Re: Comments on RD4534 draft 3

Through rulemaking, administrative bodies are authorized to provide clarity around areas where law remains ambiguous. Rulemaking must follow specific guidelines, and the resulting rules must be consistent with both statute and legislative intent. Rules are bound by statute and cannot exceed or conflict with the laws that authorize them.

We appreciate the board's hard work to strengthen the rules draft to align with these principles over the last several months and believe that the Board has effectively resolved many of the more controversial areas. Below, we highlight some remaining provisions in RD4369 that still exceed, conflict, or do not comply with state law.

We look forward to continuing to work with the Professional Educator Licensing and Standards Board (PELSB) through the formal rulemaking process as the board works to finalize rules that are student-centered, clear for aspiring educators and school leaders, and consistent with the letter and intent of law.

8710.0311 TIER 1 LICENSE

Posting period exceeds statute. The requirement in Subp. 2. D. (Lines 7.9 – 7.15) that a hiring district must show “the position was posted for at least 15 days” before approval for a Tier 1 license exceeds state statute. The statute (122A.181) simply requires that districts post the position, not that it be posted for a specific length of time. In practice, the proposed 15-day requirement poses a significant barrier for school districts attempting to fill teaching positions with qualified Tier 1 candidates.

- Recommendation: PELSB should align 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.

Mentorship program requirement conflicts with statute. Subp. 2. C. (1) requires that a district seeking to hire or renew a Tier 1 teacher must affirm that the applicant “will participate in a mentorship program aligned to board-adopted criteria” (Line 7.2) by the time of renewal. These provisions would be acceptable if statute required districts and charter schools have a teacher mentorship program. However, Minnesota statute 122A.70 Subd. 1, simply encourages school districts to develop such programs. This rule, therefore, would prevent schools that do not have a teacher mentorship program from hiring—or retaining due to licensure renewal barriers—Tier 1 teachers.

- Recommendation: PELSB should require applicants and hiring districts for initial and renewal applications for Tier 1 to affirm that the applicants will participate in a mentorship program only if the district has such a program.
**Posting period exceeds statute.** In Subp. 4. A. (Lines 7.23 - 7.25), the proposed rules specify that “to renew a Tier 1 license for the first time... the hiring district must show that the position was posted for at least 60 days” and that “if an application accepts the position but later turns it down, the hiring district must repost the position for 15 days.” Statute (122A.181), on the other hand, states that districts must post the position, but statute does not specify for how long. In practice, the proposed 60-day requirement poses a significant barrier for schools seeking to fill open teaching positions with qualified Tier 1 candidates.

- **Recommendation:** PELSB should align 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.

**Subjective “acceptable” teacher definition does not comply with statute.** Minnesota statute 122A.181 Subd. 1. 3. (ii) specifies that districts must post a position prior to hiring a Tier 1 teacher and may hire a teacher on a Tier 1 license if unable to hire “an acceptable teacher with a Tier 2, 3, or 4 license.” RD4369 Subp 2. B (Lines 6.19 – 6.23) provides the board “sole discretion” to arbitrarily deny a school from hiring an otherwise qualified candidate on a Tier 1 license without any standard or objective definition in rule about what constitutes “acceptable.”

- **Recommendation:** If PELSB thinks it appropriate to define “acceptable” in rule, it must create an objective standard of what is acceptable. The definition should be consistently applied and must not depend on the subjective discretion of PELSB board members.

**8710.0312 TIER 2 LICENSE**

"Field-specific methods training" requirements exceed statute. Subp. 2. B. (3) (b) (Lines 13.11 - 13.12) of RD4369 states that an applicant for a Tier 2 license can show basic understanding of pedagogy by completing “field-specific methods in a state-approved teacher preparation program aligned to the assignment.” However, Minnesota statute 122A.182 simply states the requirement as, “field-specific methods of training, including coursework.” Therefore, the requirement that field-specific methods training be from “a state-approved teacher preparation program” goes beyond the requirements in statute.

- **Recommendation:** PELSB should define field-specific methods and not mandate that this requirement only be met by completing a teacher preparation program.

**ABOUT EDALLIES**

EdAllies is a statewide education policy advocacy nonprofit which partners with schools, families, and communities to ensure that every young Minnesotan has access to a rigorous and engaging education. We advance policies that put underserved students first, remove barriers facing successful schools and programs, and foster an inclusive conversation about what’s possible for students. More information can be found at www.edalliesmn.org.