

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1678**

In the Matter of a Petition for Clarification or Amendment of Appropriate Unit.

**Filed July 13, 2026
Reversed and remanded
Larson, Judge**

Bureau of Mediation Services
File No. 25PCL0540

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Considered and decided by Larson, Presiding Judge; Rasmusson, Judge; and Kirk,
Judge.*

SYLLABUS

1. Because the contested-case provisions in the Minnesota Administrative Procedure Act, §§ 14.63-.69 (2024), do not apply to the commissioner of mediation services, and the Public Employment Labor Relations Act, Minn. Stat. §§ 179A.01-.25

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

(2024) does not set forth a standard for appellate review, we apply the common-law standard for reviewing quasi-judicial decisions from the Bureau of Mediation Services.

2. To determine whether a position satisfies the “professional employee” definition under section 179A.03, subdivision 13(1) (2024), the “advanced knowledge” requirement in subdivision 13(1)(iv) requires the Bureau of Mediation Services to evaluate whether employees in that position have customarily engaged in a comprehensive course of study—distinct from a general postsecondary degree or on-the-job training—prior to beginning the position, and whether such advanced knowledge is required to perform the tasks of that position.

OPINION

LARSON, Judge

Relator American Federation of State, County, and Municipal Employees, Council 5 (AFSCME) challenges respondent Bureau of Mediation Services’ (BMS) decision to move three employee classifications in the Minnesota Department of Agriculture (MDA) from Unit 7 (technical unit) to Unit 14 (professional unit). Because we conclude BMS made a legal error to reach its decision, we reverse and remand.¹

FACTS

The Public Employment Labor Relations Act (PELRA) governs the relationships between public employers and their employees in the State of Minnesota. *See* Minn. Stat.

¹ Because we reverse on the basis that BMS made a legal error in its order, and we remand for reconsideration of the record in light of the appropriate legal standard, we do not address the factual issues raised in this appeal.

§§ 179A.01-.25. PELRA tasks BMS with determining, among other things, the appropriate bargaining units for public employees. *See* Minn. Stat. § 179A.04, subd. 2. And BMS must reclassify appropriate bargaining units when the classifications or positions “have been significantly modified in occupational content” after an initial or previous assignment. Minn. Stat. § 179A.10, subd. 4.

This case relates to a petition to reclassify dairy inspectors with the classifications Dairy Inspector I (DI1), Dairy Inspector 2 (DI2), and Interstate Milk Rating Officer (IMRO) (collectively, dairy inspectors) within MDA’s dairy-inspection program. The record describes the dairy-inspection program as ensuring that milk and milk products are safe, wholesome, and compliant with state and federal regulations. Dairy inspectors inspect, evaluate, and assess dairy farms, milk-processing plants, dairy-manufacturing plants, milk haulers, and bulk-milk tankers. During inspections, dairy inspectors observe the conditions, assess those observations against applicable standards, and exercise “professional judgment” in determining whether the conditions comply with regulatory requirements. Dairy inspectors also investigate foodborne-illness outbreaks, respond to emergencies and food-contamination issues, and conduct and manage enforcement actions.

In 1996, dairy inspectors were initially classified in the professional unit and were represented by respondent Minnesota Association of Professional Employees (MAPE). In 1997, AFSCME asked BMS to clarify the appropriate unit for dairy inspectors. BMS rejected the initial assignment to the professional unit, concluding that these employees were properly assigned to the technical unit. Thereafter, AFSCME represented the dairy inspectors.

Nearly 30 years later, MDA approached respondent Minnesota Department of Management and Budget (MMB) about reclassifying the dairy inspectors to the professional unit. MDA explained its view that the nature of the dairy inspectors' work had changed significantly "to be more varied and intellectual," requiring them to "exercise consistent judgment and discretion as they conduct inspections and investigations." MMB agreed with MDA, and in November 2024, MMB petitioned BMS for an order clarifying the appropriate bargaining unit for the dairy inspectors. Reclassifying the dairy inspectors would shift their union representation from AFSCME to MAPE. AFSCME objected to MMB's petition, and the matter proceeded to a contested hearing.

