

# Briefing Memo

## A History of Minnesota's Tiered Teacher Licensure System

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During the 2017 legislative session, the Minnesota legislature overhauled the existing teacher licensure system and replaced it with a new four-tiered teacher licensure system. This brief provides a historical overview of the impetus for the change, as well as the transition to the new licensure system. This is a living document that EE will update as needed.

### Part 1: Office of Legislative Auditor Report and Legislative Study Group (March 2016–January 2017)

In March 2016, the Office of the Legislative Auditor (OLA) published a **report** on Minnesota's teacher licensure system. The report called the system “complex, unclear, and confusing,” and found that the shared responsibility between the Minnesota Board of Teaching (BoT) and the Minnesota Department of Education (MDE) to adopt rules and issue teacher licenses made accountability diffuse and decision making unclear.

The report offered several recommendations for clarifying the requirements for teacher licensure and responsibilities for licensing, including consolidating all teacher licensure activities into one state entity and establishing a tiered licensure system.

In response to the OLA report, the Legislature created a **12-member legislative study group** on teacher licensure. Specifically, the group was comprised of six Democratic and six Republican legislators, who were:

- *House Republicans*: Sondra Erickson, Jenifer Loon, and Drew Christensen
- *House Democrats*: Carlos Mariani, Jim Davnie, and Barb Yarusso
- *Senate Republicans*: Eric Pratt, Karin Housley, and Gary Dahms
- *Senate Democrats*: Chuck Wiger, Greg Clausen, and Kevin Dahle

The group met seven times from June to December 2016. In January 2017, they produced a **report** that, in alignment with the OLA report, recommended the legislature consolidate all teacher licensure activities into a single entity, as well as adopt a tiered licensure system.



## Part 2: Legislative Overhaul of Old Licensure System and BoT Rulemaking (2017)

During the 2017 legislative session, the legislature completely overhauled Minnesota's teacher licensure system, and replaced it with a new **four-tiered teacher licensure system** that was to be implemented on July 1, 2018. The legislature also abolished the BoT and replaced it with the Professional Educator Licensing and Standards Board (PELSB), which would be effective January 1, 2018.

Even though the legislation came from the recommendations of the bipartisan legislative study group, it was still very contentious. While **several organizations supported it**, the **Minnesota Department of Education** and **Education Minnesota** did not.

On May 30, Governor Dayton signed the new teacher licensure system into law. However, he also line-item vetoed funding for the legislature (which resulted in a **lawsuit**) and **demanded they reopen negotiations** on teacher licensure, and four other provisions, in order for a special session to happen. In the end, no special session took place, so the transition to the new teacher licensure system moved forward.

In July 2017, in order to get a jumpstart on the rules for the new, four-tiered licensure system, the BoT started working with the Revisor's Office to draft rules that aligned with the new legislation. With approval from the Revisor's Office, the BoT re-started the rulemaking process they had previously started in 2015 for the old teacher licensure system. Throughout the summer and fall of 2017, the BoT's Standards and Rules Committee met with various stakeholder groups to review and seek input on several iterations of their rule draft.

During the same time period, Governor Dayton appointed members to PELSB, effective September 12, 2017. The members are:

- Abdi Sabrie, Public Member
- Maggie Borman, Teacher Member
- Anne Krafthefer, Board Chair and Teacher Member
- James Miklausich, Principal Member
- Loy Woelbler, Superintendent Member
- Katie Groh de Avina, Human Resources Member
- Heidi Hahn, Administrator Member
- Anne Lindgren, Teacher Member
- Brian Rappe, Teacher Member
- Penelope Dupris, Teacher Member
- Amy Hewett-Olatunde, Teacher Member (Was not confirmed by the Senate, so is no longer a member)



PELSB met for the first time, informally, on October 12, 2017 and after that meeting some of the members started to also attend BoT stakeholder meetings.

In early December 2017, the BoT finalized their rule draft. On December 26, the BoT filed a request for approval of its *Additional Notice Plan* for the rule draft with the Office of Administrative Hearings. On December 29, Jeanne Cochran, an Administrative Law Judge (ALJ), approved BoT's Notice of Hearing and Additional Notice Plan.

### **Part 3: PELSB Replaces BoT and Urges Legislature to Extend Implementation of the Law; First Executive Director Search; First Round of Public Comments for Rule Draft (January–March 2018)**

#### ***PELSB Replaces BoT and First Round of Rulemaking***

On January 1, the BoT was effectively dissolved and lost all of their legal authority. On that same day, PELSB's authority to make and adopt rule became effective.

On January 8, PELSB published proposed **Rule 4369** in the State Register, which was the rule draft that BoT had worked on prior to their dissolution. At PELSB's public meeting on January 12, several members of the public were concerned that, since the rule draft was created prior to official start of PELSB, they had not followed the proper rulemaking protocol.

On January 22, the Office of Administrative Hearings received a filing, in which PELSB's Chair, Anne Krafthefer, requested an "opinion" on two questions:

1. Can PELSB proceed with rulemaking for Tiered Licensure that was started under the authority of BoT?
2. Can two rulemaking efforts directed at amending and/or repealing the same Minnesota rules run concurrently?

In the filing, Chair Krafthefer also noted that the Revisor's Office had already assured PELSB that their actions were "not only legally sound, but the only path to completing rulemaking prior to the July 1, 2018 deadline."

On February 22, Tammy Pust, the Chief Administrative Law Judge, ruled that PELSB had failed to comply with Minnesota Rulemaking requirements because they failed to publish a Request for Comments on or after January 1, 2018 and that this noncompliance was not a "harmless error" because it deprived several stakeholders from weighing in on the rule draft. Pust allowed PELSB to use BoT's draft rules as a starting point, but at the same time mandated they reinitiate the entire rulemaking process on their own.

