investigation found that other Capella financial aid employees received travel, lodging and meals as well as nominal gifts and entertainment from lenders.

The settlement prohibits Capella employees from taking anything of more than nominal value from any lender. In an interview, Minnesota Attorney General Lori Swanson said she considers coffee to be of nominal value, but lunch "could get into more of the wining and dining."

Offerman said the university "will no longer have financial aid staff even taking token or nominal gifts," nor will it allow its aid officers to participate on lender advisory boards.

Capella also must disclose how it creates its preferred lender lists.

Capella is cooperating with an inquiry by Sen. Edward Kennedy, D-Mass., into Lehmann's relationship with Student Loan XPress. Kennedy's Student Loan Sunshine Act, designed to regulate the industry, passed last week in the House with overwhelming support.

Do your homework:

Swanson said that she plans to release her own code of conduct in the coming weeks and that Cuomo's code is "pretty close" to what she is after.

Her office's investigation began in March when she contacted Minnesota schools and lenders asking them to disclose any financial relationships that could create a conflict of interest. Swanson said there is evidence in Minnesota of "revenue sharing agreements between colleges and lenders," but declined to share details at this time.

For students and parents looking to take out student loans for the next school year, Swanson suggests that students "take some action in their own hands by looking around, comparing loan terms from one lender to the other and making sure they're really getting the best bargains."

Capella, which last month had deferred a secondary stock offering in the midst of the investigation, last week sold nearly 3.5 million shares of common stock at \$36 per share. Capella stock closed Tuesday at \$36.18, up 15 cents.

*For Campaign Inquiries,
Please Contact:*

**Swanson for Attorney
General**
P.O. Box 7066
St. Paul, Minnesota 55107

[« Back](#)

[Privacy Policy](#)

[» E-mail Us «](#)

Prepared and paid for by Swanson for Attorney General, P.O.Box 7066, St. Paul, MN 55107.

EXHIBIT 19

Capella University's Compliance with Selected Provisions of the Higher Education Act of 1965 and Corresponding Regulations

FINAL AUDIT REPORT



ED-OIG/A05G0017
March 2008

Our mission is to promote the
efficiency, effectiveness, and
integrity of the Department's
programs and operations



U.S. Department of Education
Office of Inspector General

NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES
Chicago/Kansas City/Dallas Audit Region

March 7, 2008

Mr. Michael Offerman
President
Capella University
225 South 6th Street, 9th Floor
Minneapolis, MN 55402

Dear Mr. Offerman:

Enclosed is our final audit report, Control Number ED-OIG/A05G0017, entitled *Capella University's Compliance with Selected Provisions of the Higher Education Act of 1965 and Corresponding Regulations*. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

Lawrence A. Warder
Acting Chief Operating Officer
Federal Student Aid
U. S. Department of Education
Union Center Plaza, Room 112G1
830 First Street, N. E.
Washington, D.C. 20202

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Gary D. Whitman
Regional Inspector General
for Audit

Enclosures

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	1
BACKGROUND	3
AUDIT RESULTS	4
FINDING NO. 1 – The University Determined Incorrectly the Amounts to Be Returned to the Title IV, HEA Programs	4
FINDING NO. 2 – The University Disbursed Title IV, HEA Program Funds to Students Who Were Not Enrolled	10
FINDING NO. 3 – The University Did Not Always Maintain Documentation to Substantiate Loan Exit Counseling	14
FINDING NO. 4 – The University Disbursed FFEL Program Funds to a Student Enrolled in an Unapproved Program	16
OTHER MATTERS	17
OBJECTIVES, SCOPE, AND METHODOLOGY	18
Enclosure 1: Disbursements to Students Who Were Not Enrolled	21
Enclosure 2: University Comments on the Draft Audit Report	22

EXECUTIVE SUMMARY

The objectives of our audit were to determine whether Capella University (University) complied with selected provisions of the Higher Education Act of 1965, as amended (HEA), and regulations governing (1) the return of Title IV, HEA program funds; (2) Federal Family Educational Loan (FFEL) and Federal Pell Grant (Pell) disbursements; (3) institutional eligibility; (4) program eligibility; and (5) student eligibility. Our initial audit period covered the period July 1, 2004, through June 30, 2005 (2004-2005 award year). Because we identified instances of non-compliance during the 2004-2005 award year, we expanded our audit for objectives (1) and (2) to include the 2002-2003 and 2003-2004 award years.

The University generally complied with the provisions of the law and regulations governing institutional eligibility, program eligibility, and student eligibility. However, it did not comply with the provisions of the law and regulations governing

1. *The return of Title IV, HEA program funds.* The University did not return all funds disbursed on behalf of students who dropped before the first day of class of the payment period. The University used the midpoint of the academic quarter (payment period) as the withdrawal date for all students who unofficially withdrew, even when the University lacked documentation of the student's attendance during the payment period. As a result, for the 2002-2003 through 2004-2005 award years, the University returned to the Title IV, HEA programs about \$588,000 less than it should have returned. We recommend the Acting Chief Operating Officer (COO) for Federal Student Aid (FSA) require the University to review its files and return the improperly retained Title IV, HEA program funds; revise its policy for returning Title IV, HEA program funds; identify other incorrect calculations for withdrawals after the 2004-2005 award year; and recalculate and return those amounts. We also recommend that the Acting COO for FSA consider fine proceedings against the University under 34 C.F.R. § 668.84.
2. *FFEL and Pell disbursements.* The University disbursed Title IV, HEA program funds (FFEL and Pell) to students who were not enrolled in an eligible program at the time of the disbursement. As a result, the University had the use of about \$3.5 million in federal funds every quarter for 2 to 10 days, and the Department may have made unnecessary interest and special allowance payments related to these funds. We recommend the Acting COO for FSA require the University to develop and implement policies and procedures to provide reasonable assurance that funds are not disbursed to students who are not enrolled.
3. *Exit Counseling.* The University could not provide support to show it conducted exit counseling for 2 of the 25 students in our sample who had ceased at least half-time study at the University. In addition, the University performed exit counseling 11 to 18 months after 3 other students stopped attending. We recommend the Acting COO for FSA require the University to implement its revised policies for exit counseling.

4. *Disbursing funds only to students enrolled in an eligible program.* The University disbursed \$1,891.50 of FFEL Program funds to one student enrolled in an ineligible program. We recommend the Acting COO for FSA require the University to return the \$1,891.50 to the lender; identify any other students who received Title IV, HEA program funds for enrollment in an ineligible program; and return the funds to the Department or lender.

A draft of this report was provided to the University for review and comment on August 23, 2007. We received the University's response, including three separate attachments, on September 25, 2007. In its response, the University partially concurred with Finding No. 1, did not concur with Finding No. 2, and concurred with Findings Nos. 3 and 4. We summarized the University's comments and our responses following each finding. Based on our analysis of the University's comments and additional documentation, we made minor revisions to Finding No. 1, Recommendation 1.1, and Recommendation 3.1.

The entire narrative of the University's comments is included as Enclosure 2. Because of the voluminous nature of and the inclusion of personally identifiable information (that is, information protected under the Privacy Act of 1974, 5 U.S.C. § 552a) in the attachments to the University's comments, we have not included them in Enclosure 2. Copies of the University's attachments, less the personally identifiable information, are available on request.

BACKGROUND

Founded in 1993, the University is a proprietary school headquartered in Minneapolis, Minnesota, and owned by Capella Education Company. According to its web site, the University provides education to more than 14,500 students in 50 states and over 60 foreign countries. It is accredited by the Higher Learning Commission and is a member of the North Central Association of Colleges and Schools. The University provides all of its instruction online and does not have any “brick and mortar” classroom facilities. The University currently offers more than 700 online courses that are part of certificate, undergraduate, and graduate degree programs in more than 80 specialized areas of study. As of January 2006, approximately 83 percent of students were enrolled in graduate or doctoral level programs.

The purpose of the programs authorized by Title IV of the HEA is to provide financial assistance to students attending eligible postsecondary and higher education institutions. The University participates in two Title IV, HEA programs: Pell and FFEL. The Pell Program helps financially needy students meet the cost of their postsecondary education. The FFEL Program enables students or their parents to receive low-cost loans to pay for the costs of attendance at postsecondary education schools.