At the hearing, BMS needed to decide whether to move the dairy inspectors from the technical unit to the professional unit. To do so, BMS had to determine—among other things—whether the dairy-inspector positions met the definition of "professional employee" in section 179A.03, subdivision 13, such that BMS should move the positions to the professional unit. As relevant here,² the statute defines a "professional employee" as

any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;

² There are two additional definitions of "professional employee," which are not relevant to our analysis. *See* Minn. Stat. § 179A.03, subd. 13. The second definition includes "any employee, who (i) has completed the course of advanced instruction and study described in clause (1), item (iv); and (ii) is performing related work under the supervision of a professional person to qualify as a professional employee as defined in clause (1)." *Id.*, subd. 13(2). And the third definition is "a teacher." *Id.*, subd. 13(3).

and (iv) requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship, or training in the performance of routine mental, manual, or physical processes.

Minn. Stat. § 179A.03, subd. 13(1) (emphasis added).³

In July 2025, BMS heard testimony from 13 witnesses—including two DI1 employees, two DI2 employees, and one IMRO employee—and MMB submitted 44 exhibits into the record. Thereafter, BMS issued its unit clarification order and reclassified the dairy inspectors to the professional unit. BMS first determined that the dairy-inspector duties had undergone a significant modification in occupational content since 1997. Then, BMS determined that the dairy-inspector positions met the definition of “professional employee” under section 179A.03, subdivision 13(1). As relevant to our determination, to reach its decision, BMS interpreted the advanced-knowledge requirement in clause iv to include “topics [that] are taught through online courses or provided by the Employer.”

AFSCME filed a request for reconsideration, which BMS denied. This certiorari appeal follows.

³ We hereinafter refer to the italicized language as “clause iv.”

ISSUES

- I. What is the appropriate standard of review when evaluating BMS’s decision?
- II. Did BMS err in concluding that the advanced-knowledge requirement in clause iv is satisfied when “topics are taught through online courses or provided by the Employer?”

ANALYSIS

AFSCME challenges BMS’s decision to reclassify the dairy inspectors from the technical unit to the professional unit. To resolve this issue, we first address the correct standard of review and then address the merits.

I.

The supreme court has not expressly addressed whether we review BMS’s decision under the Minnesota Administrative Procedure Act (MAPA), *see* Minn. Stat. §§ 14.63-.69 (2024),⁴ or the common-law standard for reviewing quasi-judicial agency decisions, *see*

⁴ Section 14.69 provides:

In a judicial review under sections 14.63 to 14.68, the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or
- (e) unsupported by substantial evidence in view of the entire record as submitted; or
- (f) arbitrary or capricious.

Dietz v. Dodge County, 487 N.W.2d 237, 239 (Minn. 1992).⁵ See, e.g., *Anoka County v. L. Enft Lab. Servs., Inc.*, 3 N.W.3d 586, 591 (Minn. 2024). And our opinions have been inconsistent. Compare *Minn. Nurses Ass’n v. McLeod County*, 33 N.W.3d 396, 415 (Minn. App. 2026) (applying the common-law standard), *rev. granted* (Minn. May 20, 2026), with *In re Determination of Appropriate Unit & Certification as Exclusive Representative*, No. A25-0369, 2026 WL 143282, at *2 (Minn. App. Jan. 20, 2026) (applying the MAPA standard).⁶

But the legislature specifically excluded BMS decisions from MAPA’s contested-case procedures. See Minn. Stat. § 14.03, subd. 2 (2024) (“The contested case procedures of the Administrative Procedure Act provided in sections 14.57 to 14.69 do not apply to . . . the commissioner of mediation services.”). And, while providing a timeline for appeals, PELRA does not incorporate the MAPA standard or articulate another standard to apply. See Minn. Stat. § 179A.051(a) (“Decisions of the commissioner relating to . . . appropriateness of a unit . . . may be reviewed on certiorari by the court of appeals. A petition for a writ of certiorari must be filed and served . . . within 30 days from the date of the mailing of the commissioner’s decision.”); see also *Minn. Dep’t of Corr. v. Knutson*,

⁵ The supreme court has held that “in the absence of an adequate method of review or legal remedy, judicial review of the quasi-judicial decisions of administrative bodies, if available, must be invoked by writ of certiorari.” *Dietz*, 487 N.W.2d at 239. We confine our review “to questions affecting the jurisdiction of the board, the regularity of its proceedings, and, as to merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.” *Id.* (quoting *State ex rel. Ging v. Bd. of Educ. of Duluth*, 7 N.W.2d 544, 556 (Minn. 1942)).

⁶ We may cite nonprecedential opinions as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).

