Sept. 20, 2019

The Honorable Ann O’Reilly

Administrative Law Judge

600 North Robert Street

P.O. Box 64620

Saint Paul, Minnesota 55164-0620

Re: Request for Review and Approval of Revised Additional Notice Plan about Proposing Amendments to the Rules Governing School Administrators; Revisor’s ID Number R-04546 Docket No. 65-9050-36037

Dear Judge O’Reilly:

As you may recall, the Board of School Administrators (BOSA) submitted its original Additional Notice Plan on April 5, 2019, which you approved on April 11, 2019. The Board published the Request for Comments on April 22, 2019, in the *State Register*. The Board published a Notice of Intent to Adopt Rules on June 24, 2019, in the *State Register.* In subsequent discussions with you regarding the implementation of the Additional Notice Plan for the Notice of Intent to Adopt Rules, it became clear that the Board had not understood the need for an official rule-making list and had not clearly conveyed how it planned to notify licensed school administrators. You suggested that the Board rectify these limitations by revising its Additional Notice Plan, the SONAR, and the Notice of Intent to Adopt, and then republishing the Notice of Intent to Adopt Rules with a new 30-day comment period.

This is a request for approval of the Board’s revised Additional Notice Plan.

At the time of the submission of the original Additional Notice Plan, the Board was unaware of the necessity for an official rule-making list. Moreover, the language of the original Plan incorrectly conveyed how the Board planned to contact licensed administrators in the state. Since then, the Board has created an official rule-making list and has revised the language of its Additional Notice Plan and its SONAR. The Board also has prepared a Revised Notice of Intent to Adopt Rules with a new 30-day comment period. The Board respectfully requests that you review and approve our revised Additional Notice Plan regarding the Board’s proposed amendments to the rules governing the licensure and practice of Minnesota’s administrators under *Minnesota Statutes*, section 14.22.

Per your direction, the staff consulted with Anthony de Sam Lazaro from the Attorney General’s Office and Patricia Winget from the Minnesota Department of Health. Ms. Winget referred staff to Jodi Pope, an experienced rule-writer from the Minnesota Campaign Finance Board to assist in the revisions. The Board also consulted with Beth Scheffer, legal counsel and rule-writer for the Minnesota Department of Transportation, and her staff. These individuals were invaluable in helping the Board revise its Additional Notice Plan, its SONAR, and it’s Intent to Adopt Rules Without a Public Hearing.

Description of the Revised Additional Notice Plan

Enclosed for your review is the Revised Additional Notice Plan as required by *Minnesota Rules*, part 1400.2060, subpart 2, item A. With this revised Plan, the Board also has e-filed with the Office of Administrative Hearings the proposed rules certified as to form by the Revisor, a final copy of the revised Statement of Need and Reasonableness (SONAR), and the revised Notice of Intent to Adopt Rules Without a Public Hearing.

Prior to or on the same date that the revised Notice of Intent to Adopt Rules Without a Public Hearing is published in the *State Register*, the Board of School Administrators will:

1. Electronically provide a copy of the Notice of Intent to Adopt Rules Without a Public Hearing, the SONAR, and the proposed rules to the Board of School Administrators official rule-making list. This list was developed in July of 2019 by sending an email to the 7,000 licensed administrators informing them that the Board is proposing amendments to the rules and that those amendments can be found on the Board’s website. Administrators were asked to respond to the email if they wanted to be included on the Board’s official rule-making list. 81 administrators responded. The Rule-Making List can be found on the board’s web-site at <https://bosa.mn.gov/bosa/index.htm> and click “Rule-Making List.”

To email the 7,000 licensed administrators, the Board obtained an electronic spreadsheet containing these email addresses from the Professional Educator Licensing and Standards Board. The Board’s two staff members and an intern then copied 150 of the addresses at a time, pasted them into a notice email, and then sent the email. These efforts took several hours of work by staff and the intern to complete.

The Board does not plan to repeat an email to the 7,000 licensed administrators. They have already been notified of the rulemaking and of where to find the rulemaking documents on the Board’s website. Furthermore, there are personnel constraints as the intern who helped with the earlier email is no longer available to conduct another emailing. It would be difficult for the remaining BOSA staff members to timely complete a second emailing due to their current job responsibilities.

1. Maintain the link on the BOSA web-page displaying the proposed rules. The webpage is available at <https://bosa.mn.gov/bosa/index.htm> then click on “Final Rule 3512.” The proposed amendments have been active on the web-site and available to the general public since April 2019 with the exception of technical difficulties during the week of July 15th.

Prior to or on the same date that the revised Notice of Intent to Adopt Rules Without a Public Hearing is published in the *State Register*, BOSA will post its revised Notice of Intent to Adopt Rules Without a Public Hearing on its webpage along with the SONAR. The Board also will post the dates of the new comment period on its webpage.

