In the Matter of:
Proposed Permanent Rules Relating to
Issuance, Renewal, and Validity of
Teaching Licenses: Tiered Licensure;
Licensure via Portfolio; and
Technical Changes to Teaching Licenses

TRANSCRIPT OF PROCEEDINGS

The Public Rulemaking Hearing in the
above-entitled matter taken before Administrative
Law Judge Barbara Case, taken by Barbara F.
Schoenthaler, a Notary Public in and for the County
of Washington, State of Minnesota, taken on the
8th day of June, 2018, at the Department of
Education, 1500 Highway 36 West, Conference
Center A, Room 13/14, Roseville, Minnesota,
commencing at approximately 9:37 a.m.
APPEARANCES

MINNESOTA PROFESSIONAL EDUCATOR LICENSING AND STANDARDS BOARD:

Anne Krafthefer, Board chair
Alex Liuzzi, Executive director
Debby Odell, Interim director, licensing
Emily Busta, Staff

INDEX

BOARD PRESENTATION:
Mr. Liuzzi .................................. 13

PUBLIC COMMENTS:
Cathy Dalnes .............................. 26
Jeremy Braun .............................. 29
Sara Ford ................................. 32
Barbara Jo Stahl ......................... 37
Stephanie Bordewick .................... 40
Meredith Campbell ....................... 42
Megan Gallagher ......................... 46
Daniel Sellers ............................ 52
Kristin Conrad ........................... 56
Renee Carlson ............................ 60
Catrin Thorman ........................... 65
Chuck Graham ............................ 68
Bill Kautt ................................. 70
Teresa Redmond ........................... 75
Paul Spies ............................... 76
Tamera Pulver ............................ 80
Oluchi Omeoga ............................ 82
Fred Nolan ............................... 86
Marcia Sytsma ............................ 90
John Klaber .............................. 94
Blaine Kelley ............................. 95
Amelia Furman ............................ 100
Kristi Weidlein ........................... 101
Rick Heller .............................. 105
THE JUDGE: Good morning again. Can everyone hear me, people in the back? All right. Again, my name is Judge Barbara Case from the Minnesota Office of Administrative Hearings, and I'm here today to conduct this rule hearing relating to Minnesota professional educator licensing rules.

This is my docket number 82-9021-35209. 9021-35209, you may want that docket number because it's a way of finding the documents that are related to this rule hearing.

We're convened on June 8, 2018 at approximately 9:40 in the morning in Conference Center A, 1500 Highway 36 West in Roseville, Minnesota, and I've explained to everyone here the ground rules for this hearing, cell phones off, attention to the speakers, and that we are recording this conference two ways.

After my introduction, which is coming up shortly, lest you thought I'd done it already, I -- we will go to the agency which will offer its exhibits into the record. They'll walk through them for you, saying the other introductory things that they want to say, and then we will go to the comment period. So we shall -- we shall be there
shortly. And I am going to go to my right and have people introduce themselves now.

MS. KRAFTHEFER: My name is Anne Krafthefer. I'm the chair of PELSB.

MR. LIUZZI: My name is Alex Liuzzi. I'm the executive director of PELSB.

MS. ODELL: I'm Debby Odell. I'm interim director of the licensing part of PELSB.

MS. BUSTA: I'm Emily Busta. I'm with PELSB staff.

THE JUDGE: All right. So I'm going to use a written comment period of 20 days after today's hearing, so that means that the comments in this -- in this record are -- you can make comments until June 28.

That said, there's some time pressure here and it would be useful for people to submit their comments sooner rather than later. And I actually say that at all rule hearings because the sooner you provide written comments or your oral comments or both, the sooner the Board can read them and think about them and respond to them, if they want to, because they may respond by making some changes or they may not or they may provide some response to the comments, but it's better to
give them more time rather than less, so try to --
try to get your work in sooner rather than later.

There's then a rebuttal period. That is not a time for new ideas. It is only a time to respond to something that someone previously said. Anything that's new during that period will not be considered. So that five-day rebuttal period is July 6 -- ends on July 6, 2018, and all of these dates end at 4:30 in terms of getting the comments in.

My report is due 30 days from the -- from the date of the end of the day on that rebuttal period, and that's calculated now to be August 6, 2018.

If you've just come in, I'll say again that there's a handout on the table that explains the hearings and tells you how to make comments and how to get various documents, such as the report that I will write that will be due on August 6.

The Board is the Minnesota Professional Educator Licensing and Standards Board. Do I have that right?

MR. LIUZZI: Uh-huh.

THE JUDGE: Okay. It's a long name.

And they're proposing to adopt rules today. I'm
independent of that board, and I'm also independent of any other group or person that's here today, and it's my job to hold hearings like this in a way that's fair and impartial to all parties.

Something else to know about how things proceed today: If you speak, anybody who speaks except -- except perhaps me, you may ask a question of; and if you ask them a question, they may ask a question of you.

And if the Board speaks or someone from the Board speaks, you may ask a question of that person. And so again, it's questions all around once you've kind of thrown your hat in the ring to say something.

All of that said, I'm going to decide on the order of -- in which people speak. Again, this does not seem like a particularly unruly crowd, so I think we'll be fine on that point. Although, it does look to me like we might have about -- at least so far people signing up, about three hours or so of people testifying.

All right. The hearing is part of the process by which agency rules are adopted. The purpose of the hearing is to develop and receive information on three key issues.
Number one: Does the Board have the legal authority to adopt the rules? That's question one, and there's only three questions.

Question two: Has the Board fulfilled all of the relevant legal and procedural requirements that they need to in order to promulgate the rules? So you can see that two are kind of procedural; do they have the authority, did they utilize it properly.

And number three: Has the Board demonstrated that the rules are needed and reasonable.

So your comments are most useful when directed to one of those three things or all three of them, and I would guess in general most comments are going to address the last point, are the rules needed and reasonable.

Again, I don't -- I don't think from having read the record so far that this is going to be a problem in this hearing, but it's good for your comments to be specific.

Although general comments are ex -- you know, are allowed, it's more useful if they're targeted to a specific rule and a specific point or specific rules and a specific point as to gen -- as
opposed to "I generally support this whole rule package."

All right. So when I call you to speak -- and I'll call you from the list. I've been taking these from the back as you've signed in and indicated whether or not you want to speak.

You'll come to this front -- you'll come to the front microphone here, state your name, who you're with if you're with any group. And then if you could say "I'm here to testify about rule" and give the rule number, that would be very useful to me when I'm writing my rule report. And then -- or if you have a question for the panel, you can tell me that you have a question for the panel.

Court reporter, who we're so lucky to have today. We'll be taking breaks periodically both for the -- for her and also for me, to be honest, and it's important that -- and I know education doesn't use a lot of acronyms, but you should make sure that you don't use acronyms.

You should always state the full name of the thing that you're talking about because I probably don't know and others in the room may not know, so don't use initials. Please say things out. Speak clearly.
If you use a name -- and when you come up to speak, if you'll say your name and spell your name so the court reporter knows that she has it correctly. Again, if you're with a group, say the whole name of the group. If there's something that needs spelling there, spell that as well and spell any kind of inside terms that others might not know so that the record -- all of this is to make the record clear. You don't want me going back later and saying "What? What were they saying?"

All right. I'm almost done. Just know that if you've submitted written comments, you don't need to read those comments into the record. I will read every comment that is submitted and I will listen to every comment that is spoken, but you don't need to do both. You can do one or the other. You're welcome to do both, but again, you don't have to. Written comments count absolutely just as much as the ones that are spoken here today.

I'll go over the deadline, but I'll say it again now. June 28 for written comments. Again, please make them as early as possible. If you gave your email address and indicated that you wanted a copy of the report, it will be emailed to
you.

All right. Any questions to this point?

All right. Seeing none, I will turn to the Board to make their presentation.

MR. LIUZZI: Thank you. Again, my name is Alex Liuzzi, the executive director of the Professional Educator Licensing and Standards Board. The first thing that we'd like to do is to submit the official exhibits for the record.

I will go through the -- there is a binder in the back that has these exhibits. There are also three other binders that we put together before this official record that might have additional documents for individuals if they'd like to review.

But the documents for the official record are: In tab number 1 is a Request for comment, both the Request for comment that was sent out and the official publishing in the state Register.

There is no exhibit for the Petition of Rulemaking. Instead we would like you to see exhibit -- tab 11, which has the statute that identifies the need for rulemaking here.

Tab 2 is the proposed rules, the
April 26 draft as approved by the Board. Tab 3 is a Statement of Need and Reasonableness. Tab 4 is the Certificate of Transmittal Letter to the Legislative Library.

Tab 5 is the Notice of Hearing, both the Notice of Hearing sent out and the Notice of Hearing as published in the State Register. Tab 6 is both the Certificate of Mailing and the Certificate of Accuracy of that mailing list. Tab 7 is a Certificate of Additional Notice Mailing.

Tab 8 is written comments broken out by category. We have a category for cultural competency, a category for related services, a category for career and technical education, a category that covers comments that address multiple topics, and then a category for other. There is an authorization to omit text of proposed rules that is not applicable, so that was not submitted.

Tab 9 is the Certificate of Notice to Legislators. Tab 10 is proposed rule changes, and we've added a document to that in the back that is justification for those proposed rule changes, and I will go over that at the end of our presentation today.
Tab 11 is a copy of Minnesota law, 2017, First Special Session, chapter 5, articles 3 through 12 that apply to the rulemaking today.

Tab 12 is a copy of the auditor's report, the Office of the Legislative Auditor's report from 2016 titled "Minnesota Teacher Licensure."

And an additional document that is -- that was added to that, there is not a tab number for it. It will be tab number 13 of the official record. It's a certificate of the letter to MMB.

THE JUDGE: All right. So are you going to explain the addition -- the rule changes now?

MR. LIUZZI: I will at the end of the presentation.

THE JUDGE: Okay.

MR. LIUZZI: Fair.

THE JUDGE: All right. So you have Exhibits 1 through 13?

MR. LIUZZI: Correct.

THE JUDGE: All right. Those are received into this rulemaking record. Thank you.

MR. LIUZZI: Thank you. I'd like to pass it over to our board chair to give an official welcome today.

MS. KRAFTHEFER: Good morning. We're so
thankful that you're here because I -- one of the people who mentored me early in my career said each of us -- or "All of us together is smarter than each of us alone."

And there have been so many people who have contributed as stakeholders to this rulemaking process, and having differing viewpoints sometimes brings us to a place where we find common ground or it brings us to arguments that allow us to challenge our own thinking.

And it's much appreciated, the effort that's been put in by so many people to bring this rulemaking process to this point. Thank you.

MR. LIUZZI: First we'd like to go over just a brief background of where we are at this point and then an overview of the rule.

So first, legislation was passed on May 2017 that enacted a lot of the information that we needed to put into this rule, specifically our own tiered licensure but also around licensure renewal.

On July 2017, the previous Board of Teaching decided to continue rulemaking under 4369 in order to be able to pass over the rulemaking process to allow the Professional Educator Licensing and Standards Board to complete
rulemaking on time.

In January of 2018, Senator Pratt testified at a board meeting informing us that we could not use -- that PELSB could not use the Board of Teaching rulemaking process.

On January 26, the Board moved to continue the process and request an opinion from the administrative law judge. On February 19, the motion was issued by Chief Judge Pust identifying a need for the Board to start the rulemaking process over under PELSB.

So on February 20, we submitted a new request for comments to the State Register under rulemaking 4534, which is what we're addressing today. That was published on February 26.

On February 24, the Board officially met and moved to start the rulemaking process over. That has given us four months to complete our rulemaking process under 4534.

We were excited to continue to work with stakeholders on that process. Part of that discussion was conversations with legislators to see if we could extend the implementation date, but that did not pass, so we still have a July 1, 2018 implementation date of tiered licensure.
A brief overview of the rule that is in front of me today: First of all, tiered -- the main piece of this rule is tiered licensure. Tiered licensure is very detailed in statute, so the rule here is really meant to just define terms and clarify sections to help us implement that statute.

There's a rule around licensure via portfolio which was passed quite a while back, restated in the 2017 legislation, and the rule here is to provide a robust and meaningful process that when we were two separate agencies, the implementation and the policy around licensure via portfolio was not available, so this rule under one agency finally sets up that process.

There's a section of licensure renewal, which is aligned to the changes in statute for licensure renewal but also doing some cleanup around renewal and providing a pilot program for potentially larger changes in rule -- around licensure renewal in the future.