Approximately 70 percent of the University’s revenue is derived from Title IV, HEA program sources. For the 2002-2003, 2003-2004, and 2004-2005 award years, the University received Title IV, HEA program funding as follows:

<u>Award Year</u>	<u>Pell</u>	<u>FFEL</u>	<u>Total</u>
2002-2003	\$387,531	\$75,268,410	\$75,655,941
2003-2004	\$650,952	\$111,865,469	\$112,516,421
<u>2004-2005</u>	<u>\$1,114,374</u>	<u>\$138,918,174</u>	<u>\$140,032,548</u>
Totals	\$2,152,857	\$326,052,053	\$328,204,910

AUDIT RESULTS

The University generally complied with the provisions of the law and regulations governing institutional eligibility, program eligibility, and student eligibility. However, for the 2002-2003 through 2004-2005 award years, the University did not comply with the provisions of the law and regulations governing the return of Title IV, HEA program funds and FFEL and Pell disbursements. The University did not return all Title IV, HEA program funds disbursed on behalf of students who dropped before their first day of class for the payment period (Finding No. 1); disbursed Title IV, HEA program funds to students who were not enrolled in an eligible program at the time the disbursement was made (Finding No. 2); did not document that it performed exit counseling for all students receiving FFEL Program funds during the 2004-2005 award year (Finding No. 3); and disbursed Title IV, HEA program funds to a student who was enrolled in an ineligible program (Finding No. 4).

For Finding No. 1, the University returned to the Title IV, HEA programs about \$588,000 less than it should have returned. For Finding No. 2, the University had the use of about \$3.5 million in federal funds for 2 to 10 days in every quarter even though it never should have received those funds, and the Department might have incurred additional interest and special allowance costs for those FFEL Program funds.

In response to the draft of this report, the University partially concurred with Finding No. 1, did not concur with Finding No. 2, concurred with Finding No. 3, and concurred with Finding No. 4. The University did not agree with our understanding of the criteria for Finding No. 1, and it did not agree with the definition of “disbursed” we used for Finding No. 2. The University’s response indicated that corrective actions had been taken for Finding No. 1, Finding No. 2, and Finding No. 3, and that it considered Finding No. 4 to be an isolated occurrence. The corrective actions included enhanced procedures for identifying students due refunds, improvements to a pre-disbursement eligibility report, and implementation of a new improved, software system.

After reviewing the University’s comments, we revised Finding No. 1 and Recommendation 1.1, reducing the number of instances of noncompliance described in Finding No. 1 and reducing the recommended amount that should be recovered. We also revised Recommendation 3.1 to reflect the University’s development of revised procedures for exit counseling. We made no other changes to our findings or recommendations.

FINDING NO. 1 – The University Determined Incorrectly the Amounts to Be Returned to the Title IV, HEA Programs

The University did not return all funds disbursed on behalf of students who dropped before their first day of class for the payment period. The University used the midpoint of the academic quarter (payment period) as the withdrawal date for all students who left school without providing official notification to the University (unofficially withdrew). The University used the midpoint even when it lacked documentation that the student engaged in academic activity

during the payment period. By always using the midpoint of the payment period as the student's withdrawal date, the University retained approximately 50 percent of the Title IV, HEA program funds it received on behalf of the students for whom it lacked documentation of academic activity, even though the University was required to return all Title IV, HEA program funds for those students.

According to 34 C.F.R. § 668.21

(a)(1) If a student officially withdraws, drops out, or is expelled before his or her first day of class of a payment period, all funds paid to the student for that payment period for institutional or noninstitutional costs under the Federal Pell Grant, FSEOG [Federal Supplemental Educational Opportunity Grant], and Federal Perkins Loan programs are an overpayment.

(2) The institution shall return that overpayment to the respective title IV, HEA programs in the amount that the student received from each program.

(b) For purposes of this section, the Secretary considers that a student drops out before his or her first day of class of a payment period if the institution is unable to document the student's attendance at any class during the payment period.¹

For FFEL Program loans, pursuant to 34 C.F.R. § 682.604(b)(2)

(i) Except in the case of a late disbursement under paragraph (e) of this section or as provided in paragraph (b)(2)(iii) or (iv) of this section, a school may release the proceeds of any disbursement of a loan only to a student, or a parent in the case of a PLUS loan, if the school determines the student has continuously maintained eligibility in accordance with the provisions of § 682.201 from the beginning of the loan period for which the loan was intended.

.

(iv) If, prior to the transmittal of the proceeds of a disbursement to the student, the student temporarily ceases to be enrolled on at least a half-time basis, the school may transmit the proceeds of that disbursement and any subsequent disbursement to the student if the school subsequently determines and documents in the student's file—

(A) That the student has resumed enrollment on at least a half-time basis;

(B) The student's revised cost of attendance; and

(C) That the student continues to qualify for the entire amount of the loan, notwithstanding any reduction in the student's cost of attendance caused by the student's temporary cessation of enrollment on at least a half-time basis.

¹ All regulations cited are from the July 1, 2004 edition of the Code of Federal Regulations, unless otherwise stated.

Also, in accordance with 34 C.F.R. § 682.604(d)(4)

If the school is unable for any other reason to document that a registered student attended school during the period of enrollment for which the loan is made, the school must . . . return to the lender—

(i) Any loan proceeds credited directly by the school to the student's account; and

(ii) The amount of payments made directly by the student to the school, to the extent that they do not exceed the amount of any loan proceeds delivered by the school to the student.

To determine if the University maintained documentation to support student attendance for the payment period and correctly determined the amount it should have returned to the Title IV, HEA programs, we reviewed the records for (1) 166 students randomly selected from a list of 225 students shown as unofficial withdrawals during the 2002-2003 award year, (2) 162 students randomly selected from a list of 221 students shown as unofficial withdrawals during the 2003-2004 award year, and (3) all 319 students shown as unofficial withdrawals during the 2004-2005 award year. The University did not have evidence to support attendance for the payment period and incorrectly determined the amount it should have returned to the Title IV, HEA programs for 69, 88, and 232 of the students, respectively. (See **Table 1**.)

Based on our review, we estimate that the University retained about \$588,000 in Title IV, HEA program funds (\$10,000 Pell and \$578,000 FFEL) for the 389 students who dropped out of school before their first day of class for the payment periods during the 2002-2003, 2003-2004, and 2004-2005 award years.

Table 1

Award Year	Unofficial Withdrawals (Universe)	Title IV, HEA Universe Amount	Unofficial Withdrawals Tested (Sample)	Title IV, HEA Sample Amount	Instances of Non-compliance	Pell Grant Funds Improperly Retained	FFEL Funds Improperly Retained	Total Title IV, HEA Funds Improperly Retained
2002-2003	225	\$371,244	166	\$276,951	69	\$0	\$173,556	\$173,556*
2003-2004	221	\$231,423	162	\$170,968	88	\$1,579	\$133,117	\$134,696**
2004-2005	319	\$351,774	319	\$351,774	232	\$8,662	\$271,583	\$280,245
Total	765	\$954,441	647	\$799,693	389	\$10,241	\$578,256	\$588,497
* We are 90 percent confident that the University retained \$173,556 +/- \$15,249 in Title IV, HEA funds for the 2002-2003 award year.								
**We are 90 percent confident that the University retained \$134,696 +/- \$8,791 in Title IV, HEA funds for the 2003-2004 award year.								

The University's procedures for determining the amount of funds to return to the Title IV, HEA programs were not adequate. University officials informed us that, to identify unofficial withdrawals, all faculty members are required to indicate whether a student receiving a failing grade of "F" was given such a grade due to inadequate academic performance or failure to participate in the course. If the faculty member indicates that the student failed to participate, the University determines that the student unofficially withdrew. It is the University's policy to use

the midpoint of the payment period as the withdrawal date when determining the amount of Title IV, HEA program funds to return for all unofficial withdrawals. However, for the students we tested, whom the University identified as unofficial withdrawals, the University's documentation did not show that the students engaged in academic activity during the quarter. Absent evidence of academic activity, the University should be returning all Title IV, HEA program funds for that payment period, not calculating a refund using the midpoint of the payment period as the withdrawal date.

