

## Qualifications for Special Education Teachers: Out of Field Permissions (OFP)

The Minnesota Department of Education (MDE), Office of General Counsel-Dispute Resolution, has developed this document to provide technical assistance to parents/guardians,<sup>1</sup> school districts, and charter schools to ensure that personnel necessary to carry out the responsibilities outlined by state and federal law are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. 20 U.S.C. § 1412(a)(14) and 34 C.F.R. § 300.156(a).

The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice, nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive rendition of application of federal and state laws.

### **Qualifications for special education teachers. 34 C.F.R. § 300.156(c)(1).**

Each person employed as a public school special education teacher in Minnesota who teaches in an elementary school, middle school, or secondary school must:

1. Have obtained full Minnesota certification as a special education teacher, or passed Minnesota's special education teacher licensing examination, and hold a license to teach in Minnesota as a special education teacher;
2. Not have special education certification or licensure requirements waived on an emergency, temporary, or provisional basis;<sup>2</sup> and
3. Hold at least a bachelor's degree.

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<sup>1</sup> Parent/guardian refers to the person with legal decision-making power over the student's education, including biological parents, guardians, and the students, if the students are over the age of majority (18 years old in Minnesota) and are their own legal guardian.

<sup>2</sup> In guidance to State Directors of Special Education, the U.S. Department of Education, Office of Special Education Programs, issued a Memorandum on October 4, 2022 (OSEP 22-01), clarifying that State education agencies "may not waive the special education or related services personnel certification or licensure requirements on an emergency, temporary, or provisional basis."

## **Participating in an alternate route to special education certification program. 34 C.F.R. § 300.156(c)(2).**

A teacher is also considered qualified to teach special education if that teacher is participating in an alternate route to special education certification program under which the teacher:<sup>3</sup>

1. Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
2. Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
3. Assumes the functions as a teacher only for a specified period of time not to exceed three years; and
4. Demonstrates satisfactory progress toward full certification as prescribed by the State.

## **Out-of-field Permissions (OFP), alone, are not an alternate route leading to special education certification. Minnesota Rules, part 8710.0320.**

An OFP authorizes a teacher holding a Tier 2, 3, or 4 license to teach in an assignment outside the scope or field of the license held.<sup>4</sup>

1. An OFP does not lead to obtaining certification as a special education teacher in Minnesota and is not recognized as an alternate route to certification as a special educator in Minnesota.
2. Without participation in a program that leads to obtaining certification as a special education teacher or a program that provides an alternate route to special education teacher certification under Minnesota law, a teacher who holds an OFP is not qualified to teach special education in Minnesota.
3. An example of a teacher who holds an OFP and is also participating in a program that leads to full Minnesota certification as a special education teacher, is when the teacher is obtaining a degree or certification in special education at a college and a) receives high-quality professional development that is sustained, intensive, and classroom- focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; b) participates in a program of intensive supervision that consists of structured guidance and relate ongoing support for teachers or a teacher mentoring program; c) assumes the functions as a teacher only for a specified period of time not to exceed three years; and d) demonstrates satisfactory progress toward full certification as prescribed by the State.

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<sup>3</sup> The guidance outlined in OSEP 22-01, provides further clarification that “[p]ersonnel who have not obtained full State certification as a special education teacher may obtain certification through an alternate route” consistent with 34 C.F.R § 300.156(c)(2), which outlines the requirements for personnel “who are participating in a program that provides an alternative route to special education teacher certification.”

<sup>4</sup> A teacher holding a Tier 2 license may hold an out-of-field permission for no more than 50 percent of the teacher’s total assignments.

## **Assistance available for school districts and charter schools to ensure each person employed as a public school special education teacher in Minnesota who teaches in an elementary school, middle school, or secondary school.**

School districts and charter schools are responsible for ensuring all personnel necessary to carry out the responsibilities outlined by state and federal law are appropriately and adequately prepared and trained, including those personnel who have the content knowledge and skills to serve children with disabilities. To assist school districts and charter schools in meeting this responsibility, and at the same time understanding the continuing staffing shortage in Minnesota, MDE and the Minnesota Professional Educator Licensing and Standards Board (PELSB) are collaborating to provide clear guidance and responses to questions about how to ensure all personnel meet applicable requirements.

For questions, please contact: [MDE.Dispute-Resolution@state.mn.us](mailto:MDE.Dispute-Resolution@state.mn.us) or call 651-582-8689.