And finally, there's a section on permissions, which are taking the current personnel variance and experimental waiver, aligning them to the new statute, making a few modifications for
them, but they will be retitled under this rule "Out-of-Field Permission" and "Innovative Program Permission" respectively.

And finally, there's a few other additions to rule, general cleanup as a new agency, cleanup that aligned to the impact of tiered licensure, including their creation of a career pathways area and reconstituting the substitute license as well from a two- and a five-year to a single three-year option for the substitute license.

Briefly I'd like to talk about five areas where based on comments it appears that stakeholders still have concerns and -- and address where we are with those.

The first one is related services. I'd like to point out that there are two related service areas that have specific statutes that prohibit us from identifying a Tier 1 or a Tier 2 pathway for those related services. That's school social worker, which is statute 148E.275, and for school nurses, which is statute 148.283.

This area was one of two that had a tremendous involvement from stakeholders throughout the process and had multiple changes throughout the
process as well with the different rule tracks.

The Board believes that related services are different at their core. They are not from other teaching fields. They are not a teaching. They are working with students and health-related services.

The credentials that we license them through are credentials outside of the Professional Educator Licensing and Standards Board. We rely on other organizations and agencies to credential those individuals. We do not have standards for those related service areas, and we do not oversee the preparation programs for those related services, excepting school counseling.

We do not consider ourselves the experts in those related services but instead turn to those organizations and boards that do do the certifications as the experts. And I believe there are many here that will be testifying today to how their related service category fits into tiered licensure.

So by the Board's belief that they are different than a classroom teacher, we have interpreted their involvement in tiered licensure differently. We have included them within Tier 3
and Tier 4 with some modifications to what's in statute to align them again with a -- with classroom teachers for the ability to be working in schools, for them to -- their ability to be licensed in some way to be working with students.

However, we did not feel that they fit the Tier 1 and the Tier 2 categories based on multiple conversations with stakeholders, specifically with those organizations on how they -- how their own statutes and their own organizations certify those individuals.

We also believe language in statute in Tier 1 and Tier 2 were written specifically for classroom teachers in mind. It often says "teach in the content area," "teach in the content specific area," which we believe is language different than what is related services.

And specifically in Tier 2, the options for receiving a Tier 2 license really don't apply to related services. One, it says "if completed a teacher preparation program approved by PELSB," and again, we do not approve teacher preparation programs for related services.

They have to take content and pedagogy exams. Related services don't take those exams.
And they have to complete a methods course for a Tier 2. Methods courses do not apply to related services.

So for all these reasons, we believe our current rule under -- for related services is needed and reasonable to define them as a separate category.

Another significant area of stakeholder concerns is the cultural competency training. We believe that what we have in here is not a definition of cultural competence, but that definition is in statute.

What we're defining here is the training for teachers around cultural competence, so "cultural competency training" is the definition that's included here.

We believe that this definition of training aligns with the broad statutory language and applies the definition of cultural competence just to the training that teachers include in their use of self-reflection and discussion aligned with their local environment to successfully work with their students. We believe that this training is focused on the awareness of their actions and biases that can impact those students.
Again, this was built with major involvement from education stakeholders, including a lot of changes that happened within drafts, taking out language that's stated that there should be knowledge and understanding of these areas, and tried to broaden it to be more focused on professional growth in these areas, aligning very clearly with InTASC and national standards for preparation development standards for teacher preparation.

Another area of stakeholder concerns has been the required mentorship for Tier 1. In the rule it says that a teacher under Tier 1 is required to do board-adopted mentorship aligned with board-adopted criteria.

This one went through some changes with the Board as we tried to interpret statute. So in Tier 1 under subdivision 122A.181, subdivision 6(a), it says that a Tier 1 teacher must participate in the mentorship process.

In Tier 2, it says that an individual must participate in mentorship and evaluation with an additional sentence saying "including individual growth and development plan."

Tier 3 and 4 has a single paragraph
ties mentorship and evaluation to what we call the Teacher Development Evaluation statute, 122A.40, subdivision 8.

The first read from the Board considered that Tier 3 and 4 aligned with Teacher Development and Evaluation within that mentorship is encouraged but not required. But the ways Tier 1 and Tier 2 were written separating out the mentorship and the evaluation into two separate paragraphs meant that it is required. Mentorship would be required for a Tier 1 and a Tier 2 teacher.

Upon conversations with stakeholders and rereading of that statute, we realized that the inclusion in Tier 2 of "including individual growth and development plan," which is language from Teacher Development and Evaluation, that Tier 2 falls under that same category that mentorship is encouraged but not required.

But the Board continues to believe that in Tier 1, the language is clear in statute that an individual must participate in mentorship.

The Board is currently meeting with stakeholders to develop what that Board criteria is so that it can be -- so that there's no undue burden on districts and charter schools that need
to implement mentorship and might not have the
resources to do so.

That -- that group will be making a
recommendation to the Board on June 15, so that
board-adopted criteria should be completed before
the implementation of tiered licensure.

Additionally, there's -- there's been
some concerns about the timelines for posting of a
Tier 1 and an out-of-field permission. Right now
it has a 15-day required posting of that position
on the initial hire and a -- excuse me -- and a
60-day posting for a renewal of those license
types.

We believe that specifically for Tier 1
in statute, the intent was to make a valid -- the
intent of that rule was to make a valid attempt to
hire a teacher in a Tier 2, 3, or 4 tier. And we
believe that to assist staff and the Board in
implementing this process, we need to have some
definition of what the -- what a valid attempt
would be.

Working with stakeholders, we came to
the agreement on 15 days but with what is in rule
as an interim permission so that a district who has
an emergency need could put someone -- that Tier 1
individual in place in the classroom while they have the 15 days posting and while the Board has the opportunity to do a review.

We believe this language meets the intent of the statute but also the need of stakeholders, both licensed teachers and districts.

Finally, there have been some concerns over the Tier 1 ability for the Board to deny an application based on what is submitted by a district.

We believe that the Board has the authority to grant licenses, so the language in there that says it's the sole decision on approving or denying a Tier 1 license is aligned with statute.

We believe that the rule helps to outline areas to mitigate the need for the Board to review all of those applications. So for example, if no licensed teacher applied, they would not need to review it.

If all the licensed teachers that applied refused to accept the position, were offered but did not accept the position, the Board would not need to review or any teacher that would accept the position but had disciplinary action,
the Board would not need to review.

So what remains here is the Board just to review any application where a district or charter school is requesting to hire a Tier 1 licensed teacher when a higher licensed teacher would have accepted the position. They would just review those applications on a case-by-case basis.

There are three additional changes -- they are on the back table as well -- that we made from the rule draft on April 26 -- I'm sorry -- that we are recommending to the Board. The Board has not seen this yet, so they will review this on June 15, so these are recommended additional changes to the rule.

First of all on lines 5.8 through 5.10, the Board added a fees for variances for the permissions, the out-of-field permission and the innovative program permission into rule.

After submitting that rule, we dug into statute and found out that as a board, we are not able to -- legally able to add fees, so we had to remove that completely. So lines 5.8 to 5.10, our recommendation to the Board is to remove those lines.

Lines 18.7 and 21.9, we had language
that said for Tier 3 and 4 that an individual had
to have mentorship and evaluation aligned with
subdivision 5 "if the statutory models are not
practicable, to another identified district aligned
evaluation."

That language was copied from Tier 1 and
Tier 2 but actually does not apply to Tier 3 and
Tier 4. Tier 3 and Tier 4 teachers are required to
have evaluation aligned to Teacher Development and
Evaluation statute, so we removed those. That was
a simple copy and paste error on the initial draft.

Finally, we continue conversations with
related services specifically here for school
psychologists under Tier 3. We are adding "or
holds the Nationally Certified School
Psychologists, NCSP, credential from the National
Association of School Psychologists."

This was to meet the need of individuals
that might not have completed a NASP-approved
program, might have even completed approved --
completed a program before NASP existed.

THE JUDGE: What's that? Before what
existed?

MR. LIUZZI: NASP, National Association
of School Psychologists.
THE JUDGE: Okay. Thank you.

MR. LIUZZI: Uh-huh. This would allow that individual still to be able to reach a Tier 3 and eventually a Tier 4 license through other means, through that national certification process.

Finally in closing, I'd just like to reiterate what the board chair stated. This process has been extremely beneficial to these rules to have the tremendous stakeholder involvement that we've had over the past year.

With each stakeholder meeting we find continued ways to fine-tune this rule and areas where unintended consequences might have moved forward if we didn't have tremendous stakeholder involvement.

We're very excited to have so many people here today and to continue to hear the testimony and to be able to make changes as it -- as it -- as needed. Thank you.

THE JUDGE: Thank you. All right. I'm going to go to the first -- you may not be the first person that signed up, but you're the first person I'm calling. It's Cathy Dalnes.

SPEAKER DALNES: Good morning. My name is Cathy Dalnes. I'm here representing the
Minnesota School Social Workers Association, MSSWA.

I've been a Minnesota school social worker for 27 years, currently the manager of social work services in Minneapolis.

MSSWA recognizes the need to hire qualified teachers and specialized support personnel such as school social workers, school nurses, school psychologists, counselors, speech and language therapists, and in order to do so effectively, school districts rely upon carefully considered laws and rules to ensure the safety, health, and protection of our youth.

On behalf of MSSWA, we encourage the Professional Educator Licensing and Standards Board to pursue the adoption of rules as proposed with one important change.

The change we're asking to be made to the proposed rule is to retain the language under 8710.6300, subdivision 2, requirements for Tier 3 license. This needs to read that a Tier 3 license issued must be issued to a school social worker if the applicant, A, holds a baccalaureate or masters degree in social work from a program accredited by the Council on Social Work Education.

School social workers in Minnesota are
dually licensed. We're licensed by both the Board of Social Work and the Department of Education or the licensing board.

And per our board statute, a person cannot use the title of school social worker if they have not earned their degree from an accredited college or university, obtained their Board of Social Work license, and undergone extensive supervision.

Language from statute 148E describes our social work knowledge and skills and values taught in a program accredited by the Council on Social Work Education. It defines social work as an in -- as a social worker -- as an individual who is licensed as a social worker or has obtained a degree from a program accredited by the social worker -- by the Council on Social Work Education.

So we just really need that language to be congruent between the Board of Social Work and the educator standards licensing board.

We support the remaining language in the proposed rule, in particular that an individual must hold a Tier 3 or 4 license for related services, in particular for school social work.

To be a school social worker in
Minnesota, as I stated, you cannot only hold a degree. You need to be licensed by the Board of Social Work, so the Tiers 1 and 2 do not align with that state requirement.

We support the cultural competency training language in the rule in accordance with our social work ethical standards and values. We support and advocate that all school staff have ongoing professional development in the area of cultural competence. So we appreciate the time to speak on this and thank you.


SPEAKER MORRIS: I don't think I'm speaking.

THE JUDGE: Okay. Thank you.

Jeremy Braun. And, Mr. Braun, I'm going to ask you to lead the way in spelling your name for the record even though it's not -- it doesn't seem complicated to you so that you kind of set an example for everybody to --

SPEAKER BRAUN: Sure.

THE JUDGE: -- spell your name. Thank you.

SPEAKER BRAUN: So my name is Jeremy Braun, it's J-E-R-E-M-Y, B-R-A-U-N. And I'm
with the Minnesota Speech-Language-Hearing Association, and like many others here, I'm here to talk about part 3, are the rules needed and reasonable.

And we do feel the rules are needed and reasonable, and the one I want to comment on is line 34.1 and 34.2, that speech-language pathologists are not eligible to hold a Tier 1 or Tier 2 license.

And the reasons we feel that is the amount of training to be a speech-language pathologist is great. The entry level degree for a speech-language pathologist has been a masters degree for a very long time.

That is where you get your clinical training. That is where you learn how to do work with all ages of clients that we work with.

Currently in most bachelors level programs, clinical training is not provided. And I say "most" because some still offer a few hours, but it is not the clinical training you need in order to provide services to clients.

And I won't read off everything that we have on this because we've submitted this in writing to you already, but we believe that Tier 3
and 4 licensure with its current language is necessary because untrained and undertrained professionals are not qualified to perform the standardized assessments and making decisions regarding a client's needs and then using evidence-based practices to help remediate those needs.

Without proper training, individuals providing therapy to remediate the most complex conditions mentioned in our written statement, including feeding, articulation, fluency, and voice disorders, could actually do more harm than good to clients and thereby worsening the communication impairment or causing injury to the child or a patient.