During our audit, the University disagreed with our assertion that its documentation did not support the students' attendance. It stated that the documentation it has for students—for example, a student's agreement to a faculty expectation sheet, introduction to the teacher or other students, or general questions about the homework process—was adequate to document attendance for the purposes of 34 C.F.R. §§ 668.21 and 682.604(d)(4). However, these documents do not indicate any academic engagement. None of the information we reviewed for these students indicated that they attended class or engaged in any academic activity for the purpose of learning its subject.

Recommendations

We recommend the Acting COO for FSA

- 1.1 Require the University to review its files and return the amount of Title IV, HEA funds improperly retained for students who dropped before their first day of class for the 2002-2003, 2003-2004, and 2004-2005 award years. We estimate that the University will need to return \$10,000 to the Department and \$578,000 to lenders.
- 1.2 Require the University to review records for students who unofficially dropped out during the 2005-2006 and 2006-2007 award years; determine which students did not attend during the quarter of the withdrawal; calculate the amount of Title IV, HEA funds the University retained but should have returned to the Title IV, HEA programs; and return those amounts to the Department and lenders, as appropriate.
- 1.3 Require the University to revise its policy for returning Title IV, HEA program funds to provide reasonable assurance that it returns all Title IV, HEA program funds for students who unofficially withdraw with no documentation of attendance for the payment period.
- 1.4 Consider fine proceedings pursuant to 34 C.F.R. § 668.84 because the University failed to return the correct amount of Title IV, HEA program funds for all students who unofficially withdrew.

University Comments

The University partially agreed with the finding and stated that it had implemented and established new procedures to reduce the likelihood of the noncompliance in the future. The University agreed with 203 of 389 instances of noncompliance we found and agreed it improperly retained \$278,883. Based on a review of the Office of Inspector General (OIG)'s audit documentation, the University divided the instances of noncompliance we identified into three categories: (1) instances of noncompliance with which the University agreed; (2) instances for which the University provided additional data, to demonstrate that the University had complied under the criteria presented in our report (though the University disagreed with our understanding of the criteria); and (3) instances with which the University disagreed, based on its

disagreement with our understanding of the criteria. Table 2 below summarizes the University's division of noncompliance into three categories.

Table 2

Award Year	Students Classified as Type 1	Title IV, HEA Funds Received	Students Classified as Type 2	Title IV, HEA Funds Received	Students Classified as Type 3	Title IV, HEA Funds Received	Total Title IV, HEA Funds Improperly Retained
2002-2003	48	\$89,987	1	\$765	21	\$41,623	\$89,987
2003-2004	68	\$78,914	3	\$1,734	20	\$21,837	\$78,914
2004-2005	87	\$109,982	128	\$152,710	18	\$18,366	\$109,982
Total	203	\$278,883	132	\$155,209	59	\$81,826	\$278,883
The University concurs it improperly retained funds for students classified as Type 1, but disagrees that it improperly retained funds for students classified as Type 2 and Type 3. The amounts shown in the column, "Total Title IV, HEA Funds Improperly Retained" are actual funding amounts received by the students in our samples.							

The University stated it was their understanding, based on prior communications with the OIG audit team, that due to time constraints surrounding the draft report, the audit team was not able to consider and reflect in its draft report all course room activity of all students listed in the work papers. The University also stated that it was their understanding that the audit team intended to consider this additional information following receipt of the University's response to the draft report. As such, the University included comments as to the activities of each student in the course room.

The University stated that our report applies a heightened standard of academic engagement which is not supported by the regulations. Under 34 C.F.R. §§ 668.21 and 682.604(d)(4), a school is only required to demonstrate that a student attended school during the enrollment period; the regulations do not include a requirement to demonstrate academic engagement.

The evidence that the University provided is adequate to show that the students attended school. The University stated

Students attend classes by posting information to virtual course rooms and participating in online class dialogue with faculty and fellow students. Demonstrating attendance in this context, however, is not significantly different from a bricks and mortar setting. When a student posts his or her profile to the course room, poses questions to a faculty member, or agrees to a faculty expectation sheet, the student has attended the class every bit as much as – if not more than – a student who signs into the first day of class at a bricks and mortar institution and otherwise sits silently through one or more lectures.

The University believes that procedural changes it implemented in April 2006, to ensure that students are engaged before funds are delivered, have prevented and will continue to prevent further instances of the non-compliance with which it agreed, as identified in its first category.

OIG Response

Prior to issuing the draft report, we reviewed all available information provided by the University supporting student attendance for this finding. The University spent considerable time trying to extract information from its computer systems that would support student attendance, but was having difficulty obtaining all needed information due to various technical issues. We informed the University that any additional information supporting student attendance could be provided in response to the draft report and would be considered prior to issuance of the final report. The University did provide additional information in response to the draft report that was not available to us prior to the issuance of the draft report.

Based on the additional information provided by the University, we revised Finding No. 1 and Recommendation 1.1 to reflect our acceptance of additional documentation for 5 of the 132 students included in the University's second category. We also accepted additional documentation to reclassify 4 of the students from the University's second category to the University's third category. However, the University did not provide adequate documentation to show that the remaining students in the second category attended during the quarter: the University either provided the same information we reviewed previously, or we were unable to verify the University's new information using its course room software.

In our finding, we accepted evidence of students' submitting assignments, discussing the course work and/or assignments, and asking questions specific to the course work and/or assignments as evidence that the online student was academically engaged in course room activity. However, we do not agree that other documentation provided by the University with its comments—documentation for students' agreements to faculty expectation sheets, introductions to the teachers or other students, or general questions about the homework process—is adequate to show that students in the University's third category attended class. These activities, which occurred after class started, are more consistent with a student's registration or orientation than with a student's attendance. **Table 3** summarizes the information for the students we tested.

Table 3

Award Year	Students Classified as Type 1	Title IV, HEA Funds Received	Students Classified as Type 2	Title IV, HEA Funds Received	Students Classified as Type 3	Title IV, HEA Funds Received	Total Title IV, HEA Funds Improperly Retained
2002-2003	48	\$89,987	0	\$0	21	\$41,623	\$131,610
2003-2004	68	\$78,914	0	\$0	20	\$21,837	\$100,751
2004-2005	87	\$109,982	123	\$146,699	22	\$23,565	\$280,246
Total	203	\$278,883	123	\$146,699	63	\$87,025	\$512,607

Note: The amounts shown in the column, "Total Title IV, HEA Funds Improperly Retained" are actual funding amounts received by the students tested in our samples. The amounts do not include projected amounts for the 2002-2003 and 2003-2004 award years as shown in Table 1.

In its comments, the University said, "[T]o satisfy the 'attendance requirement,' a bricks and mortar institution would thus only have to demonstrate that a student was present in the classroom." If a bricks and mortar institution documented a student's introduction to his or her

teacher, an agreement to faculty expectations, or general questions about the homework process, such documentation would not necessarily be evidence that the student had been present in the classroom. Being present in a classroom requires a greater commitment by a student to participate in the learning process, and this greater commitment should be evident in the documentation of the University's students' attendance.

The University's classes are not conducted within the same structure as traditional classes, and the same assumptions for traditional classes may not apply to online classes. Each class at the University has a start date and an end date, and there may be deadlines for homework or project submissions, but there are typically no specific hours during which the class meets for instruction. Comments and messages may be posted at any time by a student in the University's "online classroom," but without considering the content of those messages, there is no assurance that the student has actually attended the class for the purpose of receiving instruction in its subject.

The University stated that its procedural changes have prevented and will continue to prevent errors resulting in improper retention of Title IV, HEA program funds from and after the date of full implementation in the Summer 2006 quarter. Our testing was performed on students who withdrew prior to the April 2006 implementation of the new modifications. However, the process described by the University calls for the engagement check to be performed after federal funds are received. This means that federal funds would still be requested and received for students who may no longer be attending school. Funds received for students determined to be ineligible would then need to be returned to the Department and/or FFEL lenders. If the University would run the eligibility check before requesting federal funds, it would be able to avoid requesting funds for students who are no longer attending.

