

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF TEACHING

In the Matter of the Proposed Suspension
Of the Teaching License of Carol Boynton

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on April 21, 1998, at 550 Cedar Street, Room 658, St. Paul, Minnesota. Rachel L. Kaplan, Assistant Attorney General, Suite 1200, NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Board of Teaching. There was no appearance by or on behalf of the Respondent, Carol Boynton, Rural Route 1, Box 111, Lewiston, Minnesota 55952-9722. The record in this matter closed upon receipt of an affidavit filed by the Board on April 24, 1998.

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Judith A. Wain, Executive Secretary, Minnesota Board of Teaching, 608 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether or not the Respondent's ability to renew her license should be suspended based upon the Respondent's conduct and her conviction and probation for the offense of felony theft, in accordance with Minn. Stat. § 214.10 and Minn. R. 8700.0700, subp. 3.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing in this matter was served upon the Respondent, Carol Boynton, by first class mail on March 20, 1998, at her last known address, which is Rural Route 1, Box 111, Lewiston, Minnesota 55952. This address

was identified as the Respondent's return address in an August, 1997, letter mailed by the Respondent to counsel for the Board. The envelope containing the Notice of and Order for Hearing was not returned to the Board.

2. The Notice of and Order for Hearing mailed to the Respondent included the following notice: "SHOULD A PARTY FAIL TO APPEAR AT HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE." (Emphasis in original.)

3. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. The Respondent did not appear at the hearing scheduled for April 21, 1998, or have an appearance made on her behalf.

4. Because the Respondent failed to appear at the hearing in this matter, she is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board of Teaching have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 125.09, and 214.10 and Minn. R. 8700.0700.

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.

3. Any Findings of Fact more properly termed Conclusions of Law are hereby adopted as such.

4. Based upon and the conduct of the Respondent and her resulting criminal conviction as described in the Notice of and Order for Hearing, the Board is authorized to take adverse action against the Respondent's teaching license. See Minn. Stat. § 214.10, subd. 2a, and Minn. R. 8700.0700, subp. 3.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that disciplinary action be taken against the teaching license of Carol Boynton.

Dated this 24th day of April, 1998

BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.