I've read some of the other comments that have been submitted, and one thing I did want to talk about, there are currently people with their bachelors that practice as speech-language pathologists in the schools in Minnesota.

Many of them have been grandfathered in because they have met the criteria that was set out for them to be grandfathered in. Currently any new people graduating from college since that last grandfathering period had occurred don't have the
临床培训，这就是我们最关心的。临床培训和进入一个情况，不知道你不知道什么，然后试图为孩子们提供服务。所以谢谢你的宝贵时间。

法官：谢谢。

发言者福尔德：早上好。我叫萨拉·福尔德，S-A-R-A，F-O-R-D，我在教育明尼苏达州任职，代表我们80,000名会员。

目前的规则——我要简要介绍的是第一级，8710.0310，第一级发布期，但我将主要关注的是文化competency，8710.0311。

目前的规则草案是经过几个月的董事和利益相关者讨论和谈话的结果，这些讨论和谈话集中在学生的需求上。我们支持它。

我们支持在地区或特许学校申请初级第一级许可证之前需要的发布期。不要求发布期会削弱立法语言的目的，即学校必须证明他们无法聘请第二级、第三级或第四级教师。
We especially support the Board's
detailed description of what the new cultural
competency training must include. Preparing our
teachers to nurture and develop students from
different backgrounds should not be controversial,
but it has become so.

Opponents aim to delete groups of
students entirely from the training their educators
are given. The wrongness of this position is
evidenced in the answer to the following question:
Are we serious about building schools in which all
of our students can thrive or are we adopting yet
another policy designed to help only some at the
expense of others?

I hope we can agree that our public
schools should create teaching and learning
environments conducive to the success of every
child.

The Board -- the Board developed its own
version of cultural competency training because
there is currently no such definition in the
statute. The law defines cultural competence. It
is silent on the matter of how cultural competence
is developed.

Up to now, prospective teachers had to
complete a course in human relations. That statutory requirement demanded that candidates for licensure demonstrate, among other things, an understanding of how to deal with dehumanizing biases, discrimination, and prejudice.

While many of the objections to the current draft language include objections to talking about bias and specific groups of students, we cannot forget that a requirement to understand bias, discrimination, and prejudice has been explicitly in law already.

One of the most critical questions facing the Board today is whether it can require that the training cover specific topics, such as implicit bias, systemic racism, gender identity, socioeconomics, and disability.

What is at stake if the rules don't address these issues specifically and simply offer the general definition of cultural competency that exists in statute now as if that were a recipe for developing a training?

What's at stake is our ability to overcome our inexcusable achievement gap. What's at stake is an opportunity to interrupt the school-to-prison pipeline. What's at stake is the
life trajectory of every kid who comes to our
schools from a cultural or racial or gender or
economic identity that is not understood or even
recognized by the adults in that school, regardless
of their intentions.

We know a great deal more now than we
did even 20 years ago about what affective cultural
competency training looks like and that's why this
language is necessary.

A lack of understanding of our students'
lives outside of school can result in a
misinterpretation of student behavior, leading to
hire rates of special education referral, higher
rates of inappropriate and damaging disciplinary
referrals, and lower rates of referrals to gifted
and talented programming.

It is an undeniable fact that our
students of color and our LGBTQ students face
higher rates of exclusionary discipline than our
white students do for the same behaviors.

Research on the effectiveness of
cultural competency training is clear. We know now
that we have to talk about unconscious bias and
that we have to name, we have to see before we can
understand the lives of our students, all of them.
Our biases affect how we interpret people, behavior, and situations.

Outdated approaches to teaching diverse learners, color blindness, and multiculturalism have not moved the needle on our achievement gap. Both fail to equip teachers to meet the needs of diverse learners because those lenses fail to acknowledge the structures that grant power to whiteness, narrow definitions of gender identity, and heterosexuality, among others.

Simply declaring that "all kids are welcome" or "we don't see color" actually accomplishes the opposite of what people declaring such phrases often intend. These phrases and trainings built upon their premises blind us to the fact that underrepresented kids are too often misunderstood. If.

We don't insist on educating teachers to recognize and challenge implicit bias, if our teachers are not engaged in a career-long journey toward greater cultural competency to meet the needs of all of their diverse learners, we can say "we treat all kids fairly" all we want, but we won't actually be able to do that, no matter our intentions.
Finally, I want to note that the teachers themselves, the people who have dedicated their careers to making a positive difference in the lives of our students are asking for this training to be robust and specific to the needs of all of their students.

It will be difficult. It should be difficult. These are the most difficult challenges facing our schools and many of our communities. Current Minnesota law is silent on how cultural competency is developed. Academic research is not.

We have learned a great deal in recent decades about teaching diverse learners, and we would be disregarding our students' needs not to put that best practice into place. Thank you.

THE JUDGE: Thank you. Ms. Ford, were those submitted in writing as well?

SPEAKER FORD: We have submitted full comments. They're not the same as these.

THE JUDGE: Okay. Thank you.

Barbara Jo Stahl.

SPEAKER STAHL: Hello. Barbara Jo Stahl, Barbara, B-A-R-B-A-R-A, Jo, J-O, Stahl, S-T-A-H-L. I come to you representing the University of St. Thomas. I have been a teacher, a
special education administrator. I've had the
opportunity to work at the Minnesota Department of
Education in various capacities, one was with
institutions of higher education and staff
development. And I now have the opportunity to
work at the University of St. Thomas both in
teaching and in the recruitment of teachers.

Over this long career, I have watched
our supply and demand issues and needs grow in
Minnesota, so I know this legislation is needed and
it is one that has taken great thought and care.

I also believe that there's a portion of
it in specifically 116L.665 under the concern of
Tier 3 that could be a concern about our high
quality of teachers and therefore allow
unqualified, minimally trained people to work with
students with disabilities, and it's students with
disabilities that I'm here to speak for -- or
teachers who are licensed for students with
disabilities.

Specifically it's my understanding under
number 2 of 116L.665 -- there's a dot in the middle
of all of that -- you could be in Tier 3 with
literally very few higher level courses in special
education and no student teaching experience at
all.

You could have someone then, once they land in Tier 3, based on ongoing good evaluation continue to renew every three years and continue to be in this place for the rest of their career.

I think that places in our schools a person who has no foundation possibly, no specific research-based strategies possibly, very little of the pedagogy of teaching, and allows us to possibly decrease the rigor that has been a standard of Minnesota and Minnesota teachers.

If you go to any other state usually, especially if you're going to states with more significant supply and demand issues, that's one of the things I got to do when I worked at -- at the Department of Education, anyone from Minnesota would be snapped up and have tons of different opportunities because the standard and the quality of the people we license is very high.

I believe this legislation is necessary, but I believe in the area of Tier 3, we need to cap or -- or pause and not allow somebody to be in that status ongoing for the rest of their career and therefore place our students in a situation where they will not have a highly qualified teacher.
Thank you.

THE JUDGE: Thank you.

Stephanie Bordewick.


As part of my role in that function, I get to talk to speech-language pathologists throughout the state, many rural, many urban settings, suburban settings, and my experience in particular with those that have less other SLPs or speech-language pathologists in their area is that they all agree that you need a high level of clinical competence to be able to correctly treat and differentially diagnose students who have speech and language concerns coming up through their schools.

I would also say that some examples that I have seen that just show that you need to have -- be a highly qualified professional is to know the difference between a difference and a disorder.
You know, we talk about cultural competence, knowing if someone who speaks another language actually has a disorder or if that's a difference, so having that linguistic knowledge of just the things that make dialects different.

There is so much more beyond undergrad or a four-year degree that we learn in our graduate programs. We had 400 and -- in my program it was 450 hours of one, you know, group -- groups and therapy sessions additionally after I got my masters.

And any speech-language pathologist who holds their clinical competence -- certificate of competence through the American Speech-Language-Hearing Association has an additional year of mentorship called a clinical fellowship year in which they have a licensed and accredited speech-language pathologist guiding them through their first year after grad school, so they not only get all of that time, they get another year of that mentorship.

So I highly, highly see the need for people to continue to hold that level of competence when looking at some of the challenging cases we have with students in our schools.
And as a speech-language pathologist who has my certificate of clinical competence, I have to continue showing through ongoing training that I have maintained my evidence-based practice knowledge and that I'm continuing to look for things in my field to make sure that I am accurate with new research, and I don't believe that the same would hold true for someone who was just operating with a four-year degree and without that high level of training.

How would they keep up with their evidence? How -- you know, they wouldn't have the same access as I do to the research that they send me in the mail and I look at and I examine because I have that high level and I have that national certification and I've gone through grad school and done those things.

And the speech-language pathologists I've talked to would definitely agree that it would be a very, very hard job and that a lot of students would suffer without that kind of support. So that's what I'd like to say. Thank you.

THE JUDGE: Thank you.

Meredith Campbell.

SPEAKER CAMPBELL: Good morning
Your Honor, members of the Board. My name is Meredith Campbell. I'm director of public policy with the Minnesota Family Council. My name is spelled M-E-R-E-D-I-T-H, Campbell, C-A-M-P-B-E-L-L.

I'm here today on behalf of the Council and the tens of thousands of families that we represent across the state to speak in opposition of the cultural competency training definition found in 8710.0310, subpart 1, paragraph D.

It's our belief that the new definition of cultural competency training is in conflict with current statute, that it's unnecessary, and that it exceeds the Board's authority.

It's been said that cultural competency training isn't currently defined in statute, but however in 122A.181, subdivision d -- 3(b)(3), it clearly states that cultural competency training must be consistent with the current statutory definition of cultural competency.

And this new definition adds many new categories that weren't contemplated by the legislature or added by the legislature, and these new categories make it inconsistent with the current statutory definition. When the new definition of the proposed rule is in conflict with
current statute, the current statute should prevail.

It is foreseeable that a teacher could be compliant with the current statutory definition of cultural competency but not in compliance with the new proposed rules, and therefore that creates a conflict; and when there's a conflict, the statutory definition should prevail.

The legislature had an opportunity to change the definition of cultural competency. They could have done so back in 2017 when they passed the licensing bill, and they choose not to. They chose to keep a very broad definition of cultural competency.

And in 2018 there was a bill that was introduced in the legislature that would have imposed these additional requirements and defined cultural competency training and that bill didn't even receive a hearing.

So I think what this shows is two things: First of all, that the legislature had specific intentions when they referenced the current statutory definition, and also that legislators on both sides of the aisle know that this is an issue that belongs squarely in the
legislative arena and it's not appropriate to make
new definitions in conflict with the current
statute through the rulemaking process.

And I -- I know you're aware of this in
the testimony, but I would encourage you to look at
the testimony submitted by legislators,
particularly the chairs of the education committees
who acknowledged their intent and the intent of the
legislature when defining -- referencing the
current statutory definition.

We also take issue not only with the
process, making a definition through the rulemaking
process, but also with the content of the proposed
rules, including categories such as gender
identity, transgender students, sexual orientation,
things like this.

The current statutory definition allows
districts flexibility to design their training to
meet the needs of their community, and including
categories like the ones I mentioned before raises
serious concerns.

These are issues that are unsettled in
the legal, medical, and scientific community, so it
would be premature to mandate statewide training on
these topics.
The best approach is the current definition, and I believe the legislature saw that in keeping the current definition which allows again school districts to tailor training appropriate for their districts.

Schools have a responsibility to teach children the truth about who they are as boys and girls, to reference scientific evidence when making claims about biology, and to consider the serious implications of codifying unsettled theories in practice and policy.

This proposed rule circumvents the role of the legislature. It exceeds the Board's rulemaking authority. It's in conflict with current statute. And for these reasons, we ask that it be disapproved. Thank you.


The Board of Social Work regulates social work practice in Minnesota, and our mission
is to protect the public by setting standards for social work practice, licensing qualified individuals, and investigating and resolving complaints when practice fails to meet those standards.

The Board of Social Work supports the proposed rule related to the licensure of school social workers and excluding school social workers from Tier 1 and Tier 2 for two reasons.

The rule is consistent with the Social Work Practice Act, Minnesota chapter 148E, and avoids regulatory and policy conflict, and the rule ensures consistent standards, avoids potential negative consequences, and prevents confusion by the public as well as individuals and families served by school social workers.

Current Board of Social Work statutes and the rules that license school social workers through the Board of Teaching previously required school social workers to be dually licensed through both the Board of Teaching and the Board of Social Work. This rule would not change that requirement.