FINDING NO. 2 – The University Disbursed Title IV, HEA Program Funds to Students Who Were Not Enrolled

The University disbursed Title IV, HEA program funds (FFEL and Pell) to students who were not enrolled in an eligible program at the time of the disbursement. We reviewed the records² for 205 randomly selected students for whom the University made Title IV, HEA program disbursements during the 2002-2003, 2003-2004, and 2004-2005 award years.³ The University made 27 disbursements of Title IV, HEA program funds to 20 of the 205 students even though the students stopped attending during a previous payment period, were not enrolled in any classes for the applicable payment period, and were not charged tuition for the payment period for which funds were disbursed.

A student is eligible to receive Title IV, HEA program assistance if the student is "a regular student enrolled, or accepted for enrollment, in an eligible program at an eligible institution." (34 C.F.R. § 668.32 (a)(1)(i)) To receive a FFEL or Direct Loan Program loan, the student must attend at least half-time. (34 C.F.R. § 668.32(a)(2))

² Student records reviewed included correspondence, return to Title IV calculations, and billing histories.

³ We reviewed the records for 110 randomly selected students for whom the University made Title IV, HEA disbursements during the 2004-2005 award year; 55 randomly selected students for the 2003-2004 award year; and 40 randomly selected students for the 2002-2003 award year.

As we stated in Finding No. 1, except in the case of a late disbursement, a school may release the proceeds of any disbursement of a loan if the school determines the student has continuously maintained eligibility in accordance with the provisions of 34 C.F.R. § 682.201 from the beginning of the loan period for which the loan was intended. If, prior to the transmittal of the proceeds of a disbursement to the student, the student temporarily ceases to be enrolled on at least a half-time basis, the school may transmit the proceeds of that disbursement and any subsequent disbursement to the student if the school subsequently determines and documents in the student's file that the student has resumed enrollment on at least a half-time basis. (34 C.F.R. § 682.604(b)(2))

Of the 27 improper disbursements, 7 were for the payment period immediately following the payment period the student last attended, 12 were for the payment period following one full payment period of inactivity, 7 were for the payment period following two full payment periods of inactivity, and 1 was for the payment period following five full payment periods of inactivity. (See **Enclosure 1.**) The 27 disbursements totaled \$81,018 (\$80,343 FFEL and \$675 Pell). The disbursements were made for the Winter 2004 through Spring 2006 payment periods. The students' billing histories showed students' accounts were credited for the amounts of the disbursements, and the University's records indicated accounts receivable was credited and cash debited on the same dates as the disbursements and for the same amounts as the disbursements. After determining the students were not registered for classes for the payment period, the University returned the funds within 2 to 10 days of the dates of the disbursements. (See **Enclosure 1.**)

Based on the sample results (20 of 205 students), we estimate that about 10 percent⁴ of all the disbursements made during the 2002-2003 through 2004-2005 award years should not have been made because students were not registered for classes for the applicable payment period. The University earns interest on all funds deposited in its bank account. That interest (referred to as an allowance by the University's bank) is used to offset fees charged by the bank to the account. By receiving Title IV, HEA program funds to which students are not entitled, the University is earning interest on Title IV, HEA program funds prior to returning the funds to the Department and FFEL lenders.

During the 2004-2005 award year, the University received about \$140 million in Title IV, HEA program funds. Using our estimate of 10 percent to identify the portion of this amount that should not have been disbursed because students did not register for classes, the University had the use of about \$3.5 million in federal funds every quarter for 2 to 10 days (\$140 million times 10 percent equals \$14 million; \$14 million divided by 4 quarters equals \$3.5 million per quarter). The Department may have paid interest benefits and special allowance on the improperly disbursed FFEL Program funds, and the disbursements may have resulted in other unnecessary payments. For example, because the University did not cancel all future FFEL disbursements after the borrowers stopped attending, the borrowers might have been treated as if they had stayed in school, and the dates on which the borrowers entered repayment on their loans might have been delayed.

⁴ The estimated percentage is not based on a statistical projection and, therefore, our sample results might not be representative of the universe of disbursements.

The University disbursed Title IV, HEA program funds to students who were not enrolled in an eligible program at the time of the disbursement, in part, because it implemented a “continuous enrollment policy.” Under its continuous enrollment policy, the University considers a student to be enrolled once he or she begins attendance. The University considers the student to be enrolled until the student officially notifies the University that he or she is ceasing attendance, or the University drops the student because he or she ceased attending for at least three consecutive payment periods. The University schedules disbursements of Title IV, HEA program funds for each of the student’s four payment periods for the award year at the beginning of the student’s academic year. According to the University’s Director of Financial Aid, if a student stops attending, the remaining scheduled disbursements are not canceled because the student could return for a future payment period. The University does not cancel future loan disbursements because it would have to reinstate the loans if a student were to return.

Insufficient staffing of the University’s financial aid office may have also been a cause for its making disbursements to students who were not enrolled. In the 2002-2003 and 2003-2004 award years, the financial aid office employed six people. From the 2002-2003 to the 2004-2005 award year, Title IV, HEA program funding increased approximately 85 percent with the student population increasing almost 117 percent, but the University added only 1 employee to its financial aid office—a 17 percent increase in staff.

Recommendations

We recommend the Acting COO for FSA require the University to

- 2.1 Develop and implement policies and procedures to provide reasonable assurance that funds are not disbursed or delivered to students after they have ceased attending.
- 2.2 Periodically evaluate the size of its financial aid office staff and ensure that it has sufficient staff to administer its Title IV, HEA programs.

University Comments

The University disagreed with this finding, stating that it complied with applicable regulations and that the disparity between the OIG’s and the University’s position centers on the definition of “disbursed”.

The University’s accounting system requires that it associate Title IV funds with a particular student in order to run the eligibility check. A student’s anticipated Title IV disbursement amount is allocated to the student in order to perform the eligibility check, but the corresponding funds are not actually “disbursed” from the Capella’s Federal Funds account to the student. While it may appear on the student’s billing history that the student received Title IV funds, the “credit” is meant to only show that the funds were received so that the eligibility check can be run and does not indicate an actual transfer of funds.

The University claims that each of the 20 students identified in our finding was matriculated in the University and enrolled in an eligible program, but the University identified each of the 20 students as not having registered for a course in the identified quarter. Therefore, the students

did not receive Title IV disbursements for such period. For each of these students, the University electronically received Pell and FFEL funds into its federal funds account, but it determined that the students were not registered, even though such students were otherwise enrolled in an eligible program and had completed coursework during a previous academic quarter. The University asserts that it did not disburse the Pell and FFEL funds from its federal funds account to the students (i.e., the funds were not credited to any student's account), the students did not have access to the funds, and the funds never left the University's federal funds account. Any returns of funds were made in accordance with regulations and, therefore, caused no harm to either the federal government or FFEL lenders.

OIG Response

We did not change our finding or recommendations. The University's assertion that it did not disburse funds to students because students did not have access to the funds is without merit. Under 34 C.F.R. § 668.164(a)(1), a disbursement is made when the student's account is credited:

[A]n institution makes a disbursement of title IV, HEA program funds on the date that the institution credits a student's account at the institution or pays a student or parent directly with—

- (i) Funds received from the Secretary;
- (ii) Funds received from a lender under the FFEL Programs; or
- (iii) Institutional funds used in advance of receiving title IV, HEA program funds.

Neither the regulations nor other guidance issued by the Department qualify this date based on the student's access to the funds in his or her account.

Additionally, the University's assertion that it did not disburse funds to students because the funds never left the University's federal funds account is without merit. There cannot be a disbursement from the federal account to the operating account, because the University uses a single account for both its operating account and federal funds account. All federal funds are deposited into the operating/federal funds account and remain there until such time as the University chooses to move the funds.