981 N.W.2d 773, 779 (Minn. App. 2022) (“The MAPA standard also applies when incorporated by another statute.”), *rev. denied* (Minn. Jan. 25, 2023).

Because MAPA plainly provides that BMS’s unit classification order is not subject to the statute’s contested-case procedures, and the statute governing appellate review of the unit classification order does not incorporate the MAPA standard or any other standard of review, we apply the common-law standard for reviewing quasi-judicial decisions.⁷ *See Deitz*, 487 N.W.2d at 239 (holding appellate courts apply the common-law standard “in the absence of an adequate method of review”); *Knutson*, 981 N.W.2d at 779 (“A quasi-judicial decision not subject to MAPA is reviewed under the common-law standard.”). In doing so, “we examine the record to review questions affecting the jurisdiction of the [agency], the regularity of its proceedings, and, as to the merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.” *Anderson v. Comm’r of Health*, 811 N.W.2d 162, 165 (Minn. App. 2012) (quotation omitted), *rev. denied* (Minn. Apr. 17, 2012). Applying this standard, we address the merits.

II.

We begin with an overview of the relevant statute. The legislature enacted PELRA “to promote orderly and constructive labor relations” in the public sector and to protect the public’s “health, education, safety, and welfare.” Minn. Stat. § 179A.01(a). To that end, PELRA recognizes that unresolved disputes between public employers and employees

⁷ The parties do not dispute that BMS made a quasi-judicial decision when it issued its unit classification order.

harm both the parties and the public. Minn. Stat. § 179A.01(c). To address those concerns, the statute establishes “special rights, responsibilities, procedures, and limitations regarding public employment relationships” and requires employers to negotiate with employees in appropriate bargaining units. Minn. Stat. § 179A.01(c)(2)-(3).

This case concerns whether the dairy-inspector classifications meet the “professional employee” definition. If so, the dairy inspectors will be reclassified, and their union representation will shift from AFSCME to MAPE. Here, BMS determined that the dairy-inspector classifications met the “professional employee” definition in section 179A.03, subdivision 13(1). As described above and as relevant to this case, the definition includes, in clause iv, the requirement that an employee engage in work

requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship, or training in the performance of routine mental, manual, or physical processes.

Minn. Stat. § 179A.03, subd. 13(1)(iv).

AFSCME argues BMS applied an “erroneous theory of law” to reach its decision that the dairy-inspector classifications met the definition of “professional employee” in section 179A.03, subdivision 13(1). *See Anderson*, 811 N.W.2d at 165. Specifically, AFSCME contends BMS legally erred when it concluded:

While the statute requires [that] professional employees have advanced knowledge in a field of science or learning, and often this advanced knowledge is obtained by studying at an institution of higher learning. The statute does not mandate that an institute of higher learning is the only way to obtain advanced knowledge. Here[,] the testimony and exhibits all

highlight a need for knowledge in the areas of microbiology, chemistry, and engineering. These are not areas of study that are achieved through a general academic education. *Whether these topics are taught through online courses or provided by the Employer, they meet the criteria of requiring advanced knowledge in a field of science or learning.*

(Emphasis added.)

Because BMS’s decision is based upon statutory interpretation, it “is clearly a question of law” that is “fully reviewable” by our court. *Hibbing Educ. Ass’n v. Pub. Emp. Rels. Bd.*, 369 N.W.2d 527, 529 (Minn. 1985). Accordingly, we review this issue de novo. *Indep. Sch. Dist. No. 281 v. Minn. Dep’t of Educ.*, 743 N.W.2d 315, 324 (Minn. App. 2008).

“The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the Legislature.” *City of Brainerd v. Brainerd Invs. P’ship*, 827 N.W.2d 752, 755 (Minn. 2013); *see also* Minn. Stat. § 645.16 (2024). “When legislative intent is clear from the statute’s plain and unambiguous language, we interpret the statute according to its plain meaning.” *City of Brainerd*, 827 N.W.2d at 755. “We do not resort to extrinsic sources when interpreting a statute unless the statute is ambiguous.” *Id.* at 757. A statute is ambiguous if “the statutory language is susceptible to more than one reasonable interpretation.” *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 73 (Minn. 2022) (quotation omitted). When a term is undefined, we may use dictionary definitions to ascertain the term’s plain and ordinary meaning. *See PSS Props., LLC v. N. Star Mut. Ins. Co.*, 999 N.W.2d 902, 906 (Minn. App. 2023).