And I'll just make a quick note that the Board has no objection to the language as currently drafted which requires that "holds a baccalaureate
or masters degree and currently licensed."

The reason the Board would not object to that is because of that "and" between subparts -- in subpart 2 between A and B on line 41.14 and through 41.16.

It is true that the Board of Social Work is a rather young regulatory agency. We've only been in existence since about 1989. Therefore we've had several grandfathering periods, so there are individuals currently licensed as social workers in Minnesota who do not hold social work degrees from accredited association -- sorry -- they're accredited -- the Council accredited -- on Social Work Education.

So it is possible that if that definition were changed and it weren't to require that requirement, there may be some currently licensed social workers who then may not qualify for that school social worker license, so that's a possible unintended consequence.

I just want to make you aware that the Board would not object to the language as currently drafted for that reason, so -- in addition, if school social workers were to be licensed through Tier 1 or Tier 2, it could allow individuals to
begin using the social worker title without a Board of Social Work license.

This would be in direct conflict with the Board of Social Work statutes which require licensure for all individuals engaged in social work practice on a basis of their social work degree or using the title social worker.

They must be licensed through the Board of Social Work, so if they were issued a license without having a current social work license, if they were issued a license through the Professional Educator Licensing and Standards Board, the Board of Social Work would be obligated to investigate and potentially take action against that person for potentially engaging in unlicensed practice or improperly using the social worker title.

That could potentially disrupt services for students and families, and in fact we've had this happen in the past under the previous rules where variances were granted to the licensure requirement from the Board of Social Work where we had to become involved in a way to sort of solve that title problem.

The person could not be called a school social worker in the school under Minnesota laws at
the Board of Social Work.

So this inconsistency would be confusing to the public and potentially disruptive to the continuity of care of our students, therefore we support requiring current Board of Social Work licensure for all school social workers.

In addition, individuals licensed through the Board of Social Work are required to comply with the Social Work Practice Act standards of practice, and the Board has the authority to take action against those individuals when their practice fails to meet our standards.

Allowing school social workers to be licensed through Tier 1 or Tier 2 without Board of Social Work licensure creates a regulatory inconsistency in that those individuals would not be required to comply with the Board of Social Work standards and their clients they served would not have access to the Board of Social Work complaint resolution process.

In conclusion, the Board of Social Work supports rule 8710.6300 as drafted. We believe it protects the public by maintaining consistent standards for social work practice in Minnesota and ensures consistency between Board of Social Work's
statutes and Professional Educator Licensing Standards Board rules. Thank you.

THE JUDGE: Thank you. All right. We're going to take a break until quarter of the hour, and we'll stop -- start promptly at quarter of the hour. This gives the court reporter a chance to rest her hands and me to take care of some logistical things, so if you still -- if you're -- you're welcome to leave, but if you're waiting to comment, you're welcome to come back at quarter of eleven.

(At this time a brief recess was taken from 10:37 a.m. until 10:51 a.m.)

THE JUDGE: We can go back on the record. It's ten of eleven. We took a short break. I have received a letter from Jim Bartholomew, the director of education policy at the Minnesota Business Partnership, and I am receiving that as Exhibit A.

Is there anyone else at this time who'd like to just hand me a written copy of their comments? All right.

And I'll remind people when you come up, please introduce yourself and spell your name. I know that seems laborious or repetitive, but
believe it or not, sometimes even the name Jim is
spelled more than one way, so I want to get
everyone's spelling correctly because I'm likely to
refer to you in the report. Next, Daniel Sellers.

SPEAKER SELLERS: Good morning,

Your Honor, members of the Board. My name is
Daniel Sellers, executive director with EdAllies.
It's D-A-N-I-E-L, and Sellers is S-E-L-L-E-R-S.

And EdAllies is a statewide education
advocacy nonprofit. We partner with schools,
families, and communities to ensure that every
young Minnesotan has access to a rigorous and
engaging education.

Staff members from EdAllies had been
working on teacher licensure for almost a decade in
partnership in many cases with many people in this
room and members of the Board of Teaching and the
Professional Educator Licensing and Standards Board
to try and find solutions for, in many cases,
heartbreaking stories from educators from across
this country who in many cases had many years of
teaching experience, certified in other states,
desperate to come to Minnesota and bring their
craft, training, and experience and love for kids
and teaching to classrooms across this state but
for numerous reasons were denied that opportunity. And we saw time and again that qualified candidates were arbitrarily and capriciously denied by the Board of Teaching an opportunity to attain a Minnesota teaching license, which resulted in us advocating for some of the changes that were brought about in the legislation that was passed last year and in continuing to work with the Board, Board members, and staff to try to find solutions so that schools could hire the very best teachers to meet the needs of their students.

And in particular I want to highlight an example that came up in the lawsuit against the Board of Teaching where two entirely exactly similarly situated teacher licensure candidates -- these were two women who were married from California. They had gone through the same training, same teaching experience, same level of classrooms, same background -- applied for Minnesota teaching licenses but were given different instructions about how to obtain their teaching license.

And to me, it was an example of the subjectivity, bureaucracy, and broken licensure system that we used to have and why it's so
important that we get this right with the new law and the new rules.

So I'm going to comment just very briefly in the hopes that together we continue to work together to find ways to open our doors in Minnesota to great teachers.

Let me first just say that we deeply appreciate the Board's -- the Board and staff, their hard work to strengthen the rules draft, to take the feedback from many people in this room who are here or aren't here who have submitted comments formally and informally, and in particular the work with our group and our stakeholders to listen to our comments and take our feedback. We sincerely appreciate and recognize it.

Just briefly I'll just say we have concerns with one of the items that you, Alex, raised, the Tier 1 license posting period, subdivision 2D.

Lines 7.9 through 7.15 states that a hiring district must show that a position was posted for at least 15 days before approval. We believe that the statute, 122A.181 simply requires that districts post the position, not that it be posted for a specific length of time.
And similarly in subpart 4A, lines 7.23 through 7.25, that when a Tier 1 license is being renewed, there's a stated posting period for at least 60 days, and we hope that PELSB will consider aligning with statute by requiring hiring districts to post the position without exceeding statute by defining the length of time that a position must be posted.

Just two more. Secondly, we do have concerns, which is a carefully chosen word, concerns with the requirement around the mentorship program, and we believe that the requirement that Tier 1 teaches participate in a mentorship program when statute simply encourages school districts to develop such programs potentially opens the Board up to legal challenges based on statute by schools that in the future may not have a mentorship program because they're aligning with statute but want to hire a Tier 1 teacher. And of course much of that will depend on what the board-adopted criteria is, which we haven't yet seen.

And then finally to just go back to some of our concerns over the last several years about subjective action that could inadvertently keep a highly qualified, highly trained teacher out of the
classroom, there is a definition in the rules subpart 2B, lines 6.19 through 6.23 that provides the Board with, and I quote, sole discretion to arbitrarily deny a school from hiring an otherwise qualified teacher candidate on a Tier 1 license if they are unable to hire an acceptable teacher with a Tier 2, 3, or 4 license.

And that -- that subjective definition of "acceptable" we worry again could arbitrarily keep a district from hiring an otherwise qualified candidate. So we believe that if PELSB is going to -- to use the word "acceptable" on a rule, it should create an objective standard of what is acceptable rather than taking us back to the days where qualified candidates were subjectively denied. Thank you very much.

THE JUDGE: Thank you.

Dr. Kristin Conrad.

SPEAKER CONRAD: Good morning.

Kristin Conrad, K-R-I-S-T-I-N. Conrad is C-O-N-R-A-D. And I'm here on behalf of MACTE, which is the Minnesota Association of Colleges for Teacher Education, and I'm here to speak about rule section 8710.0313, the Tier 3 licensure.

The Minnesota Association of Colleges
for Teacher Education, MACTE, believes that every student deserves a highly qualified teacher who has completed a teacher preparation program specific to the content area and age range of their desired license.

We recognize the troubling teacher shortages in many fields and regions -- many fields and regions of the state but believe that the changes in licensure rules is a permanent fix for a potentially temporary problem.

We believe these changes in licensure rules will have long-lasting impact on the quality of the teaching force and the future achievement of the state's P-12 learners.

The positives: We approve the requirement for a minimum of a bachelor's degree for a one-year Tier 1 license with renewability for up to three years. Prior to this rule, many schools hired community experts who held less than a bachelor's degree.

As we stated above, we believe that each P-12 school in the state must employ highly qualified teachers who have completed a teacher preparation program specific to the content area and age range of their teaching assignment.
Secondly, we approve the requirement for a mentorship program for those in Tiers 1 and 2. This mentorship is essential to provide the support classroom teachers with these qualifications will need to have a positive academic impact on P-12 student achievement. We value supporting teachers in classrooms throughout their careers.

And third, we approve the allowance for issuance of a teaching license extending up to two grade levels for those from out-of-state preparation programs with content training and experience. This resolves one of the issues faced by those seeking Minnesota licenses with out-of-state preparation.

Now, some concerns from MACTE. The language in the Tier 3 license, lines 17.21 through 17.24, item 5 in section C, "has at least three years of experience teaching as the teacher of record aligned to the licensure area sought under a Tier 2 license and presents evidence of summative teacher evaluations that did not result in placing or otherwise keeping the teacher on an improvement process aligned to the district's Teacher Development and Evaluation plan," this fifth of five ways an applicant can obtain a Tier 3 license.
after showing prior degrees or experience and
passing of the pedagogy and content tests removes
any requirement of a board-approved conventional or
alternative teacher prep program in this state or
another.

We recommend this section provide only
the first four pathways and delete lines 17.21
through 17.24.

Finally, MACTE members want to point out
that there is a connection between the high quality
teacher preparation currently required for license
holders in the state and the achievement of P-12
students and thus preparation for the workforce.

We point to the ACT and the NAEP test
scores in the state. The student achievement
results shared below reflect on the well-qualified
teachers who met the rigorous requirements set for
Minnesota licensure.

Lowering the requirements for those who
will be teaching our students, especially those
most in need of a well-prepared teacher, such as in
the high-needs areas of special education and
teaching English as a second language, will not
serve the needs of these students in ways that help
them to become productive citizens in our state's
workforce.

And I have a copy of the statement. Would you like to have it?

THE JUDGE: Yes, thank you.

SPEAKER CONRAD: Thank you. (Handing.)

THE JUDGE: Thank you. This is Exhibit B. Renee Carlson.

SPEAKER CARLSON: Good morning, Your Honor, and PELSB committee. Thank you for having me today. My name is Renee Carlson, R-E-N-E-E, C-A-R-L-S-O-N. I'm here to comment today on the newly proposed definition of cultural competency training within the proposed permanent rule draft 4534, 871.031 (sic), subdivision 1, subsection 2.

We can all agree that students, parents, and teachers are our number one priority in our education system, and I thank you all for appreciating that sentiment whether in public or private schools in Minnesota, and that's why the North Star Law and Policy Center who I'm here testifying on behalf of has been following PELSB and the proposed rule changes to teacher licensure.

Consequently, we have had concern over the definitional change of cultural competency
specifically. It's been ceded today that the Board is not changing the definitions of cultural competency but is rather further explaining the training.

However, within that further explanation, the Board in fact has expanded the definition by adding categories not anticipated by the statute of current, specifically extending beyond the three categories currently in statute.

And PELSB in fact lacks authority to enact the proposed definition of cultural competency in this instance, and here's why: For purposes of statewide accountability, the Minnesota Legislature has defined cultural competency to mean the ability of families and educators to interact effectively with people of different cultures, native languages, and socioeconomic backgrounds.

Whereas PELSB has expanded the definition within this training to include additional categories of which explanation of the impact of each new category exceeds the amount of time given for oral testimony today.

But here's what Minnesota law says. It says specifically if a rule adopted by PELSB is in conflict with a session law or statute, as we
believe it is, the law or statute prevails.

Additionally, a rule must be disapproved by the judge if the rule exceeds, conflicts with, does not comply with, or grants agency discretion beyond what is allowed by its enabling statute or other applicable law.

Although Minnesota statutes authorize PELSB to adopt rules for teacher licensure, PELSB does not have unfettered authority to make rules that go beyond the scope of the enabling statute as determined by the statute's plain mean and ordinary meaning.

More specifically we believe that PELSB may not change the statutory definition of cultural competency in a manner that reads additional substantive requirements into the statute consistent with Minnesota law, and we believe that that training actually does just that.

In fact PELSB's enabling statute specifically provides that PELSB may not define a rule term in a way that conflicts with a statutorily defined term, as it does in this case.