The University received Pell and FFEL funds for students into its operating/federal funds account for subsequent disbursement to students, and the students' billing history reflected the credit of federal funds to their accounts. Though the University retained control of the federal funds prior to returning the funds to the Department or FFEL lenders for students later determined to be ineligible, the University disbursed the funds: it received the funds on behalf of students and credited the students' accounts for the amount of the funds received. The University debited cash and credited accounts receivable for the amount of federal funds received. University officials informed us the only time cash associated with federal funds moves is when it is drawn into the operating/federal funds account, when the student receives a stipend for living expenses, when funds are transferred to the investment account, or when the funds are returned to the lender. There is no movement of cash when crediting students' accounts.

If we were to accept the University's position that the credits of Title IV, HEA program funds shown in the student's billing history do not represent true disbursements of Title IV, HEA program funds, we would have to question the accuracy and reliability of the billing history as a record of the student's financial transactions. It would not be possible for the University, the Department, or anyone else to distinguish between a credit of Title IV, HEA program funds made to run the required student eligibility check and a credit of Title IV, HEA program funds used to pay for the student's costs of attendance.

The University maintains the students in question were enrolled in eligible programs, but also agrees that the students were not registered for classes for the quarter. Under the definition of "enrolled," in 34 C.F.R. § 668.2, students who are not registered for classes are not considered to be enrolled:

Enrolled: The status of a student who . . . [h]as completed the registration requirements (except for the payment of tuition and fees) at the institution that he or she is attending

FINDING NO. 3 – The University Did Not Always Maintain Documentation to Substantiate Loan Exit Counseling

The University could not provide support to show exit counseling was performed for all students who received FFEL Program funds and later withdrew from the University. We reviewed the academic and financial aid records for 50 students randomly selected from a universe of 13,182 who received FFEL Program funds during the 2004-2005 award year. Of those 50 students, 25 ceased at least half-time study at the University. The University could not provide support to show it conducted exit counseling for 2 of the 25 students. In addition, the University performed exit counseling 11 to 18 months after 3 other students stopped attending.

Pursuant to 34 C.F.R § 682.604(g)

(1) A school must ensure that exit counseling is conducted with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school. . . . If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that exit counseling is provided through either interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

.

(4) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

Failure to provide exit counseling could increase the risk that students will default on their FFEL Program loans. Increased FFEL defaults result in additional costs to the Department for default claims presented by guaranty agencies.

The University's procedures for loan exit counseling were not adequate. The procedures in effect during our audit period did not indicate when exit counseling should be performed. Also, the University's current Financial Aid Management System (FAM) does not provide reasonable assurance that the University will maintain evidence of exit counseling. According to the Financial Aid Director, retrieving data from FAM can be cumbersome due to the lack of system integration within FAM. The dates entered into this system to reflect exit counseling performance are award year specific and do not roll forward based on status. The Financial Aid Director also informed us that the University will be utilizing PeopleSoft as its financial aid management tool starting in the 2007-2008 award year. The process of notifying students will be automated, and the new system should allow financial aid to more easily track performance of exit counseling.

Recommendation

We recommend the Acting COO for FSA require the University to

- 3.1 Implement its exit counseling policies and procedures to provide reasonable assurance that exit counseling will be performed in a timely manner and documented for all students receiving FFEL Program funds.

University Comments

The University acknowledges that the exit counseling was performed late in the three cited instances, but it was nonetheless performed. With respect to the two students for whom exit counseling cannot be documented, the University considers these instances to be isolated occurrences.

Starting with the 2007-2008 financial aid year, the University will use PeopleSoft as its financial aid management tool. This integrated system will allow Financial Aid to more easily track the performance of exit counseling and the process for notifying students will be automated.

OIG Response

We reviewed the University's planned work flow process, under which it would use PeopleSoft software to identify students who require exit counseling. If implemented, the new software should improve the University's ability to provide support for exit counseling. Once implemented, the University should test the new system to ensure that its student borrowers receive exit counseling in a timely manner and that the exit counseling is documented. We revised our recommendation for Finding No. 3 to ask for the implementation, rather than the development and implementation, of the revised procedures for exit counseling.

FINDING NO. 4 – The University Disbursed FFEL Program Funds to a Student Enrolled in an Unapproved Program

According to 34 C.F.R. § 668.32(a)(1)(i), a student is eligible to receive Title IV, HEA program funds if that student is “a regular student enrolled, or accepted for enrollment, in an eligible program at an eligible institution.” During the 2004-2005 award year, the University disbursed \$1,891.50 in FFEL Program funds to one student enrolled in an ineligible program.

We reviewed the Department’s Eligibility Certification Approval Report and identified certificate programs administered by the University that were not approved by the Department. We reviewed the academic and financial aid records for 22 students randomly selected from a universe of 180 who received Title IV, HEA program funds during the 2004-2005 award year while enrolled in an ineligible certificate program. Twenty-one of the 22 students were also enrolled in an eligible program during the same period they were enrolled in the ineligible program, thereby earning a Title IV, HEA disbursement for their enrollment in the eligible program. However, the University disbursed FFEL Program funds to one student enrolled only in an unapproved program.

Recommendations

We recommend the Acting COO for FSA require the University to

- 4.1 Return \$1,891.50 to the lender.
- 4.2 Determine if any of the remaining 158 students received Title IV, HEA program funds while enrolled in only an ineligible program, and return any improperly disbursed Title IV, HEA program funds to the Department and lenders, as appropriate.

University Comments

The University concurred with our finding and considered it an isolated occurrence. The response states that, as part of an effort to update the University’s Eligibility Certification Approval Report (the “ECAR”), the University deleted from the ECAR certain programs that are no longer offered by the University. The program in question, which had been an approved and eligible program, was one of the programs deleted.

OIG Response

We have not changed our finding or recommendations. The University can support its assertion that the disbursement was an isolated occurrence by determining if any of the remaining 158 students received Title IV, HEA program funds while enrolled in only an ineligible program. Such a determination, which would only require identifying the students in the ineligible program who received Title IV funds, should not be excessively burdensome.

OTHER MATTERS

Review of Financial Aid Histories

According to 34 C.F.R. § 668.19(a)

Before an institution may disburse title IV, HEA program funds to a student who previously attended another eligible institution, the institution must use information it obtains from the Secretary, through the National Student Loan Data System (NSLDS) or its successor system, to determine—

- (1) Whether the student is in default on any title IV, HEA program loan;
- (2) Whether the student owes an overpayment on any title IV, HEA program grant or Federal Perkins Loan

For the 2004-2005 award year, University officials informed us that the University used worksheets to document the reviews of information obtained through NSLDS. However, the University did not always maintain those worksheets in the students' financial aid files because its policies and procedures did not require the reviews to be documented before disbursing Title IV, HEA program funds to students. The University began retaining the worksheets for part of the 2004-2005 award year and all of the 2005-2006 award year. The University's policy now requires the worksheets to be documented in the students' financial aid files before Title IV, HEA program funds can be disbursed.

Notification That Bank Account Contains Federal Funds

Pursuant to 34 C.F.R. § 668.163(a)(2)

For each bank or investment account that includes title IV, HEA program funds, an institution must clearly identify that title IV, HEA program funds are maintained in that account by—

- (i) Including in the name of each account the phrase "Federal Funds"; or
- (ii)(A) Notifying the bank or investment company of the accounts that contain title IV, HEA program funds and retaining a record of that notice; and
- (B) Except for a public institution, filing with the appropriate State or municipal government entity a UCC-1 statement disclosing that the account contains Federal funds and maintaining a copy of that statement.

The University uses a single bank account, and that account is used to receive federal funds. Although the University notified the bank that the account contained Title IV, HEA program funds, the account title did not contain the word "Federal," and the University did not file a Uniform Commercial Code (UCC)-1 statement with the appropriate State or municipal government entity disclosing that its bank account contained federal funds. After we brought the matter to the attention of University officials, the University worked with its bank to revise the name on the account. The account now properly discloses that it contains federal funds.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether the University complied with the HEA and selected regulations governing (1) return of Title IV, HEA program funds; (2) FFEL and Pell disbursements; (3) institutional eligibility; (4) program eligibility; and (5) student eligibility.

Our initial audit period covered the period July 1, 2004, through June 30, 2005 (2004-2005 award year). Because we identified instances of non-compliance during the 2004-2005 award year, we expanded our audit for objectives (1) and (2) to include the periods July 1, 2002, through June 30, 2003 (2002-2003 award year), and July 1, 2003, through June 30, 2004 (2003-2004 award year).