AFSCME contends that BMS misinterpreted clause iv because the statute plainly requires more than on-the-job training. To resolve this question, we look to the statute’s language.

Several words describing the advanced-knowledge requirement are instructive, particularly the words “customarily,” “prolonged,” and “specialized.” The word “customarily” modifies the phrase “acquired by a prolonged course of specialized intellectual instruction.” Minn. Stat. § 179A.03, subd. 13(1)(iv). “Customary” is defined as “[c]ommonly practiced, used, or encountered; usual.” *The American Heritage Dictionary of the English Language* 449 (5th ed. 2018). The term “prolong[ed]” is defined as something that is “lengthen[ed] in duration.” *Id.* at 1409. And “specialize[d]” is defined as “[t]o pursue a special activity, occupation, or field of study. . . . To provide something in particular or having something as a focus.” *Id.* at 1681.⁸ Applying these definitions, a person must usually undergo an extended duration of comprehensive training or instruction in a specific field of study, most commonly through an institution of higher learning, to meet the advanced-knowledge requirement.

Clause iv also directly distinguishes advanced knowledge customarily derived from education programs linked to a particular position from general academic education and on-the-job training. For example, an “apprenticeship” is “a position as an apprentice[;] an arrangement in which someone learns an art, trade, or job under another.” *Merriam-Webster’s Collegiate Dictionary* 61 (12th ed. 2025). “Apprentice,” in turn, means “[o]ne

⁸ Also instructive is the definition of “specialization,” which means “[t]he act of specializing or the process of becoming specialized.” *Id.* at 1681.

who is learning by practical experience under skilled workers a trade, art, or calling.” *Merriam-Webster’s*, *supra*, at 86; *see also American Heritage*, *supra*, at 87 (similar); *Minn. Chapter of Associated Builders and Contractors, Inc. v. Minn. Dep’t of Pub. Safety*, 267 F.3d 807, 815 (8th Cir. 2001) (“The purpose of an apprenticeship program is to teach individuals through on-the-job training.”). The statute likewise excludes training for “routine” processes, meaning “habitual [or] regular,” or “[h]aving no special quality.” *American Heritage*, *supra*, at 1529. Applying these definitions, the statute specifically excludes on-the-job training akin to an apprenticeship or routine processes required to fulfill the position.

Finally, clause iv is satisfied only if the employees are “engaged in work . . . *requiring* advanced knowledge.” Minn. Stat. § 179A.03, subd. 13(1) (emphasis added). “Requiring” means “[t]o have as a requisite or necessity; need or depend on To demand as obligatory[.]” *American Heritage*, *supra*, at 1492. Thus, the statute obligates an employee to obtain advanced knowledge in order to perform the tasks of the position.

From this plain language, we conclude that to satisfy the advanced-knowledge requirement in clause iv, employees in the position must have customarily engaged in a comprehensive course of study—distinct from a general postsecondary degree or on-the-job training—and that such knowledge must be required to perform the tasks of that position.

Because the statute’s language is plain, we need not look beyond its text. Nevertheless, we note that our interpretation is consistent with administrative caselaw from

the National Labor Relations Board (NLRB) interpreting a nearly identical definition of “professional employee” in the National Labor Relations Act (NLRA), 29 U.S.C. §§ 151-169 (2024). The NLRA governs union employees in the private sector while PELRA governs union employees in Minnesota’s public sector. *County of Scott v. Pub. Emp. Rels. Bd.*, 461 N.W.2d 503, 505 (Minn. App. 1990), *rev. denied* (Minn. Dec. 20, 1990). The Minnesota Supreme Court has held that, when interpreting PELRA, “it is often instructive to refer to decisions interpreting the [NLRA],” though such decisions are not binding. *Int’l Union of Operating Eng’rs, Local 49 v. City of Minneapolis*, 233 N.W.2d 748, 752 (Minn. 1975) (referencing NLRB decisions as persuasive authority). Like clause iv, the NLRA’s “professional employee” definition also includes an advanced-knowledge requirement, providing that a professional employee must have

knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

29 U.S.C. § 152, subd. 12(a)(iv).

In *Western Electric Co.*, the union argued the NLRB should adopt “a specific formula containing educational and experience requirements” to determine whether a classification met the “professional employee” definition. 126 NLRB 1346, 1347 (1960). The employer disagreed, arguing the NLRB should not adopt an “inflexible formula” because “it is the character of the work itself which determines whether the employees performing it are professionals.” *Id.* at 1348. The NLRB agreed with the employer,