The proposed cultural competency rule ultimately goes beyond permissibly ascertaining facts, which is the job of PELSB, to make sure that
those are operational within the statute. It instead creates new substantive policy, improperly usurping legislative authority.

The statutory definition contemplates effective communication and interaction with students as currently written. It doesn't contemplate training teachers in substantive matters which are altogether different categories and needs with unanticipated impacts upon various stakeholders.

By altering the definition of cultural competency in this manner, PELSB is actually taking on the role of the legislature and enacting requirements not authorized by statute. For this reason alone the proposed rule and its definition of cultural competency should be withdrawn from consideration.

But equally concerning -- and I'll be quick -- are the substantive changes resulting from the proposed rule as whether such requirements indicate compelled speech, violating constitutionally protected rights, or further implicate First Amendment violations with respect to free will, conscience, and the myriad of beliefs and denominations among students, parents, and
teachers.

Interestingly this week we heard today from our own Supreme Court that tolerance is a two-way street, and I was very thankful to hear at the beginning of this hearing that this committee is interested in engaging with diverse viewpoints.

Again, we heard from Justice Kennedy that tolerance is a two-way street and that it is actually the State's duty under the First Amendment not to base laws or regulations on hostility in any regard, whether that be toward religion or any other category.

This comment is not to endorse or serve to argue that we should be treating other people differently. We should be treating people respectfully, and that is why it is essentially important that this group consider the impact that this change has upon how we treat each other.

We need to treat each other with respect and have the opportunity to have and hold diverse viewpoints, particularly within the educational system.

That is why we have further discussed these points of concerns in the brief that we submitted or a comment that we have submitted, and
for these reasons and again with more comprehensive explanation within the comments submitted, we would respectfully request that the proposed permanent rule draft 4534, as I mentioned earlier, and its related subparts specifically related to cultural competency training be disapproved.

THE JUDGE: Thank you. Catrin Thorman.

SPEAKER THORMAN: Good morning, Your Honor, Board members. My name is Catrin Thorman, C-A-T-R-I-N, T-H-O-R-M-A-N. However, I am speaking on behalf of Katherine Kersten, K-A-T-H-E-R-I-N-E, last name K-E-R-S-T-E-N with Center of the American Experiment. She was unable to be with us today. This is regarding the cultural competency definition and the Board's authority to change that definition.

The Professional Educator Licensing and Standards Board has proposed new rules on teacher licensure in Minnesota. These rules include requirements regarding cultural competency training for applicants for teacher licensure.

However, the proposed rules definition of cultural competency is far broader in scope than that of the controlling statute. As a result, it
is invalid and should not be approved.

Minnesota statute section 120B.30, subdivision 1, paragraph Q sets forth the definition of cultural competency that the Minnesota Legislature has approved for purposes of teacher training.

The law defines cultural competency as the ability of families and educators to interact effectively with people of different cultures, native languages, and socioeconomic backgrounds.

Cultural competency then is the ability to interact effectively with three categories of people, those of different cultures, different native languages, and different socioeconomic backgrounds according to Minnesota law.

The statute intentionally leaves school districts free to decide both the content of the training and the form of delivery that works best in each local context. PELSB's new rules propose changes that go far beyond and materially alter the language of this Minnesota statute.

The proposed rules not only mandate that school districts require that applicants be trained in concepts and categories that the statute does not contemplate, but also dictate both the design
and the delivery method of that training.

In the Statement of Need and Reasonableness for its proposed rules on teacher licensure, PELSB acknowledges that it has changed Minnesota statute chapter 120B's definition of cultural competency in several key ways.

The Board claims the language and requirements it has added are intended to give school districts and charters the flexibility necessary to personalize the training to the needs of the teacher environment.

In fact though the agency's expansive new provisions would have the opposite effect. Rather than leave school districts and charters free to shape training to meet their individual needs, as the legislature intended, the proposed rules would require them to adopt training that aligns not with the statute but with theoretical constructs that promote very specific and controversial political ideologies or world views.

After extensive debate in 2017, the Minnesota Legislature determined that going forward, teacher licensure requirements on cultural competency in our state would be governed by the definition of that term already included in
Minnesota statute.

PELSB's proposed rules appear intended to use the rulemaking process to upset the agreement the legislators reached at that time, but the purpose of administrative rulemaking is to implement policy made by Minnesota citizens' democratically elected representatives. It is not to set or change policy.

If PELSB wishes to change and expand the definition of cultural competency and require school districts and charter schools to align training with it, they can submit legislation that does so and win its passage. Unless this occurs, approval of the Board's proposed rules will usurp the prerogative of the people's elected representatives. Thank you.


SPEAKER GRAHAM: Good morning. I'm Chuck Graham. I work for South Washington County schools. I'm a school psychologist. It's C-H-U-C-K, G-R-A-H-A-M.

I think I'm here to speak in favor, but I'm not sure. I'm really going to hopefully get some clarification on the Tier 2 licensure proposal for school psychologists.
I testified at your March 8 hearing regarding people like me, older folks, us gray-haired school psychologists that have, in my case, 35 years of experience in the state of Wisconsin and two years here in Minnesota, but under the old licensure rules, I was only able to get a limited license because I graduated from UW-La Crosse in 1983, and the National Association of School Psychologists did not start accrediting programs until 1988.

And so it looks like, and I guess I'm going to ask the Board directly, if I'm reading this correctly that -- this is on page 38, about two-thirds of the way down, 38.17, "The applicant" -- this is for Tier 2.

"Provide evidence that the applicant has completed a school psychology program not accredited by the National Association of School Psychologists and does not hold a school psychologist certificate; or" -- and the word "or" is a big word there if I'm reading it correctly.

"Or" means that the other conditions would not apply if I met that condition and I would be elevated to Tier 2 license. So I don't know if you can respond to that but --
THE JUDGE: Yes, they can.

MR. LIUZZI: I will speak right off the bat that again related services we often turn to experts to help us align this and took your earlier comments into consideration when we drafted this. I believe here the Board does represent one or the other to be able to receive a Tier 3, and as addressed here --

SPEAKER GRAHAM: Tier 2. Sorry.

MR. LIUZZI: Oh, a Tier 2.

SPEAKER GRAHAM: Yeah.

MR. LIUZZI: A Tier 2. Also in addition to your comments earlier, we -- when we talked about rule changes at the beginning of this hearing, we added some language for Tier 3 so that an individual in your situation doesn't have to remain on a Tier 2 but could be in a Tier 3 situation as well.

SPEAKER GRAHAM: Correct. Correct. So if I'm reading it correctly, thank you.

THE JUDGE: All right. Thank you.

Bill Kault -- Kautt.

SPEAKER KAUTT: Good morning, Your Honor, ma'am chair, members of the PELSB Board. My name is Bill, B-I-L-L, Kautt, K-A-U-T-T,
and I'm the associate director of management services with the Minnesota School Boards Association, or as we like to refer to ourselves, MSBA.

I'm here to speak first of all some general comments concerning the importance of the rules followed by some comments concerning three specific issues: Related services, mentorship, and hiring out-of-state teachers.

The Minnesota School Boards Association or MSBA is a leading advocate for public education and supports, promotes, and strengthens the work of Minnesota's 332 school districts and 53 charter schools.

MSBA represents school district interests throughout Minnesota in public forums, including courts and state legislature. MSBA provides information and offers guidance to its member school districts in a wide variety of areas, including policy matters, public finance, and legal issues.

With the passage of the new tiered licensure system during the 2017 special legislative session, MSBA has worked first with the Board of Teaching, its replacement, the new
Professional Educator Licensing and Standards Board, PELSB, and other stakeholder groups to produce rule draft 4534.

MSBA views these proposed rules as a crucial component of the transition from the former licensing system to the new tiered licensure system scheduled to take effect on July 1, 2018.

Clear rules and procedures are essential as school districts strive to place a qualified teacher in front of students in every classroom throughout the state. Thus, having the rules in place as quickly as possible is important so hiring officials can determine prior to the school year this fall how to request out-of-field permissions, innovative program permissions, and discretionary variances to these rules.

Regarding the rules, MSBA urges the administrative law judge when making her decisions to keep the difficulty school districts are having filling all existing vacancies and to provide these school districts with as much flexibility as possible when hiring people by refusing PELSB the opportunity to become more restrictive in its rulemaking and requiring related services to be treated the same as all other teachers; in other
words, license may be granted in all four tiers, not required to but may be granted in all four tiers.

We realize related services professionals offer critically important services for our students, but two key factors must be considered. The law does not permit the rules to deny Tier 1 or Tier 2 licensure to an otherwise qualified person.

Secondly, limiting related services to Tier 3 and 4 would mean that some children will simply not receive service.

Unfortunately, the question is not whether to hire a Tier 4 or a Tier 1 teacher or related services individual. Rather the question is whether to hire a Tier 1 or Tier 2 person or nobody else because no Tier 3 or Tier 4 person is available.

Secondly, by realizing school districts are not required to have a mentorship program but are required to have professional development for all probationary teachers through a probationary peer review process and considering such professional development a mentorship program, this would allow districts immense flexibility.
Our districts agree that support is critically important. They provide it now. But Minnesota law does not require that districts specifically provide mentorship programs. Schools may use trained observers as mentors or coaches or create professional learning communities.

PELSB's reading of 122A.181 to require that a school district create new and unfunded mentorship programs if they currently do not hire one if they hire even just one Tier 1 teacher is not needed in light of existing support programs districts must provide.

Thus if a definition of mentorship would include such programs that are currently required, we would have no problem with PELSB's interpretation.

And lastly, interpreting Minnesota statute 122A.183, subdivision 2, part 4 as allowing a teacher from out of state to qualify for Tier 3 license if he/she has a professional license from that state, no qualification exists in statute for a teacher preparation program or portfolio as required in the definition of professional teacher, in PELSB's proposed rules is a teacher in good standing and has two years of teaching experience.
The administrative law judge by ruling these three different ways would be providing school districts with much needed flexibility and local control to meet the needs of its students when hiring teachers. Thank you.

THE JUDGE: Thank you for your comments.

SPEAKER KAUTT: Any questions?

THE JUDGE: Thank you. Terry Morrow.

SPEAKER MORROW: Thank you, Your Honor.

At this time I'll pass given Mr. Kautt's comments.

THE JUDGE: Thank you. Teresa Redmond.

SPEAKER REDMOND: Good morning, Your Honor. My name is Teresa Redmond, T-E-R-E-S-A, R-E-D-M-O-N-D. I also am a school psychologist and I have 32 years of experience. This is my first year practicing in the state of Minnesota, and I want to thank you for preparing a tiered system that -- for school psychologists that parallels the teacher tiered license system.

I am a colleague of Chuck Graham. I also work in South Washington County schools, so I am speaking to rule 8710.6200 as well.

So I just wanted to say that I appreciate and I am speaking in support of subpart 1b, item A, sub item 1 that appears to
allow me to continue to practice in the state of Minnesota and which I wanted to do for some time, and that this not only addresses my situation, but, you know, at least a few handfuls of professionals like myself in the state of Minnesota.

But even larger than that, it addresses the shortage of school psychologists which is at a crisis level nationwide and is heading in that direction in specific states as well. So I'm just speaking in support of that. Basically ditto what Chuck Graham said. Thank you.


SPEAKER SPIES: Good morning. My name is Paul Spies, P-A-U-L, S-P-I-E-S. I'm speaking on my own behalf and my oral comments this morning are in addition to some written comments that I'd like to include as part of the record. I was unable to --

THE JUDGE: You can give me those now --

SPEAKER SPIES: Okay.

THE JUDGE: -- if that's all right.

SPEAKER SPIES: Uh-huh.

THE JUDGE: So this will be Exhibit C.

Is this one page?

SPEAKER SPIES: One page. So this
handout of written comments is detail things that relate to clarifications that I think still need to be made in the rule as well as some contradictions.

My oral comments this morning reflect and are built upon my experiences as a teacher educator and teacher for almost 30 years and as a white male, able-bodied, English speaking only, middle class, Christian, heterosexual person.

I'm speaking here in support of the importance for cultural competency training, but I want to say that it's not strong enough in the rule. It is not strong enough. You've heard opposition to it because it's going overboard.

I would like to suggest that it's not strong enough. Why? It doesn't state how long or how many hours is part of the cultural competency training. Could this be one hour? That's not going to have any effect in terms of the attitudes that teachers may be bringing into their job.