1. Electronically provide notice of the rulemaking and a link to the documents on the Board’s website to the directors of the 14 approved Minnesota university administrator preparation programs and ask them to alert their faculty and students.
2. Electronically provide a copy of the Notice of Intent to Adopt Rules Without a Public Hearing, the SONAR, and the proposed rules to the following professional associations and ask them to distribute to their individual members. These groups represent nearly all of the active licensed administrators and approximately 80% of the inactive licensed administrators. The discrepancy is due to in-active members passing away or disconnecting the email address they listed the last time they obtained a license. Board staff has communicated with these groups and all have agreed to forward this information on to their members. The groups include:

* Minnesota School Board Association (MSBA)
* *Education Minnesota*
* Association of Metropolitan School Districts (AMSD)
* Minnesota Rural Education Association (MREA)
* Minnesota Association of School Administrators (MASA)
* Minnesota Community Education Association (MCEA)
* Minnesota Administrators of Special Education (MASE)
* Minnesota Elementary School Principals Association (MESPA)
* Minnesota Association of Secondary School Principals (MASSP)
* Minnesota Association of Charter Schools (MACS)

1. Electronically provide a copy of the Notice of Intent to Adopt Rules Without a Public Hearing, the SONAR, and the proposed rules to the Commissioner of the Minnesota Department of Education (MDE), the Commissioner of the Office of Higher Education, and the Executive Director of Professional Educator Licensing and Standards Board.
2. Electronically provide a copy of the Notice of Intent to Adopt Rules Without a Public Hearing, the SONAR, and the proposed rules to the 52 members of the Work Group described below and ask them to forward this information to the organizations that they represent and any other interested parties.
3. Mail the Notice of Intent to Adopt Rules, the SONAR, and the proposed rules to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the Board and to the Legislative Coordinating Commission as required by Minnesota Statutes section 14.116. Because the Board’s rulemaking authority was granted more than two years ago, the Board is not sending this information to the authors of the bill granting rulemaking authority.

The Board will not notify the commissioner of agriculture because the rules do not affect farming operations.

Why the Board believes the revised Additional Notice Plan complies with *Minnesota Statutes section 14.22.*

The Board believes that the revised Additional Notice Plan is a reasonable effort to notify persons or classes of persons who might be significantly affected by the proposed rules. The proposed rules were formulated by an advisory committee, known as the University Work Group, consisting of 52 individuals including individuals from all 14 university preparation programs and individuals from the following professional associations: Minnesota School Board Association (MSBA), Association of Metropolitan School Districts (AMSD), Minnesota Rural Education Association (MREA), Minnesota Elementary School Principals Association (MESPA), Minnesota Association of School Administrators (MASA), Minnesota Community Education Association (MCEA), Minnesota Administrators of Special Education (MASE), and Minnesota Association of Secondary School Principals (MASSP). The University Work Group was led by Dr. Gary Prest, director of the administrative preparation program at the University of Minnesota.

The University Work Group presented its proposed amendments to the rule for Board review. The Board held discussions of the proposed rule during the following board meetings:

* March 12, 2018
* May 14, 2018
* June 11, 2018
* Oct. 8, 2018
* Nov. 19, 2018
* March 4, 2019
* March 25, 2019 (Final Approval)

All BOSA Board meetings are open to the public, and the agendas are posted on the Board’s website. Attendance at these meetings ranged from 1 to 5 members of the public.

The Board was determined to involve regulated parties in drafting the proposed rules thus the creation of the University Work Group to ensure persons most directly affected by the proposed rules had notice of the rulemaking. The Board has already alerted the 7,000 licensed administrators of the proposed amendments in its July, 2019, email to all license holders directing them to the web-site and asking if they wanted to be on the official rule-making list. The Board intends to distribute the proposed amendments to the official rulemaking notice list which ensures that people specifically interested in the rule-making proceeding receive notice. The Board intends to send notice of the rulemaking to the administrator training programs and the listed member associations and asking them to alert their faculty, students, and members will ensure that the administrators regulated by the Board are notified of the proposed amendments. The Board intends to provide notice of the rulemaking and a link to the documents on the Board’s website to all of the professional associations and ask them to distribute to their individual members. These groups represent nearly all of the active licensed administrators and approximately 80% of the inactive licensed administrators. The Board intends to notify the

University Work Group of the final proposed rules and ask that the group publish the web-site for access to the document.

Posting the notice on the Board’s website helps to ensure that people generally interested in the Board’s activities are aware of the proceeding. Finally, mailing the required documents to the chairs and ranking minority members of the legislative committees with jurisdiction over the Board, and to the Legislative Coordinating Commission, ensures that these officials are aware of the rulemaking and that the Board has complied with this statutory requirement.

The Board is fully confident that its Revised Additional Notice Plan will reach the affected parties of these proposed rules.

Thank you for your time and consideration in reviewing this notice. Please call me at (651) 582-8236 if you have any questions.

Very respectfully yours,

Dr. Anthony G. (Tony) Kinkel

Executive Director