concluding that the NLRA “defines a professional employee in terms of the work he [or she] performs.” *Id.* But the NLRB also noted “that the background of individuals within a disputed group is” a relevant consideration when evaluating whether a classification meets the “professional employee” definition, given the “‘knowledge of an advanced type’ requirement.” *Id.* at 1348-49. The NLRB then explained that if “a group of employees is predominantly composed of individuals possessing a degree in the field to which the profession is devoted, it may logically be presumed that the work requires ‘knowledge of an advanced type.’” *Id.* at 1349. But “if few in the group possess the appropriate degree, it logically follows that the education characteristics of the work are not those requiring the utilization of advanced knowledge.” *Id.*

In *The Express-News Corp.*, the NLRB assessed whether journalists met the criteria for “professional status.” 223 NLRB 627, 627 (1976). The employer argued the journalists met the “professional employee” criteria due to “the trends towards specialization . . . ; the increasing number of college-trained personnel . . . ; the close cooperation between the newspaper industry and [colleges] . . . ; the greater demand for excellence . . . ; and the unique responsibility of a free press in a democratic system.” *Id.* at 628. Applying *Western Electric*, the NLRB disagreed, concluding the advanced-knowledge requirement was not met. *Id.* at 629. While noting that the journalists had challenging and diverse work, the NLRB noted that, despite “the intellectual demand of the modern journalist’s job,” the employer conceded that it looked for broad, rather than specialized, education when hiring journalists. *Id.* The NLRB concluded that a “general college education, which appears increasingly possessed by journalists, does not satisfy” the advanced-knowledge standard.

Id. And, even if it did, the employer did not require its journalists to have a college degree “and only a handful of them in fact [had] advanced degrees in journalism.” *Id.*

The NLRB evaluated a similar question in *Binghamton Press Co.* See 226 NLRB 808 (1976). There, the NLRB examined the educational background of journalists to determine if they met the “professional employee” criteria. *Id.* at 808-09. To conclude the journalists did not meet the advanced-knowledge standard, the NLRB noted that one employer had 22 employees: 7 had no college degree, 15 had four-year college degrees, and 2 had graduate degrees. *Id.* at 809. Of the 15 employees with college degrees, only seven had degrees in journalism. *Id.* The NLRB also observed that the employer did not have any formal training program an individual must complete *before* becoming a journalist. *Id.* The NLRB reasoned that, because many employees “perform their jobs without advanced training in journalism,” the record demonstrated the position did not require “knowledge of an advanced type in the field.” *Id.* at 809-10.

Finally, the NLRB applied *Western Electric* in *Avco Corp./Textron Lyoming Div.*, a case reviewing the professional status of several engineers. See 313 NLRB 1357 (1994). There, the NLRB summarized how it had previously applied *Western Electric* to the field of engineering:

[T]he Board has consistently found that employees with professional engineering degrees working in specialized fields of engineering qualify as professionals.

By contrast, in those cases where the Board has found engineers not to qualify as professionals, they generally performed routine work and in virtually every case did not have college engineering degrees.

Id. Applying that standard, the NLRB determined the subject engineers met the “professional employee” definition because “the vast majority of the engineers . . . ha[d] bachelor’s degrees in specialized fields of engineering and all work in jobs requiring the consistent exercise of discretion and judgment in nonstandardized, predominantly intellectual work.” *Id.*

AFSCME argues that, consistent with this line of cases, the advanced-knowledge requirement in clause iv requires BMS to evaluate the actual educational levels and advanced training that is required before a dairy inspector begins their job. Because BMS did not do so, AFSCME contends we must reverse and remand for BMS to conduct the correct analysis. BMS does not disagree that this analysis is required under the NLRA. Instead, BMS simply argues that we should not find the NLRA cases persuasive for interpreting the analogous provision in PELRA.⁹ We are not persuaded for three reasons.

First, the NLRA caselaw is consistent with the advanced-knowledge requirement in clause iv, which requires employees in the position to customarily engage in a comprehensive course of study—distinct from a general postsecondary degree or on-the-job training—and that such knowledge must be required to perform the tasks of that position. Second, the language in the NLRA and PELRA are nearly identical. *See Nemo v. Loc. Joint Exec. Bd. & Hotel & Rest. Emp. Loc. No. 556*, 35 N.W.2d 337, 342 (Minn.