Why are the attitudes and perspectives that teachers bring into the job important? Under federal and state legislation, every student succeed at -- as well as other state law and statute, every student shall have equitable access to effective and diverse teachers.
And the statute that is mentioned by many people opposing the cultural competence definition states that the purpose of cultural competence is the ability of families and educators to interact effectively with people of different cultures, native languages, and socioeconomic backgrounds.

So the whole purpose is regardless of who comes into my classroom, I have a responsibility to teach them effectively, and I can't do that unless I have engaged in some cultural competence training.

Now, the Supreme Court has been mentioned, the US Supreme Court, and they made a ruling in recent years saying that people of the same gender can get married. What happens if a teacher is teaching a student from a family with the same gender parents? They have a responsibility to teach that student and not discriminate against the family.

I think that the cultural competence training definition needs to be stronger. I think the Board needs to include language that it should be a Board-approved cultural competence training, not just anything that is labeled such. There need
to be some criteria for it besides just the
definition here.

I do not agree at all that the
definition of the training is changing the
definition of the statute. In fact it's very
consistent because it says the people of different
cultures in the statute.

People with disabilities, many would say
they are part of a cultural group. Many LGBTQ families believe that they are part of a cultural
group. Different religions, et cetera.

The training as stated here does not say
anything to me about what teachers have to believe
nor what they have to teach, and it seems like
those opposing this definition are creating a straw
man, a straw person to say that in essence if you
accept this definition, what you're meaning is
these things are going to be taught to our kids.

That doesn't say that at all in the
definition of the training. So I encourage you to
strengthen the definition of cultural competency
training.

In my written comments that are
provided, there are several other things that I
note. I just want to mention a couple here.
One is the problematic nature of transitioning from a Tier 1 to a Tier 2 license with just having the experience there of teaching and not having the number of years clearly identified.

In other words, for a Tier 3 license, page 17, paragraph 5 is problematic because somebody could transition from a Tier 2 to a Tier 3 license with just those years of experience and not having completed a teacher preparation program. There's a loophole being created here that differentiates between a Tier 3 and a tier -- a Tier 2 and a Tier 3 license.

Those are written comments that I've more clearly explained in writing, and I thank you for your time.

THE JUDGE: Thank you. Troy Hougan.
NEW SPEAKER: I don't need to speak.

SPEAKER PULVER: Thank you, Your Honor and the Board. I'm Tamera Pulver, T-A-M-E-R-A, Pulver, P-U-L, V as in Victor, E-R. I work as a
director of special ed with charter schools. So --
and I did submit this online, but I'm just going to
read. This is 8710.0326, 7000 and seven -- and
7100.

So due to the extraordinary shortage of
special ed licenses, an alternative license pathway
is needed to allow retirees to practice in their
field and qualify for special education funding.

Retirees in special ed have been given
in the past lifetime short-call sub licenses from
MDE. Many special ed teachers and related service
providers believe that this will allow them to work
in their field as consultants without requiring the
125 CEUs to renew.

This status does not allow districts to
use special ed funding for the retirees'
desperately needed expertise, so we need an
alternative pathway for retirees in special ed to
have a lifetime license, acknowledging their
expertise and possibly requiring fewer CEUs to
renew and potentially only in those newer areas
like suicide prevention.

I work with a lot of these people in the
charter schools. We just couldn't have a special
ed program that would meet the needs of our
students without retirees, but they're retired. They want to still work with kids. They don't want to have to do the 125 CEUs to re, you know, qualify their license. So some recognition of their expertise would be appreciated. Thank you.

THE JUDGE: Thank you. Oheechi (phonetic) Omeoga roughly.

OLUCHI OMEOGA: Sorry. I just have to pull it up online. Give me a few seconds. Okay. So I'm assuming that it's Oluchi that you called out, Oluchi Omeoga. It was the first on the list, but my name is Oluchi Omeoga spelled O-L-U-C-H-I, last name O-M-E-O-G-A.

Hi. My name is Oluchi and I am the policy and organizing coordinator at OutFront Minnesota, and I am queer, I am trans, and I am a person of color.

OutFront Minnesota is the largest statewide organization working for LGBTQ equity with over 150,000 people engaged in our organization. Many of those engaged are parents of LGBTQ students, educators, and students themselves.

We work to create a state where lesbian, guy, bisexual, transgender, and queer people are free to be who they are and love who they love.
without -- love who they love without fear of violence, harassment, and discrimination.

I work with the LGBTQ community and allied community to support and advocate for acceptance, education, and equity through legislation and grassroots organizing. Also having (inaudible), so shout out to my mom.

I am here to testify in affirmation of the proposed rule that supports that teachers will be required to take a cultural competency training that will include the vast identities that students hold and the intersections between them.

This expands the definition to very important marginalized communities, including sexual orientation and gender identity, specifically including transgender students.

Students spend the majority of their school lives in and out of classrooms. We know that when a student -- when students have teachers and educators that share their identities, they're more likely to stay in school and perform better overall.

We also know that this cannot be a reality for all, so that -- so cultural competency
and knowledge can make a world of a difference for a student. It is the difference between a student feeling invested in and having the ability to succeed to a student failing and dropping out prematurely.

Personally I remember growing up in a predominantly white school district. Being a child of an immigrant was not the easiest thing. Not saying my name correctly is one of those things unfortunately.

I had a rough time with not only bullying from other students but the indifference and not -- and non -- unknowledge from faculty and staff which exacerbated the situation further. After I came out, it added another layer of complexity that my school district was not ready for.

If we allow -- if we allow districts to dictate when they would -- the -- when they would comprehensively train teachers to be inclusive of all students, the experience that I had will be duplicated to other young LGBTQ students across the state.

Not to sound super egotistic, but I was actually a very amazing student. When I felt safe
and invested in, I was an amazing student. I was in AP classes in high school and scored extremely high on the college placement exams, but I also never wanted to be in school. I thrived on learning but never wanted to be in an institution that had a responsibility to hold that for me.

My favorite and most impactful classes were where my teachers had the cultural intellect on how to teach and inspire a diverse array of students. I also did the best in those classes, unsurprisingly.

LGBTQ students are far more likely to face more severe disciplinary actions for the same behaviors. They're also more likely to drop out of school. They're more likely to face bullying, harassment, and to experience social isolation and depression.

Educators need training that explicitly helps them understand and meet those students' needs. Imagine where every student would be if all of their teachers had the knowledge and tools to invest and validate them in the ways that they show up. Imagine the potential that every student has and what we can do to unlock that.

The proposed rule is definitely a major
step in the right direction to make sure that
everyone, regardless of their race, gender, sexual
orientation, sex, immigration status, et cetera is
understood and validated. Thank you.

THE JUDGE: Thank you. Fred Nolan.

SPEAKER NOLAN: Hello Judge Case, PELSB,
I am Fred Nolan, the executive director of the
Minnesota Rural Education Association, MREA. I
have submitted my full text of my remarks. I will
summarize them for you.

MREA represents 224 greater Minnesota
school districts and varying cooperatives educating
225,000 students every day. For the last five
years we've been facing increasing teacher
shortages in all areas.

MREA has testified to the legislature in
favor of the tiered license system. The generally
accepted intended outcomes of this tiered system
are to ensure quality licensed teachers and to
allow entrance into the profession for those who
did not follow the traditional undergraduate or
graduate programs in teaching licenses.

The system before you does that.

However, PELSB urges you to reject the rules
proposed for related professional services, the
First, there's no definition of related services in the statute. In fact 122A.015 defines the term "teacher" for the purpose of licensure means all persons employed in a public school, including counselors, school psychologists, school nurses, school social workers, and speech therapists.

122A.018 provides authority to the Board where the PELSB standards board must issue the following teacher licenses to candidates who meet qualifications prescribed in the chapter for Tiers 1, 2, 3, and 4.

The Board proposed rules prohibiting Tier 1 licenses for all five related services and prohibit Tier 2 licenses for SLPs and school nurses and school social workers. This is contradictory to statute. Such contradictions are not allowed in statute.

Finally, the statute 122A.09 states the Board must adopt rules only under the specific
statutory authority. There's no statutory authority for related services. Therefore, we ask that you reject those. Send them back to PELSB to be written in conformity to the statutes.

It's been brought up here that social workers are covered under 148E. This is an older statute. I think there can be accommodation where it's solely sought or you have to decide which statute takes precedence, the later one or the preceding one.

Second, PELSB did not follow procedures and statute to define the need and reasonableness because they didn't take into account data regarding the proposed rule's probable effect on teacher supply and demand as required in statute 122A.09, subdivision 9.

The SONAR is where you expect to find such an argument. Instead there was a cursory acknowledgment that "some districts depend on our current limited licenses and limited intern licenses for some services."

If you look at the data in PELSB own list -- they promptly sent me all of the licensed SLP teachers -- 6 percent of SLP teachers have bachelors degrees and 10 percent of the ones
licensed in '17-'18 began with a bachelor's degree.

Can degree programs such as a masters in SLP enroll more students to match the demand?

There's no evidence presented, and anecdotal evidence suggests otherwise.

According to the 2017 report on teacher supply and demand, 170 districts were looking for SLPs last year. There were 119 newly licensed by PELSB's data. 23 positions or 14 percent were unfilled. School nurse, school psychologist, and SLP were all described by 50 percent or more of the districts looking for those people as very difficult to hire.

Clearly this is evidence of teacher shortage and precisely what the tiered licensure system is designed to do, to accommodate in the tiers and replace waivers and special permissions.

For these reasons, clear statutory direction to provide all four tiers and the failure to take into account the probable effects and teacher supply, we urge you to instruct PELSB to propose new rules to include related service professionals in all four tiers of licensure and use their authority to provide entry into the teaching profession through the tiers.
It is possible to create four tiers of these related services with patterned classroom tiers with some conditions relevant to the skills, knowledge of the specific related service.

By you, Judge Case, sending these related service rules back to PELSB, you'll be sending a clear message to PELSB that they must color within the lines of the authorizing statute and open up the profession to meet student needs. MREA is prepared to work with PELSB in that regard.

Thank you for hearing me.

THE JUDGE: Thank you. Marcia Sytsma.

SPEAKER SYTSMA: Good morning, Your Honor, members of the PELSB Board. I am Marcia Sytsma. I am the secretary of the Minnesota School psychologists -- Psychologists Association board and I am also a practicing school psychologist in Minneapolis Public Schools.

I'm speaking on behalf of MSPA as well as (inaudible). My name is Marcia Sytsma, and it is spelled M-A-R-C-I-A, S-Y-T-S-M-A. I am here to speak to section -- the section 8710.6200 covering the school psychologist provisions within the new tiered system.

First of all in response to the most
recent speaker, I have been in a rural district prior to joining Minneapolis Public Schools, and I -- we do know that there is a shortage in rural districts especially. We have cooperative agreements that cover some of the shortages that have been experienced, and a Tier 1 school psychologist does not have -- within the Tier 1 level.

All school psychologists who are currently employed have at least a masters degree in school psychology and they're -- and are required to cover the breadth of knowledge that is set by our national professional standards as provided within related service provisions.

So there -- we have a comprehensive practice model, and a Tier 1 provision would not provide enough background for a school psychologist to meet those requirements.

Within Tier 2, which is going to be the bulk of my conversation here today, one of the things that was referred to, Alex, when you introduced it was that there was the NCSP provided, the National Certified School Psychologist provision.

Actually, when I looked at that section,
it only said a National Association of School
Psychologists approved program. We have mirror
programs. We need to provide for mirror programs,
and there will be graduates of those programs prior
to the school being granted National Association of
School Psychologists approval, so we need to bring
back or have earned the national certification.

Within the Tier 2 level that covers -- I
want to thank my predecessors who are school
psychologists. They covered a lot of my points,
but one of the things is that within the Tier 2
level, the condition that covers internships
specifically, it requires a -- the mentoring and
supervision says "daily." That exceeds the level
of supervision that is set by our national
organization.

The National Association of School
Psychologists requires a minimum of two hours of
supervised intern per -- internships, and we would
like it to reflect the national standards.

Otherwise, it is excessive because,
again, in rural districts, they are offering --
often hiring Tier 2 interns who will be supervised
often by a school psychologist who practices in
another district, and we would like to provide for
that.

The other provision that we have as a concern is understanding the conflicting language around "replaces a Tier 3 or Tier 4 school psychologist." We are not quite sure what that means.

