

Discretionary Variance Request

In accordance with Minnesota Statutes [14.055](#) and [14.056](#), a person or entity who wishes the Professional Educator Licensing and Standards Board (PELSB) to consider a request for a variance from a rule or portion of a rule under the Board's authority may apply to PELSB for a discretionary variance. PELSB will examine each request on an individual basis. A discretionary variance will only be granted in cases of extreme hardship.

For the district to be considered eligible for this discretionary variance under Minnesota Statute 14.055, the district must submit a petition to PELSB on official district letterhead. According to Minnesota Statute 14.056, the petition must include:

1. The name and address of the person or entity for whom a variance is being requested;
2. A description of and, if known, a citation to the specific rule for which a variance is requested (see next page);
3. The variance requested, including the scope and duration of the variance;
4. The reasons that the petitioner believes justify a variance, including a signed statement attesting to the accuracy of the facts asserted in the petition;
5. Explanation of why the application of the rule to the petitioner would result in hardship or injustice;
6. Explanation of why a variance from the rule would be consistent with the public interest;
7. Explanation of why a variance from the rule would not prejudice the substantial legal or economic rights of any person or entity;
8. A history of the agency's action relative to the petitioner, as relates to the variance request;
9. Information regarding the agency's treatment of similar cases, if known; and
10. The name, address, and telephone number of any person the petitioner knows would be adversely affected by the grant of the petition.

In addition, the Board requests that you include the following information as applicable:

- school year
- file folder number
- district number and type
- licensure area requested
- grade level
- % FTE for requested position
- Date range and where the district advertised the position
- Attach resume

Where can I find the specific rule I want to request to be waived?

www.revisor.mn.gov/rules/8710

You will need to request the full rule you are asking to have waived – not just the generic rule number. For example, if you are asking to have a rule waived with an Out-of-Field Permission (OFP) you need to click on 8710.0320 and then identify what specifically under that rule you need to have waived. Refer to the information below on how a rule request should look (see Rule to request).

You will write the full rule in your written request including the subpart (subp.), number and/or letter plus description.

Also, please be very clear within the request as to why the variance is needed, how the individual is qualified for the position, and what steps the individual may be taking to move toward licensure.

Commonly requested rules:

- **Situation:** An individual holds a related services license but is needed to teach in the classroom:
Rule to request: *8710.0320 Out-of-Field Permission Subp. 2 Requirements A. The board must issue an out-of-field permission upon request by the designated administrator of the hiring district. The applicant must initiate the application process, and the hiring district must show: (2) the applicant holds a license other than for a related services profession.*
Additionally: The district will need to submit an Out-of-Field Permission form. If enrolled in a preparation program for the licensure field being requested reach out to PELSB for that form as well.
- **Situation:** An individual holds a teaching license but is needed for a related services position:
Rule to request: *8710.0320 Out-of-Field Permission Subp. 6. Limitations and exceptions A. An individual cannot hold an out-of-field permission to work in a related services profession.*
Additionally: The district will need to submit an Out-of-Field Permission form and reach out to PELSB for a district verification form. That form verifies that the teacher will be supervised or mentored by someone properly licensed in the field being requested. If enrolled in a preparation program for the Related Service position being requested reach out to PELSB for that form as well.

Where is the discretionary variance submitted?

Email the discretionary variance to special.permission.pelsb@state.mn.us