On February 26, PELSB published a Request for Comments, which notified the public that they had 30 days, or until March 28, to submit comments on the proposed rules. In addition to the online public comment period, PELSB also hosted public hearings on March 16 in Roseville and March 23 in Duluth.



From the online comments and public hearings, it became apparent that **two of the most contested areas in the rule draft** revolved around the following:

- *Mentoring*: The rule draft mandated that in order for Tier 1 and Tier 2 teachers to receive their first renewal they must participate in a mentorship program. This was not mandated for Tier 3 and Tier 4 teachers. Whereas, in statute, school districts were only “encouraged” to develop mentoring programs. Several individuals and organizations argued that by mandating mentorship, it was overreach, while others argued that it was both “reasonable and necessary” to require it.
- *Cultural Competency*: In the rule draft, PELSB provided a prescriptive definition for what must be included in a district’s cultural competency training. Several online and hearing comments argued that this was overreach because cultural competency was already defined in statute.

### ***First PELSB Executive Director Search***

On February 8 and 9, the public and PELSB interviewed three finalists, whittled down from a list of 12, for PELSB’s executive director position. They were:

- Kevin Dahle, veteran teacher and former state senator from Northfield
- Paula Foley, a veteran educator and school administrator from St. Cloud
- Anne Soto, chief operating officer for Educate78

However, after PELSB had deliberated when the interviews concluded on February 9, they decided to not extend the position to any of the three finalists and instead reopened the search.

### ***PELSB Asks Legislature for Implementation Extension***

During this same period **PELSB and DFL legislators advocated** for an extension on the timeline for the implementation of the new tiered licensure system. They argued that, without more time to put in the right procedures, PELSB would struggle to issue teaching licenses when the new system is implemented on July 1. Republican legislators, on the other hand, asserted that it was possible for PELSB to accomplish rulemaking by the July 1 deadline.



## Part 4: Second Round of Rulemaking; PELSB Requests Legislature to Extend Implementation and Finds New Executive Director (April–June 2018)

### **PELSB Publishes Second Rule Draft and Elicits Public Comment**

PELSB published an updated rule draft, **Draft 4534**, on April 14. In the new rule draft, PELSB addressed several comments that had been raised in public hearings and online comments:

- *Cultural Competency*: Almost everything was kept from the original rule draft. However, “religious diversity” was added to the list of topics that PELSB contends must be included in cultural competency training. They also changed the “knowledge and understanding” language in the previous draft, to language that was more aligned to professional growth and development.
- *Mentorship*: The new rule draft maintains the mentorship requirement for Tier 1 licensed teachers for renewal. However, they made mentorship and licensure renewal for Tier 2, Tier 3, and Tier 4 teachers more aligned to MN Statutes **122A.40**.
- *Tier 3 “Alternative Pathway”*: Removed requirement that, for renewal, a teacher must demonstrate to PELSB that the standards of effective practice have been met and kept only the requirements listed in statute.
- *Related Services*: One of the biggest areas of change in the new rule draft pertains to related services. When the new teacher licensure legislation was written, related service licenses were unintentionally not addressed. The first rule draft attempted to address what was missing, but it fell short. The new rule draft added ten more pages in order to accommodate these changes.

On June 20, there was a hearing where members of the public were able to provide information to an ALJ on three questions:

1. Does the Board have the legal authority to adopt the rules?
2. Has the Board fulfilled all of the relevant legal and procedural requirements that they need to in order to promulgate the rules?
3. Has the Board demonstrated that the rules are needed and reasonable?

Testimony was given by 24 people, who provided comments on several areas in the rule draft, including **two of the more contested areas** from previous public comment—the requirement for Tier 1 teachers to receive mentorship for a first-time renewal and PELSB’s definition of cultural competency training programs.

Following the hearing, a 20-day public comment period opened. From June 29 to July 6, there was a rebuttal period, which provided an opportunity for people to respond to comments that have already been made, but not make new comments.



### **PELSB Finds Executive Director**

On April 9 and 10, the **public and PELSB interviewed three new finalists** for the executive director position. They were:

1. Jennifer Cherry, Director of Student Services for Anoka-Hennepin School District
2. Paula Cole, Minneapolis Public School Teacher, Richfield School Board Member, and Founder of Parents for Excellence Academy
3. Alex Liuzzi, Interim Executive Director of PELSB

On April 10, after the interviews were done, PELSB deliberated and ultimately voted 8-2 to move Liuzzi forward in the hiring process to become the permanent executive director. On May 12, Liuzzi formally accepted the position.

### **Governor Dayton Vetoes Bill; PELSB Receives No Extension**

During this same period of time, legislators considered giving PELSB an extension on rulemaking. Ultimately, they sent a bill to Governor Dayton which would have extended the rulemaking process to September 1. The legislation also mandated that if PELSB failed to meet the deadline then default rules would be implemented instead. However, on May 23, **Governor Dayton vetoed the bill**, meaning PELSB received no extension and the new licensure system would have to be implemented on July 1.

## **Part 5: Implementation of Teacher Licensure System, ALJ Report, and Part Three of Rulemaking (July 2018–Present)**

On July 1, the new teacher licensure system went into effect. However, PELSB's online system for processing teacher licenses wasn't ready for use, so all **teacher licensure applications** had to be submitted by paper.

Even though PELSB started issuing teacher licenses under the new system on July 1, they still have to go through the required rulemaking process. As part of the process, the ALJ has to issue her report by August 6. The report will either confirm adoption of the rules, or inform PELSB they must change some of them because it goes beyond the purview of statute.

*Education Evolving will update this memo as changes arise in the adoption of rule and updates are made to the online licensure system.*