Does that mean that a district cannot remove a Tier 3 or 4 school psychologist and replace them with a Tier 2 one, which we think the contracts in those districts would already prevent, or does that mean when two applicants are provided to the district, that the Tier 3 or Tier 4 school psychologist should be offered first, which we think is the intent of that statement but it isn't clearly stated. So if that can be clearly stated, we would appreciate it.

Do you have any questions for me? Thank you, Your Honor and Board for your time this morning.

THE JUDGE: Thank you. Rick Heller. And while Mr. Heller is coming up to the mike, I'm going to ask would you raise your hand -- would you raise your hand if you believe that you signed up to speak and that I somehow missed you.

(At this time a discussion was held off the
record.)

THE JUDGE: All right. Mr. Heller.

SPEAKER HELLER: Hi everybody. With permission, if I could speak at the end and make sure other people don't bring up this area of focus, then I can drop it, you know, if they do bring it up, so I can wait until the end if that's okay.

THE JUDGE: Mr. Heller, that's fine. All right. I'm just discussing with the court reporter when we need a break. I'm trying to balance finishing and -- and also -- but not -- not going on for too long. So we'll go on.

John Klaber.

SPEAKER KLAYER: Good morning, Your Honor and members of the PELSB board. I'm John Klaber. I'm the executive director for the Minnesota Administrators for Special Education. My name is spelled John, J-O-H-N, Klaber, K-L-A-B-E-R. Knowing from experience how much Your Honor appreciates people be concise and factual, I will keep my comments very brief and to the point.

We appreciate the work that the Board has done as it relates to school psychology interns
under 8710.6200. We also would support the concerns raised regarding daily supervision and would ask the Board to look to their great language regarding the collaboration between the institutions of higher ed and the school districts to provide an appropriate -- provide appropriate learning experience and supervision for these Tier 2 school psychologists.

Additionally, we would -- we would ask for some clarification regarding the employing a Tier 2 school psychologist versus a Tier 3 or 4 school psychologist to be assured that a school district would not be required to hire an underperforming Tier 3 or 4 school psychologist in place of a Tier 2 person. Thank you very much.


SPEAKER KELLEY: Thank you so much for letting me speak today. My name is Blaine Kelley. That's B-L-A-I-N-E, last name Kelley, K-E-L-L-E-Y, and I'm speaking in reference to 8710.0310, section D in support of the cultural competency training's current definition, specifically lines 1.13 through 1.15.

So again, my name is Blaine Kelley, and I serve as the youth and schools coordinator at
OutFront Minnesota, the state's largest lesbian, gay, bisexual, transgender, and queer equity organization.

The work I do brings me into direct contact with both students and faculty across the state at the elementary, middle school, and high school levels.

A large portion of my time is spent traveling from school to school meeting with students to find out firsthand what's important to them, what's going on in their lives, and assisting them with any kind of goals or challenges they're facing.

I most often meet with students and their GSAs. This used to stand for gay straight alliance back in the '90s and early 2000s. However, nowadays it stands for gender and sexuality alliance. That way it's more encompassing of all the variety of ways that people identify.

One of the most frequent desires I hear expressed by students is for the teachers in their schools to become more familiar with their identities and corresponding needs.

Coincidentally, when I meet with
teachers and administration, this desire for more information and understanding regarding the LGBTQ community is something they yearn for as well so that they may best support their students in achieving success.

So often teachers want to be supportive of all students but they feel particularly underinformed regarding the specific needs of LGBTQ youth. As evidenced by gathered -- as evidence gathered by the Minnesota student survey report has shown, there's a significant difference in the lived experience of students in our community versus their straight and nontrans counterparts, and when these differences are noted the LGBTQ students always had more negative outcomes.

This is of course further complicated when we factor in the discrepancies between students of color and their white counterparts. Suffice to say, these differences can create a heavy burden for LGBTQ students of color in particular.

Fortunately over the last three years with OutFront, I've been able to foster further cultural competence development as I've led LGBTQ 101 and intersections of identity trainings for
thousands of schoolteachers and administrations and faculty members.

The overwhelming majority of these trainings have all gone over fantastically as evidenced by a previous training attendee's direct quote collected through a feedback form which read "Thank you so much. I learned a lot and feel more prepared for the next school year in creating safe and inclusive spaces. This was a very thorough overview and it inspired me to be more openly inclusive. I'd love to see this presentation included in wider spread educator trainings so more of my fellow educators have the opportunity to learn about LGBTQ concerns, how to support, advocate, and engage in this crucial dialogue."

The educators in our state recognize that when they sign up for work, for this work particularly, they're signing up to serve all students. They don't come on board only to serve straight, white, middle-class kids. They're here to serve all of our kids.

Providing these educators with cultural competence trainings so that they better serve youth from marginalized backgrounds is absolutely necessary if we wish to guarantee that our public
schools are working for an equity based model.

We must keep in mind authentic and holistic wellness in our public schools. When we are understanding education from a perspective that prioritizes equity, it is challenging and unproductive to leave teachers without information and education that will assist them in complying with the mission of their schools, which includes understanding the needs of diverse populations of students.

Doing so undermines the concept of promoting wellness, building healthy relationships and academic success in a variety of ways. Instead let's ensure that all of our students and faculty receive the support they need to achieve success. Thank you kindly.

THE JUDGE: Thank you. All right. The person in the back who -- yes.

(At this time a discussion was held off the record.)

THE JUDGE: All right. Before you begin, I'll say that someone with you handed me what we'll mark as Exhibit D. It's three pages, three separate things, but I'm going to mark them as -- we're going to mark them as Exhibit D.
They're all from the American Music Therapy Association. I think the person who provided it to me provided me a document that is not meant to be part of the exhibit. I'll hand it back to you, and if I'm wrong -- or did you want "Questions and Answers on IEPs" to be one of your exhibits?

SPEAKER FURMAN: That's fine.

THE JUDGE: It can be?

SPEAKER FURMAN: It can be.

THE JUDGE: Well, then we'll mark it. Since it's different and differently titled, we'll --

SPEAKER FURMAN: Would it be easier if I just take it back?

THE JUDGE: Do you want -- no. It's up to you.

SPEAKER FURMAN: Leave it in.

THE JUDGE: All right. So that's Exhibit E. I'm passing these down to the Board.

All right. Go ahead.

SPEAKER FURMAN: Hi. I'm Amelia Furman, past president of the American Music Therapy Association and music therapist with the Minneapolis Public Schools, and I am speaking in
relation to 8710.0310.
And at the present time there are only five related services listed, and under IDEA, music therapy is a related service at the federal level. And there are music therapists -- there are approximately 300 music therapists across the state of Minnesota, so I'd ask that you take a look again at the related services area and clarify.

Music therapy is listed under the Public Employment Labor Relations Act for Minnesota, and so at this point I'd like to ask that you consider adding that to related services under a tiered system. Are there any questions?

THE JUDGE: Not from me.

SPEAKER FURMAN: Thank you.

THE JUDGE: Thank you very much. Are you signed in? Are you assured you signed in?

SPEAKER WEIDLEIN: I signed in, but I'm wondering if I didn't hit the mark --

THE JUDGE: Okay.

SPEAKER WEIDLEIN: -- the box that said speak.

THE JUDGE: All right.

SPEAKER WEIDLEIN: I tell my students to follow directions, and then sometimes I don't.
Thank you. Hello, my name is Kristi Weidlein, K-R-I-S-T-I, Weidlein, W-E-I-D-L-E-I-N, so E-I, E-I, no O.

Today marked the end of my 21st year of teaching, which is shocking. In these 21 years, I have taught in every grade K through 12, and I have taught EL and high school English in traditional and alternative settings.

In the blink of an eye I have taught 21 years, and I'm not the same teacher from when I started because my students have changed me. I'm a third-generation teacher, so I knew when I started, the words "kids" and "students" were synonymous and my students are my kids. I'm a teacher en loco parentis.

I started my career at Rancho High School in Las Vegas. In that inner city high school, I learned the devastating impact of poverty and the importance of cultural -- of culture on my students because they taught me.

If I didn't understand that the cookies I brought for the holidays would be Iker's breakfast over the weekend, he told me. If I didn't understand that Maria's absence was necessary because at the age of 14 she was the
translator for her mother when she visited her
OB/GYN, she told me. Rancho High School prepared
me for what was to come as an EL teacher.

When I returned to Minnesota, my
students' teaching continued. I learned which
companies supplied free glasses for students if the
letter was written on the school letterhead and how
to find winter coats in a brutal Minnesota winter.

That winter also taught me how to
explain to my Syrian students, my kids, that
touching the snow would not mean their hands would
turn black and fall off, but they were not to touch
the snow in the morning because I wouldn't be able
to dry their paper-thin mittens for their ride
home.

More recently at the alternative high
school where I currently teach, I have learned the
power of listening and supporting my kids as they
search for their tribe and their own identities.

"Who am I?" "Will my parents understand?"

And it's of me they have asked in their
own way if I judge them, like them, see them. The
answers are easy. "No, I don't judge you."
Growing up is harder -- is hard under the best
circumstances. "Yes, I like you. You are one of
my kids, and if the pronoun you prefer is not the one I was expecting and if your pronoun preference is changed midyear, you are my kid because, yes, I do see you."

My stories are at times heartbreakingly and many times funny, as all teachers' stories are, but their poignancy and humor only come because I was -- I have grown into this role as a teacher/mother under the guidelines of a state statute that demands that my professional competencies include cultural understanding in its broadest sense.

My 21 years have reinforced the power of relationships and of words. If there isn't a relationship, there is little, if any, chance of learning. And if there is little learning, there will be little chance of a high school diploma. Relationships are built by two people who understand each other.

The draft language for the cultural competency training, those words are not merely words. This language is the gateway to my kids getting the professional and compassionate educators they deserve. Thank you.

THE JUDGE: Thank you.
SPEAKER WEIDLEIN: Do you want these?

THE JUDGE: Are those your comments?

SPEAKER WEIDLEIN: Yes.

THE JUDGE: Yes, thank you. This will be Exhibit F.

SPEAKER WEIDLEIN: Thank you.

THE JUDGE: Thank you very much. Is there anyone else who's now decided that they'd like to speak? Just raise your hand.

SPEAKER OMEOGA: I have something written that I forgot give you.

THE JUDGE: That's fine.

SPEAKER OMEOGA: (Handing.)

THE JUDGE: Thank you. This will be Exhibit G. Is there anything else? All right.

Mr. Heller, you wanted to go last. I think this -- except for any questions that I might have to ask the Board, this -- you will be last.

SPEAKER HELLER: My name is Rick Heller, R-I-C-K space Heller, H-E-L-L-E-R, speaking on Friday, June 8 at the Minnesota professional educational standards board with an administration judge. I'm here to --

THE JUDGE: Can you speak up, please.

SPEAKER HELLER: I unofficially
represent the twice exceptional, Minnesota statute 120B.15, gifted and talented program in statute.

THE COURT REPORTER: Sir, I can't hear you.

SPEAKER HELLER: I unofficially represent the twice exceptional, Minnesota statute 120B.15 -- 115, also unofficially represent the twice exceptional -- I mean the print disabled found in the IDEA act of 2004 and also in the Higher Education Opportunity Act of 2008.

THE COURT: You're still going to have to speak up.

SPEAKER HELLER: I'm here to make sure that we provide fairness and sameness and equity and equality and timely transparency for these individuals and that the effective ruling acquire the printed word in a way that they can engage with state agencies, with the legislature, and with the governor's office, administration branch.

I did not hear any of this come up. For instance, your documents here today 4334 rule draft; 4534 procedure documents, tabs 1 through 8; 4534 submitted documents; 4396 documents; and then the R-4534 space OAH space docket number 82-9021-35209.
First of all, I approached the Minnesota Board of Teaching, now known as PELSB, in the last year and a half. I filed a complaint with MN.IT that these rules were not fully accessible, and they currently are not.

The Minnesota Legislature is more compliant than this PELSB. In fact, the documents provided by the administration hearings office is not fully accessible as well.

If you go to -- for instance, to get more specific, if you go to -- under the 82-9021-35201 on page 1373, it has the word "strike out" and underlined. The current software that's required to access these documents, which is an Adobe Acrobat free download, does not identify the structural and underlined language, which puts these documents out of compliance with the ADA of 2008, the Minnesota statute 16E.03, subdivision 9.

Going back to the procedural documents -- or I should say submitted comment documents, many that have -- all that have headers and -- have headers with images are not tagged. If a person would review that with an appropriate reader that was not in an image format, meaning the content specific, the person would not even know
who that's from.