To achieve our objectives, we performed the following procedures.

1. Reviewed selected provisions of the HEA, regulations,⁵ and FSA guidance applicable to the audit objectives.
2. Identified the amount of Title IV, HEA program funds the University received on behalf of its students during the 2002-2003, 2003-2004, and 2004-2005 award years.
3. Reviewed the University's web site, the Department's Distance Education Demonstration Program web page, various other web sites, and organizational charts for the University and Capella Education Company to gain an understanding of the University's history and organization.
4. Reviewed *Report on Compliance with Specified Requirements Applicable to the SFA Programs*, for the years ended December 31, 2002, 2003, and 2004, prepared by Virchow Krause & Company, LLP Minneapolis, Minnesota.
5. Obtained and reviewed evidence, including state authorization, institutional accreditation, and Department certification, supporting the University's institutional eligibility.
6. Obtained and reviewed evidence, including program participation agreements, program descriptions in catalogs and applications, and program approval by a recognized accrediting agency, supporting the eligibility of the University's programs.
7. Reviewed written policies and procedures and interviewed University officials to gain an understanding of the University's internal control structure, policies, procedures, and practices applicable to the administration of its Title IV, HEA programs.
8. Reviewed the records (academic and financial aid) for 50 randomly selected Pell recipients and 50 randomly selected FFEL recipients to determine if students met the general student eligibility and program-specific eligibility requirements for the 2004-2005 award year. We randomly selected 50 of 801 Pell recipients and 50 of 13,182 FFEL recipients as recorded in NSLDS.
9. Reviewed the records (academic and financial aid) for 205 randomly selected Title IV, HEA program funds recipients to determine if the University disbursed Title IV, HEA program funds only to students enrolled in eligible programs during the 2002-2003, 2003-2004, and 2004-2005 award years. We randomly selected 40 of 6,444 students who received Title IV,

⁵ Code of Federal Regulations, July 1, 2002, 2003, and 2004 editions.

- HEA program funds during the 2002-2003 award year; 55 of 10,107 students who received Title IV, HEA Program funds during the 2003-2004 award year; 55 of 801 students who received Pell funds during the 2004-2005 award year; and 55 of 13,182 students who received FFEL Program funds during the 2004-2005 award year as recorded in NSLDS.
10. Reviewed the records (correspondence, student transcripts, and billing histories) for 25 of 159 randomly selected students that NSLDS showed as having leaves of absences during the 2004-2005 award year and 50 of 151 randomly selected students shown by the University's records as having leaves of absences during the 2004-2005 award year to determine if the University had adequate support for students with leaves of absences.
 11. Reviewed the records (correspondence, return to Title IV calculations, billing histories, and Scholarnet⁶ records) for 100 randomly selected students⁷ to determine whether the University (a) identified all students for whom funds should have been returned to the Title IV, HEA programs; (b) correctly calculated the amount of funds that should have been returned to the Title IV, HEA programs; and (c) returned Title IV, HEA program funds in a timely manner.
 12. Reviewed the records (return to Title IV calculations, billing histories, transcripts, and Course Room links for classroom activity) for (a) 166 students randomly selected from a list of 225 students the University's records showed as unofficially withdrawing from the University during the 2002-2003 award year; (b) 162 students randomly selected from a list of 221 students the University's records showed as unofficially withdrawing from the University during the 2003-2004 award year; and (c) all 319 students the University's records showed as unofficially withdrawing from the University during the 2004-2005 award year. We used stratified random sampling techniques to select our samples for the 2002-2003 and 2003-2004 award years.⁸
 13. Reviewed additional student attendance information, provided by the University in response to the draft report, to determine whether it was sufficient to reduce the number of students we originally considered ineligible based on inadequate documentation of attendance.

We relied, in part, on data provided to us by University officials. We used the data for drawing our samples to test the University's compliance with the requirements for returning Title IV, HEA program funds. Specifically, we used the University's data for unofficial withdrawals and leaves of absence. The University uses several different computer systems to record enrollment, application, academic, and financial information for its students. To ensure the reliability of the data, we used information from the Department's NSLDS and Common Origination and Disbursement (COD) system to corroborate data such as student enrollment and Pell and FFEL financial information provided by the University. We also used hard copy documents provided by students to the University as a source for corroborating enrollment and financial information

⁶ Scholarnet is an online application and loan processing product that allows schools to exchange FFEL and private loan information with any lender. Scholarnet allows schools to receive guarantee responses and disbursement information electronically and import and export CommonLine data to and from any CommonLine-compliant financial aid management system. The University uses Scholarnet and provided us information retrieved from Scholarnet for verification that refunds were paid.

⁷ We randomly selected (1) 25 of 48 students shown in NSLDS as students, other than students who graduated within 30 days of the loan period begin date, who had stopped attending at least half-time; (2) 25 of 711 students shown in NSLDS as students who had stopped attending at least half-time and also had evidence of a loan cancellation; and (3) 50 of 39,274 students from a drop list provided by the University for the 2004-2005 award year. The drop list contained students who dropped individual classes as well as students who left the University. Therefore, students could appear on the list more than once during the award year.

⁸ Students could withdraw more than once within an award year, thereby increasing their chances of being selected for our samples.

provided by the University via its various computer systems. Based on these tests, we concluded the data the University provided us were sufficiently reliable for our purposes.

We performed our audit work at the University's office in Minneapolis, Minnesota, and our Chicago, Illinois, and Kansas City, Missouri, offices from April 2006 through January 2007. We discussed the results of our audit with University officials on January 10, 2007. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

Enclosure 1: Disbursements to Students Who Were Not Enrolled

Student	Last Payment Period in Which Student Was in Attendance	Payment Period Disbursement Was Made	Number of Fully Inactive Payment Periods Since Last Attendance	Number of Days Funds Were Held**
1	Fall 2004	Spring 2005	1	9
2	Fall 2004	Spring 2005	1	3
3*	Summer 2005	Winter 2006	1	3
3*	Summer 2005	Spring 2006	2	5
4	Fall 2004	Spring 2005	1	8
5	Fall 2004	Spring 2005	1	9
6	Winter 2006	Spring 2006	0	10
7	Summer 2005	Spring 2006	2	5
8	Summer 2005	Spring 2006	2	7
9	Fall 2005	Spring 2006	1	5
10	Summer 2004	Spring 2005	2	7
11	Spring 2005	Fall 2005	1	4
12*	Fall 2005	Winter 2006	0	3
12*	Fall 2005	Spring 2006	1	9
13	Fall 2005	Winter 2006	0	8
14*	Summer 2004	Winter 2005	1	5
14*	Summer 2004	Spring 2005	2	3
15*	Summer 2005	Winter 2006	1	8
15*	Summer 2005	Spring 2006	2	5
16	Winter 2004	Spring 2004	0	8
17	Winter 2006	Spring 2006	0	5
18*	Fall 2004	Winter 2005	0	2
18*	Fall 2004	Spring 2005	1	5
19	Summer 2002	Winter 2004	5	3
20*	Summer 2004	Fall 2004	0	5
20*	Summer 2004	Winter 2005	1	3
20*	Summer 2004	Spring 2005	2	5
*Same student had more than one disbursement.				
** Number of days from the date of disbursement to the date the funds were returned.				

Final Report
ED-OIG/A05G0017

Page 22 of 31

Enclosure 2: University Comments on the Draft Audit Report

Final Report
ED-OIG/A05G0017

Page 23 of 31

CAPELLA EDUCATION
COMPANY
★ ★

September 25, 2007

Mr. Gary Whitman
Acting Regional Inspector General for Audit
US Department of Education, Office of Inspector General
Citigroup Center
500 West Madison Street, Suite 1414
Chicago, IL 60661

Re: Draft Audit Report Control Number ED-OIG/A05G0017

Dear Mr. Whitman:

Enclosed is Capella's response to the draft audit report forwarded by you to Dr. Michael Offerman of Capella by letter dated August 23, 2007. I would be remiss if I did not express our appreciation for the way in which your staff, and in particular Mr. Roedel, kept us informed about the progress of the audit and sought our input to better understand our policies and practices.