⁹ Respondents also assert that AFSCME forfeited its argument relying on the NLRB cases because it did not cite them in its posthearing brief. It is true that a party forfeits appellate review when it failed to raise the issue below. *Rued v. Comm’r of Hum. Serv.*, 13 N.W.3d 42, 52 (Minn. 2024). But that rule applies to a party raising new *issues* on appeal, it does not apply to a party’s citation to new *authority*. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

1948) (noting NLRB decisions were more persuasive when interpreting PELRA's predecessor statute when "the provisions of the two acts are similar"); *see also Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., Loc. No. 320 v. City of Minneapolis*, 225 N.W.2d 254, 257 (Minn. 1975) (noting that NLRA decisions were instructive but not controlling because the NLRA did not have a definition and PELRA did have a definition); *Int'l Union of Operating Eng'rs, Local No. 49 v. City of Minneapolis*, 233 N.W.2d 748, 752 (Minn. 1975) (stating that NLRA decisions are nonbinding because "[t]he NLRA governs private sector employment while the PELRA governs public sector employment"); *Am. Fed'n of State, Cnty., & Mun. Emps., Council No. 14 v. County of Scott*, 530 N.W.2d 218, 221-22 (Minn. App. 1995) (concluding that NLRA precedent was not persuasive because, "unlike the PELRA, the NLRA does not define 'confidential employee'"), *rev. denied* (Minn. May 16 & June 14, 1995). And we are more inclined to rely on federal opinions when the state and federal statutes have nearly identical language. *See Anderson v. Comm'r of Tax'n*, 93 N.W.2d 523, 532 (Minn. 1958) (noting the persuasive value of federal precedent when the state and federal tax code were "nearly identical"); *see also N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553, 563 (Minn. App. 2020) (concluding that federal precedent was persuasive because the state and federal statute "prohibit discrimination . . . in similar manners"); *Sonenstahl v. L.E.L.S., Inc.*, 372 N.W.2d 1, 4 (Minn. App. 1985) (acknowledging that federal court decisions may be persuasive when Minnesota caselaw has not addressed the topic). Finally, the supreme court has held that, even when the language in the NLRA and PELRA are the same, PELRA must be interpreted in a manner that "recognize[s] the special problems which exist in the

public sector.” *Int’l Union of Operating Eng’rs, Loc. No. 49*, 233 N.W.2d at 752. But BMS has advanced no argument that a difference between private and public employees exists in these circumstances that would warrant interpreting the “professional employee” definition differently.

Accordingly, we conclude that, to meet the advanced-knowledge requirement in clause iv, employees in the position must customarily engage in a comprehensive course of study—distinct from a general postsecondary degree or on-the-job training—and such knowledge must be required to perform the job. Contrary to BMS’s decision, it is not sufficient for an employer to offer or mandate on-the-job training or instruction. *See Binghamton Press Co.*, 226 NLRB at 809 (emphasizing that the employer did not have any formal training program an individual must complete before becoming a journalist). Consistent with *Western Electric*, not every employee must possess a degree devoted to the area in which they practice because the focus of the analysis “is the character of the work itself.” 126 NLRB at 1348. But BMS must analyze the educational backgrounds of the employees in the position and determine if the knowledge obtained from that education is required to perform the job.

For these reasons, we conclude that BMS legally erred when it concluded the advanced-knowledge requirement is met through courses “provided by the Employer.” Because of this error, BMS did not analyze the educational backgrounds of the dairy inspectors or assess whether those educational backgrounds are required for the dairy inspectors to perform their job duties. Accordingly, we reverse and remand for BMS to issue a new decision applying the correct legal standard.

DECISION

We review a quasi-judicial decision from BMS using the common-law standard. We also conclude the advanced-knowledge requirement in clause iv of section 179A.03, subdivision 13(1), requires BMS to evaluate whether employees have customarily engaged in a comprehensive course of study—distinct from a general postsecondary degree or on-the-job training—and that such knowledge is required to perform the job, before classifying a position as a “professional employee.” Because BMS legally erred when it determined this requirement could be met through courses “provided by the Employer,” and did not conduct any analysis of the educational backgrounds of the dairy inspectors, we reverse and remand for BMS to apply the correct legal standard.

Reversed and remanded.