   It's my understanding when documents are submitted by your agencies, such as administration hearings and the Board of Teaching, there is some documents when there are no PDF are required to meet the Minnesota Uniform Electronic Act.

   These documents are required to -- are mandated and are required to be secured. However, there is no one checking these documents for accessibility.

   However, the Minnesota Legislature decided to -- when draft bills get put together, the Minnesota Legislature took some MN.IT money and made sure that when they're in PDFs, structures and languages that are in these proposed draft bills become fully accessible once they get a number and put in HDML format.

   I approached the Board of Teaching to ask this to be corrected, including I spoke to Kevin Blair, the revisor today, as well as in the past, if the Board of Teaching would consider taking care of that. He said it was out of his purview to tell them to do that. It was up to them.

Currently members that are on the PELSB
are aware of this, the current members, yet here I am talking about it once again. As I've said before, I filed a complaint with MN.IT. No one ever got back to me or corrected this problem that had an issue regarding accessibility.

It's my suggestion that you ask MN.IT to run an analysis and then to have a report and that this perhaps could delay this process, again, based on the Americans with Disability Act of 2008, Minnesota accessibility law 16E.03, subdivision 9, which is Web Content Accessibility Guidelines, and 508.

Also, another suggestion perhaps is -- I don't know if you're going to post this transcript online or --

THE JUDGE: I am not. We are not.

SPEAKER HELLER: And however, because this is recorded, this is my record. And if I have to do a request to get a transcript of this meeting, which is accommodation, you do have my written request and -- and suggestion, and I ask that you put that in the record. I'll just take this little portion, not the whole one if you like, and make it part of the record.

Getting back to the last thing you might
want to consider under the docket 82-9021-35209, under "Notice of Hearings," you may look at comments on page 8 or tab -- or tab 8 under "Comments."

Once again, those are image -- image headers and we do not know who those are from, and then the handwritten notes that are on the pages here. So again, number 12, the auditor's report, March 2016 is not fully accessible and it has yet to be fully corrected.

So when you don't have the accessibility as required by statute and there's no enforcement in place, we are making this not accessible for anyone. Those are my suggestions regarding providing fairness, sameness, and timely transparency in an effective way. Thank you for this opportunity to speak.

THE JUDGE: All right. Thank you. Is there anyone else who'd like to speak? I see no hands. Again, there's a handout in the back of the room that explains how to submit comments, how to get copies of the report. If you provided your email address, a copy of the report will be emailed to you.

The deadline for comments is June 28.
These dates -- I'm sorry. I always hesitate because I'm always afraid I've got the dates wrong, so they'll be posted also, but then rebuttal ends July 6.

All right. Seeing no other people that want to ask questions, I'm going to make sure that I don't have any. I may have a few questions for the Board myself. If I don't, we'll adjourn; and if I do, well, you can stay and listen to those too if you'd like. All right. Are you ready?

MR. LIUZZI: Maybe.

THE JUDGE: All right. I'm going to do this so I hope this makes it easier for people to hear me. I have not read the record, you know, to the nth degree, but I have some questions based on what I have read. Early on in the SONAR you use the term "Grow Your Own." Do you know, is that -- is there a definition in law for that?

MR. LIUZZI: I do not believe so. It might actually be a question that could be answered by some of the teacher preparation providers here that use Grow Your Own programs, but I believe there is no definition in law even though it is used in statute. There's specific funding for Grow Your Own type programs, but I don't believe they
define it.

THE JUDGE: Okay. Thank you. The comments that you included as Exhibit 8, those are comments that were received in response to a prior rule draft; is that correct?

MR. LIUZZI: Yeah. We included the comments from that prior rule draft in an attempt to show that we were addressing comments that happened at any time in this very lengthy process and didn't want to leave out any stakeholder input of stakeholders that may have believed they already had submitted their comments and did not resubmit, not understanding that a new rule process had been opened.

THE JUDGE: In the prior rule process, did the Board provide a response to those comments?

MR. LIUZZI: We did not on the Office of Administrative Hearings. The responses were all done through either board meetings at that point or stakeholder conversations.

THE JUDGE: At times when I was reading the SONAR, it seemed to me that the -- if I were to summarize what the SONAR was telling me, it was telling me that the process -- the process for teacher licensure -- and I'll start with just out
of state -- was becoming more onerous under the new rules.

And I -- I don't want to take everyone's time here to point out the sentences that led me -- that the phrase that was used, but that's the way that I interpreted the sentences, that the process was becoming more difficult. Upon hearing that, do you believe that I'm misunderstanding those sentences?

MR. LIUZZI: I believe in the SONAR, what we were trying to describe is areas within statute that might be unintended consequences for out-of-state teachers. I don't believe that anything in rule that was meant to help define statute would make it more difficult for out-of-state teachers.

I believe that there's two pieces, I believe, in the SONAR referencing that being more difficult and that is the statutory language that requires an out-of-state teacher to pass content pedagogy exams, we were putting that in rule, which we think would be more difficult for an out-of-state teacher who currently can receive a one-year standard license when they come while they take the test.
In statute that changed where they would have to be on a Tier 2 and have a job offer when they first arrived here while they were taking their test before they would be issued a full mobile Tier 3 license.

The other one is the bachelors requirement that is now in statute for all tiers. Previously a nonlicensed community expert did not need to have a bachelor's degree and the Board was able to look at that on a case-by-case basis.

So that might make it more difficult for individuals and districts wanting to hire certain people in Grow Your Own type programs without their bachelors. And again, that is a statutory change that might make it more difficult.

THE JUDGE: I see. Thank you. That helps I think quite a bit. I think you might want to look at your cost estimates. The cost estimate for the Board of school administrators, I think it has no numbers as I recall.

It's says "this and that" in terms of might have to hire this and that. I think -- I think generally we're looking for an estimate of a number.

In terms of the cost to the Board, there
are figures. If you could do the math for me, so, you know, I could -- I could -- I don't want -- I want you to do the addition and subtraction in terms of income and output and make the estimate.

MR. LIUZZI: Should we -- should we submit those on the Office of Administrative Hearing website so that the public has access to them as well or should we amend the SONAR and post the SONAR? What's the best way to make sure that everybody receives that information?

THE JUDGE: I think you can submit them as part of your response to the comments you receive today, these being mine.

MR. LIUZZI: Great.

THE JUDGE: Okay. And I tell you that because I read the requirement to require you to make an estimate, so it doesn't have to be written in stone.

On your notice, you notified 100 teachers chosen at random; is that correct?

MR. LIUZZI: That is correct.

THE JUDGE: Could you have just as easily notified every teacher that you license?

MR. LIUZZI: I do not know how we received the -- the 100 sample was -- it was
actually a suggestion under the earlier rule draft when we submitted the additional notice plan under 4369. That suggestion was to sample 100. I'd have to look into our IT system of what it would look like to -- to send out a full email to all the 55,000, 100,000 teachers that we have.

THE JUDGE: Okay. Thank you. Those are all the questions I have. Is there anyone else here who has a question for the Board? Is there anyone who has not spoken who would like to speak? Mr. Heller has indicated he'd like to speak again.

SPEAKER HELLER: Hopefully I don't have to spell my name out again?


SPEAKER HELLER: So ultimately the question again, since there's no -- currently no transcript, whether the audiotape will be posted online.

And obviously you don't have to answer that question, but in keeping with the law of transparency and accessibility, other than my request, that if neither are going to be done, it's unclear to know this process here because currently your Web pages are not compliant according to the Web not being -- following the Minnesota
Legislature website from MN.IT.

If you google mnrick@mninter.net, there's a document there from Jay Wyatt on the Data Practice Commission that's recommending a -- a tool, a screening tool with Web functionality. Offering a screening tool is one thing. A person actually experiencing the Web page is another.

Something to consider as you move ahead both in the hearing process and being transparent to the public with your agencies. Thank you.

MR. LIUZZI: Can I make a quick response?

THE JUDGE: Yes, go ahead.

MR. LIUZZI: We will -- we have worked with IT to see if we can start posting our recordings. Our website is unable to handle the level of those postings.

If anyone would like a recording of either this hearing from PELSB or any of the board meetings, we do issue those recordings upon request. But as much as we would like to put them on the website, our website server is unable to handle the amount of recordings we do.

THE JUDGE: Yes, sir.

SPEAKER SPIES: Shall I approach the
microphone?

THE JUDGE: Yes, why don't you, please, and please state your name again.

SPEAKER SPIES: Paul Spies, S-P-I-E-S. I was just asking for clarification on the process going forward. If there were any changes to the proposed rules, how does that occur? Does that come from the Board? Does it come from the honorable judge?

THE JUDGE: I think I'm probably the best person to explain that. The Board can -- the Board may, in response to comments here, decide to make changes to the rules as proposed as long as those changes do not substantially change the content of the rule such that a member of the public would not have been on notice that the new outcome was a potential outcome, that the new outcome was a potential outcome.

So if it fits within the subject matter, typically that's not -- that's -- that's permissible and so, yes, the Board can make changes and you will be able to see those changes when they post their response to the hearing today, to the comments and the comments they've received and ongoing, but in general, whenever they post their
response to the -- to what they've heard today and the comments they've received in writing up until now. Does that answer your question?

SPEAKER SPIES: Sort of.

THE JUDGE: Okay. What's -- what don't you understand?

SPEAKER SPIES: Well, it seems like there -- depending on how the comments today were received on various issues, there could be some real substantive changes, and I just --

THE JUDGE: Okay. So subs --

SPEAKER SPIES: There's where I'm confused.

THE JUDGE: And substantive changes are fine.

SPEAKER SPIES: Okay.

THE JUDGE: But they have to be within the subject area --

SPEAKER SPIES: Okay.

THE JUDGE: -- essentially.

SPEAKER SPIES: Okay.

THE JUDGE: I'll -- I'll -- yes, I'll leave it at that. Yeah. Okay. Mr. Heller.

SPEAKER HELLER: Rick Heller. One thing to add to this: This process has not been fully
accessible for the public. Will it delay this
process?

THE JUDGE: I don't know the answer to
that.

SPEAKER HELLER: And hopefully you will
respond to that as well and provide some
recommendation for Minnesota legislation through
this process. Thank you.

THE JUDGE: All right. Thank you. Are
there any other questions? Again, there's -- the
sheet that we handed out may not fully explain the
process, but I think it does a pretty good job of
summarizing it in terms of comments, responses to
comments, and the way the -- and rebuttals.

But generally to Mr. Spies' point about
comments and responses to comments and for a little
more information on that, you could look at our --
our Administrative Procedure Act rules 1400 or the
statute, Minnesota statute 14, chapter 14. They're
amazingly entertaining and readable.

All right. Anything else? All right.
Seeing -- seeing no one raising their hand, it is
twenty of one. I thank you all for your attention
this morning and for your comments, and we are
adjourned.
(Whereupon, at 12:40 p.m., June 8, 2018, the taking of the public rulemaking hearing was adjourned.)
REPORTER'S CERTIFICATE

I, Barbara F. Schoenthaler, do hereby certify that the above and foregoing transcript, consisting of the preceding 121 pages is a correct transcript of my stenograph notes, and is a full, true and complete transcript of the proceedings to the best of my ability.

WITNESS MY HAND AND SEAL this 12th day of June, 2018

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Barbara F. Schoenthaler
Court Reporter
directed [1] - 7:14
directly [1] - 69:12
Disability [1] - 109:9
disability [1] - 34:16
disabled [1] - 106:8
discipline [1] - 35:19
discrepancies [1] - 97:17
discretionary [1] - 72:15
discriminate [1] - 78:20
discussed [1] - 64:23
discussing [1] - 94:10
disorders [1] - 31:12
disregarding [1] - 37:14
disrupt [1] - 49:17
disruptive [1] - 50:3
district’s [1] - 58:23
ditto [1] - 76:10
Docket [1] - 1-4
discussed [1] - 11-22
doors [1] - 54:5
dot [1] - 38:22
download [1] - 107:15
Dr [1] - 56:18
drafts [1] - 20:3
dropping [1] - 84:4
dry [1] - 103:14
rug [1] - 24:19
replaced [1] - 84:22

duty [1] - 64:9

easiest [1] - 84:8
easy [1] - 103:23
economic [1] - 35:3
EDUCATOR [2] - 1:3, 2:2
effectiveness [1] - 35:21
effects [1] - 89:20
egogistic [1] - 84:24
EL [1] - 102:7, 103:3

**E**

E-R [1] - 80:25

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