

February 28, 2023

VIA EFILING ONLY

Yelena Bailey
Michelle Hersh Vaught
Minnesota Professional Educator
Licensing and Standards Board
1021 Bandana Blvd E, Ste 222
Saint Paul, MN 55108
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Re: *In the Matter of the Proposed Amendments to Rules Governing Teacher Licensure and Permissions; the Standards of Effective Practice; and Teachers of Health, Physical Education, Developmental Adapted Physical Education, Parent and Family Education, Adult Basic Education, and American Indian Language, History, and Culture; Minn. R. 8710; Proposed Repeal of Minn. R. 8710.0400 and .0550*
OAH 5-9021-36362; Revisor R-4615

Dear Interim Executive Director Bailey and Ms. Hersh Vaught:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF RESUBMITTED RULES UNDER MINN. STAT. § 14.16, SUBDS. 1, 2 AND MINN. R. 1400.2240, SUBP. 4** in the above-entitled matter. On February 21, 2023, the Office of Administrative Hearings received for review the submissions of the Minnesota Professional Educator Licensing and Standards Board as modified pursuant to the December 2, 2022, Report of Administrative Law Judge Jim Mortenson. The rules, Revisor's Draft R-4615, are approved as to legality. The Office of Administrative Hearings has closed this file and is returning the rule record so that the Board can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. If the Minnesota Professional Educator Licensing and Standards Board has not already done so, please ensure that a signed order adopting the rules is filed with the Office of Administrative Hearings. The Office of Administrative Hearings will request copies of the finalized rules from the Revisor's office following receipt of that order. The Office of Administrative Hearings will file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the Board for its rulemaking record.

The Board's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the *State Register* for publication. A permanent rule

February 28, 2023

Page 2

without a hearing does not become effective until five working days after Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Michelle Severson". The signature is written in a cursive, flowing style.

MICHELLE SEVERSON
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Ryan Inman
Representative Ginny Klevorn
Senator Erin P. Murphy

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Amendments to Rules Governing Teacher Licensure and Permissions; the Standards of Effective Practice; and Teachers of Health, Physical Education, Developmental Adapted Physical Education, Parent and Family Education, Adult Basic Education, and American Indian Language, History, and Culture; Minn. R. 8710; Proposed Repeal of Minn. R. 8710.0400 and .0550

**ORDER ON REVIEW OF
RESUBMITTED RULES UNDER
MINN. STAT. § 14.16, SUBDS. 1, 2
AND MINN. R. 1400.2240, SUBP. 4**

This matter came on for review by the Chief Administrative Law Judge pursuant to Minn. Stat. § 14.16, subds. 1, 2 (2022) and Minn. R. 1400.2240, subp. 4 (2021). This rulemaking concerns the proposed rules of the Professional Educator Licensing and Standards Board (Board) governing teacher licensure and required pedagogical standards under Minn. R. 8710.0100 – .9010 (2021).

Following a public rulemaking hearing, Administrative Law Judge Jim Mortenson disapproved portions of the rules in a Report dated November 22, 2022. The Chief Administrative Law Judge concurred with most of the determinations of the Administrative Law Judge and identified an additional defect by Order dated December 2, 2022.

On January 18, 2023, the Board requested that the Chief Administrative Law Judge review and approve modifications to the proposed rules pursuant to Minn. R. 1400.2240, subps. 4, 5.¹ The resubmitted rules included modifications incorporating changes recommended by Chief Judge Starr and Judge Mortenson, as well as other changes made to clarify and improve processes based on public comments.²

By Order dated January 30, 2023, the Chief Administrative Law Judge approved the modified proposed rules, with two exceptions.³ The Chief Judge found proposed Minn. R. 8710.0330, subps. 2E and 2G were defective.⁴

¹ See Board's Request for Review (Jan. 18, 2023).

² *Id.*, Exhibit (Ex.) 1 (AR draft dated Dec. 20, 2022).

³ See Order on Review of Resubmitted Rules (Jan. 30, 2023).

⁴ *Id.*

On February 21, 2023, the Board resubmitted the proposed rules with modifications to correct the cited defects.

The Chief Administrative Law Judge finds that all defects identified in the prior orders have now been corrected. In addition, the Chief Judge finds that the Board's proposed modifications do not render the final proposed rules substantially different from those published in the *State Register* on May 2, 2022.⁵

Therefore, based upon a review of the modifications made by the Board as presented in their February 21, 2023, submissions, and the rulemaking record,

IT IS HEREBY ORDERED THAT:

The proposed rules, with the modifications indicated in the Revisor's draft dated February 2, 2023, are **APPROVED** as to legality.

Dated: February 28, 2023



JENNY STARR
Chief Administrative Law Judge

⁵ Minn. Stat. § 14.05, subd. 2(b)(2) (2022) (“A modification does not make a proposed rule substantially different if . . . the differences are a logical outgrowth of the contents of the notice of intent to adopt or notice of hearing and the comments submitted in response to the notice.”).