In the enclosure we have restated from your draft report each finding. We have then provided Capella's response to each finding.

If you have any questions about our response, please feel free to contact me electronically at greg.thorn@capella.edu, or by telephone at 612-877-5470.

Sincerely,



Gregory W. Thorn
Vice President, Governmental Affairs
General Counsel and Secretary

FINDING NO. 1 – The University Determined Incorrectly the Amounts to Be Returned to the Title IV, HEA Programs***Finding:***

The University did not return all funds disbursed on behalf of students who dropped before their first day of class for the payment period. The University used the midpoint of the academic quarter (payment period) as the withdrawal date for all students who left school without providing official notification to the University (unofficially withdrew). The University used the midpoint even when it lacked documentation that the student engaged in academic activity during the payment period. By always using the midpoint of the payment period as the student's withdrawal date, the University retained approximately 50 percent of the Title IV, HEA program funds it received on behalf of students for whom it lacked documentation of academic activity, even though the University was required to return all Title IV, HEA program funds for those students.

Capella University Response:

Capella University ("Capella" or "the University") has implemented various procedures to monitor and identify unofficial withdrawals. The University has also established processes to secure notification that a student has unofficially withdrawn and to perform Return to Title IV calculations for such students.

The University's policies and procedures for unofficial withdrawals require all faculty members to indicate whether a student receiving a failing grade (i.e. "F") was given such a grade due to inadequate academic performance or failure to participate in the course. If the faculty member indicates that the student failed to participate, Capella determines that the student unofficially withdrew and performs a Return to Title IV calculation using the midpoint of the payment period pursuant to 34 C.F.R. 668.22(c)(1)(iii).

In April 2006, the University enhanced its procedures to better ensure student engagement prior to disbursing Title IV funds to students who are registered for the payment period. Under the enhanced procedures, Capella monitors course room activity at the beginning of each payment period, and incident to that monitoring, generates an engagement eligibility report for each Title IV-eligible student who registered for the payment period. This engagement check is done at the time federal funds are received into the Capella's Federal Funds account and prior to disbursing such funds to the student. If the eligibility engagement report shows that a registered student is not engaged (i.e. the student has not had any presence in the course room), the University notifies the student that his or her Title IV disbursement will not be applied to his or her account and the Title IV funds are returned to their appropriate sources. This engagement eligibility check is also part of the University's proactive outreach to its online students. Capella uses the report to gather information on students who, for one reason or another, are struggling with participation, and then provides appropriate academic support services.

For the Summer 2006 quarter, the first quarter for which the University fully implemented its enhanced procedures, the engagement eligibility report process was performed on approximately 9,000 students. The process identified only 75 students who were registered for courses and otherwise eligible for Title IV funds, but had not engaged in their courses. Of the 75 students

identified and provided notice by the University, 70 students subsequently engaged in their courses. The remaining 5 students withdrew from their courses and Capella returned the pertinent Title IV funds prior to disbursing such funds to the students. The University expects that it will continue to see very low levels of non-participation at the time Title IV funds are disbursed, and will continue to also verify engagement at the time grades are provided by faculty members.

Capella has reviewed the audit team work papers that support the findings contained in Table I on page 6 of the draft report. Based on that review, the University segments the cited instances of alleged noncompliance into three categories: (i) those instances for which we agree with the findings of the OIG; (ii) those instances for which we are providing additional data demonstrating that the University properly handled each cited instance; and (iii) those instances for which we respectfully submit that the OIG has applied an unsupported requirement of "engagement" where pertinent regulations require only "attendance" and, as a result, erroneously determined that the University incorrectly handled those instances.

Attached hereto as Attachment 1 are the audit team work papers supporting the findings contained in Table I. Capella has annotated the work papers by inserting as "1," "2" or "3" following the last name of each student, and in certain instances, by describing course room activities of students for whom it is alleged that the University improperly retained Title IV financial aid amounts. In the cases of those students annotated with a "1," the University agrees with the OIG's finding that Title IV amounts were improperly retained. The University believes that the procedural changes described in the third and fourth paragraphs of the Response to this Finding No. 1 have prevented and will continue to prevent errors resulting in improper retention of Title IV funds, from and after the date of full implementation in the Summer 2006 quarter.

In the cases of those students annotated with a "2," the University believes the course room activities of those students for the quarters in question were sufficient to demonstrate attendance, and even "engagement" as apparently defined by the draft audit report. As a result, Capella believes that it properly handled Title IV funds in those instances. It is the University's understanding, based on prior communications with the OIG audit team, that due to time constraints surrounding the draft report, the audit team was not able to consider and reflect in its draft report all course room activity of all students listed in the work papers. It is Capella's further understanding that the audit team intended to consider this additional information following receipt of the University's response to the draft report. As such, for the students annotated with a "2," the University has included on Attachment 1 comments as to the activities of each student in the course room. The University will provide to the OIG such additional documentation as may be requested to corroborate the University's position with respect to these students.

In the cases of those students annotated with a "3," the University respectfully disagrees with the OIG as to the appropriate regulatory standard for determining whether a full or partial return of Title IV funds is required. As noted by the OIG draft report, 34 C.F.R. § 668.21 provides, in pertinent part, that "[i]f a student officially withdraws, drops out, or is expelled before his or her first day of class of a payment period, all funds paid to the student for that payment period. . . are an overpayment." And "[f]or purposes of this section, the Secretary considers that a student drops out before his or her first day of class of a payment period if the institution is unable to document the student's attendance at any class during the payment period" (emphasis added).

Additionally, 34 C.F.R. § 682.604(d)(4) provides, in pertinent part, that “[i]f the school is unable for any other reason to document that a registered student attended school during the enrollment period for which the loan is made, the school must . . . return to the lender – (i) Any loan proceeds credited directly by the school to the student’s account . . .” (emphasis added).

With respect to the group of students annotated with a “3,” the University asserts that it has correctly applied the pertinent regulatory requirements based on student attendance. For each of these students, the University is able to document the student’s attendance in the course room, generally in the early part of the quarter in question. Such documentation was provided to the audit team. The OIG report, however, rejects the attendance documentation for these students and instead subjects the University to a heightened standard of “academic engagement,” which we believe has no basis in pertinent statute or regulation.

In the context of a “traditional” institution with a physical campus (a so-called “bricks and mortar” institution), attendance is readily discernable from a student’s physical presence in a classroom. Under both 34 C.F.R. § 668.21 and 34 C.F.R. § 682.604(d)(4), as cited in the draft report, to satisfy the “attendance requirement,” a bricks and mortar institution would thus only have to demonstrate that a student was present in the classroom.

As the draft audit report correctly states, Capella is an entirely online institution and therefore does not maintain physical classrooms. Students attend classes by posting information to virtual course rooms and participating in online class dialogue with faculty and fellow students. Demonstrating attendance in this context, however, is not significantly different from a bricks and mortar setting. When a student posts his or her profile to the course room, poses questions to a faculty member, or agrees to a faculty expectation sheet, the student has attended the class every bit as much as – if not more than – a student who signs into the first day of class at a bricks and mortar institution and otherwise sits silently through one or more lectures. The draft audit report, however, rejects Capella’s documentation of attendance and imposes a heightened standard of “academic engagement.”

The University’s concerns with this heightened standard are several. First, as noted above, the pertinent regulations reference only “attendance” and Capella has provided probative evidence that students began attending their courses. To require additional evidence of “academic engagement” changes the standard set forth in both 34 C.F.R. § 668.21 and 34 C.F.R. § 682.604(d)(4). We are aware of no statutory or regulatory basis for this standard, regardless of whether an institution conducts its courses online or in a bricks and mortar classroom. Moreover, the University has conformed its financial aid administrative practices to existing regulatory requirements. The retroactive application of a previously unannounced standard, through a compliance audit, is fundamentally unfair to institutions under audit, such as Capella in this case. If there are to be additional, heightened standards imposed upon institutions, we believe that such new requirements must be promulgated through proper administrative rulemaking procedures, including appropriate notice and comment.

Second, from a public policy standpoint, the decision as to what constitutes “academic engagement” can be a highly subjective analysis, thus complicating the coherent and consistent administration of the Title IV programs. While Capella does not concede that anything more than attendance is required under the regulations at issue, we would also assert that many of the students annotated with a “3” were in fact “academically engaged,” for example, by asking

questions about the homework process and otherwise engaging with professors and fellow students. The OIG rejects such activities as insufficient to demonstrate engagement, under what we believe amounts to be an unwritten and ambiguous standard. Perhaps because of these very concerns about subjectivity, the applicable regulations set forth the more objective and understandable standard of “attendance,” which the University in turn believes it satisfied with respect to students annotated with a “3.”

Notably, certain other Department regulations that are unrelated to this Finding No. 1 reference a form of “academic engagement” standard that is not present in either 34 C.F.R. § 668.21 or 34 C.F.R. § 682.604(d)(4). Under the separate requirements of 34 C.F.R. § 668.22(c)(3), for example, an institution that is not required to take attendance (such as Capella) may, at its option, determine a previously enrolled student’s withdrawal date was the student’s last date of documented attendance at an “academically related activity.” The fact that the Department did not incorporate a similar “academically related activity” concept into the language of 34 C.F.R. § 668.21 or 34 C.F.R. § 682.604(d)(4), but instead promulgated a standard of “attendance,” is further evidence in our opinion that the OIG audit report seeks to impose upon Capella a requirement that is not supported by existing regulations.

To conclude, prior to commencement of this OIG audit, the University was preparing to implement the procedural modifications described in the third and fourth paragraphs of its Response to this Finding No. 1, and in fact did implement those modifications beginning in April 2006. Based on subsequent testing done by the University, including the testing described in the fourth paragraph of the Response to this Finding No. 1, the University believes that errors made in prior aid years will not reoccur.

FINDING NO. 2 – The University Disbursed Title IV, HEA Program Funds to Students Who Were Not Enrolled***Finding:***

The University disbursed Title IV, HEA program funds (FFEL and Pell) to students who were not enrolled in an eligible program at the time of the disbursement. We reviewed the records for 205 randomly selected students for whom the University made Title IV, HEA program disbursements during the 2002-2003, 2003-2004, and 2004-2005 award years. The University made 27 disbursements of Title IV, HEA program funds to 20 of the 205 students even though the students stopped attending during a previous payment period, were not enrolled in any classes for the applicable payment period, and were not charged tuition for the payment period for which funds were disbursed.

Capella University Response:

The University respectfully disagrees with this finding and believes that it complied with applicable Department of Education regulations. The disparity between the OIG's apparent position on this Finding No. 2 and the University's belief that it is in compliance seems to turn on the definition of "disbursed."

Contrary to the audit report's assertions, Capella did not "disburse" Title IV, HEA funds to students identified by this Finding No. 2. Each of the 20 pertinent students was matriculated in the University and enrolled in an eligible program, but was further identified by Capella as not having registered for a course in the identified quarter and therefore received no Title IV disbursements for such period. For each of these continuing students, the University electronically received Pell and FFEL funds into its Federal Funds account for subsequent disbursement to the student's account. When Capella determined that the students were not registered for the pertinent academic quarter, even though such students were otherwise enrolled in an eligible program and had completed coursework during a previous academic quarter, the University did not disburse the Pell and FFEL funds from its Federal Funds account to the students (i.e., the funds were not applied to any student's account).

The University's accounting system requires that it associate Title IV funds with a particular student in order to run the eligibility check. A student's anticipated Title IV disbursement amount is allocated to the student in order to perform the eligibility check, but the corresponding funds are not actually "disbursed" from the Capella's Federal Funds account to the student. While it may appear on the student's billing history that the student received Title IV funds, the "credit" is meant to only show that the funds were received so that the eligibility check can be run and does not indicate an actual transfer of funds. If the student is determined to be ineligible, the funds are returned from the Federal Funds account to either the Department or the applicable lender, as required under 34 C.F.R. § 668.167(b). None of the pertinent students gained access to Title IV funds in connection with this process.

Capella constantly monitors its compliance with 34 C.F.R. §§ 668.32(a)(1)(i) and 668.32(a)(2), and performs monthly internal audits regarding its timely return of FFEL funds to lenders for matriculated students who fail to attend a particular academic quarter. The University also utilizes a pre-disbursement eligibility report (Attachment 2 to this Response) in an attempt to

limit the amount of Title IV funds that are received into its Federal Funds account which may have to be returned, although any such returns that are necessary are made in accordance with all applicable regulations and therefore cause no harm to either the federal government or FFEL lenders. The pre-disbursement eligibility report takes into account the University's most current registration data for a pending academic term, along with other Title IV eligibility criteria (e.g., academic progress, enrollment status), and compares such data against the pending disbursement roster provided by Great Lakes Higher Education Corporation, the University's designated guaranty agency. The intent of this proactive procedure is to prevent, as much as possible, FFEL lenders from delivering Title IV funds via electronic transfer into the University's Federal Funds account for continuing matriculated students who have not registered for the pending quarter or have otherwise become ineligible. However, as previously stated, any Title IV funds delivered by the lenders which cannot be subsequently disbursed to students are returned in full compliance with 34 C.F.R. § 668.167(b).

**FINDING NO. 3 – The University Did Not Always Maintain Documentation to
Substantiate Loan Exit Counseling*****Finding:***

The University could not provide support to show exit counseling was performed for all students who received FFEL program funds and later withdrew from the University. We reviewed the academic and financial records for 50 students randomly selected from a universe of 13,182 who received FFEL program funds during the 2004-2005 award year. Of those 50 students, 25 ceased as least half-time study at the University. The University could not provide support to show it conducted exit counseling for 2 of the 25 students. In addition, the University performed exit counseling 11 to 18 months after 3 other students stopped attending.

Capella University Response:

The University does conduct exit counseling for students who receive FFEL funds and who later withdraw from school. The University currently tracks three types of students who are required to receive exit counseling information: (1) students who withdraw both officially and unofficially, (2) students who drop to less than half-time enrollment and are reported to the Department via the National Student Clearinghouse, and (3) students who are disenrolled for cause. The University acknowledges that the exit counseling was performed late in the three cited instances, but it was nonetheless performed. With respect to the two students for whom exit counseling cannot be documented, the University considers these instances to be isolated occurrences.

Because of the lack of system integration within the University's current Financial Aid Management System, the dates entered into the system to reflect exit counseling performance are award-year specific and do not roll forward based on status or may be captured in another system. The University readily acknowledges that retrieving this data from the current Financial Aid Management System can be cumbersome and may have proven to be difficult during the audit process. However, starting with the 2007-08 financial aid year, the University will be utilizing PeopleSoft as its financial aid management tool. This integrated system will allow Financial Aid to more easily track the performance of exit counseling for all three of the student populations identified above, and the process of notifying these various populations will be automated. Included with this Response at Attachment 3 are workflow diagrams outlining the procedures under the new PeopleSoft financial aid management system.

FINDING NO. 4 – The University Disbursed FFEL Program Funds to a Student Enrolled in an Unapproved Program***Finding:***

According to 34 C.F.R. § 668.32(a)(1)(i), a student is eligible to receive Title IV, HEA program funds if that student is “a regular student enrolled, or accepted for enrollment, in an eligible program at an eligible institution.” During the 2004-2005 award year, the University disbursed \$1,891.50 in FFEL program funds to one student enrolled in an ineligible program.

Capella University Response:

The University agrees with this Finding. As part of an effort to update the University’s Eligibility Certification Approval Report (the “ECAR”), the University deleted from the ECAR certain courses no longer offered by the University. The course in question, which had been an approved and eligible course, was one of the courses deleted. Unfortunately, after the University announced that the course was being discontinued, several students requested permission to take the course, citing hardships if not allowed to complete the course. The University granted those requests, and one of the students who took the class did so by utilizing FFEL program funds.

The University believes this mistake was an isolated occurrence, caused primarily by the University’s desire to continuously maintain an accurate ECAR and to provide timely updates toward that end.