

7000.0750 BOARD RECORDS AND FINAL DECISION MAKING.

Subpart 1. **Final decisions of board.** Final decisions of the board shall be made at regular and special board meetings. No final decisions shall be made on any board matter unless it is on the adopted board agenda at a regular or special meeting.

Subp. 2. **Rulemaking records upon which board makes its decision.** The record upon which the board shall make a final decision concerning the adoption, amendment, or repeal of a rule consists of the following:

A. the agenda and related materials for a board meeting during which the proposed rule was considered and the minutes, transcripts, and recordings of the meeting;

B. for rules adopted without a public hearing where the board exercises authority pursuant to Minnesota Statutes, section 116.02, subdivision 8, the documents listed in part 1400.2310 and the administrative law judge's written statement of required modifications or disapproval, if any;

C. for rules adopted with a public hearing, the documents listed in parts 1400.2220, 1400.2230, and 1400.2240, including the report of the administrative law judge and the report of the chief administrative law judge, if any; and

D. written comments submitted to the agency as allowed by part 7000.0650, subpart 6, and recordings or transcripts of oral statements as allowed by part 7000.0650, subpart 5.

Subp. 3. **Contested case record upon which board makes its decision.** The record upon which the board shall make a final decision after a contested case hearing consists of the record as described in part 1400.7400.

Subp. 4. **Record upon which the board makes other decisions.** The record upon which the board shall make a final decision in all matters other than rulemaking and contested case hearings consists of the following:

A. the agenda and related materials for a board meeting during which the matter was considered and the minutes, transcripts, and recordings of the meeting;

B. relevant written materials submitted to the agency within an established comment period, including requests for an informational meeting and petitions for contested case hearings;

C. written materials submitted to the agency as allowed by part 7000.0650, subpart 6, and recordings or transcripts of oral statements as allowed by part 7000.0650, subpart 5;

D. written documents containing relevant information, data, or materials referenced and relied upon by agency staff in recommending a proposed action or decision; and

E. all other relevant information or material received into the record and considered by the board at a board meeting.

Subp. 5. **Decisions and voting.** Except as otherwise specifically provided, a majority vote of the entire board is necessary to make any decision. All board members present shall vote or abstain on every matter presented for decision. If the final vote taken on an agenda item does not result in a decision, but half or more of the voting members vote affirmatively, the matter must be placed on the agenda of the next regular monthly meeting or considered at a special meeting, unless the agenda item concerns rescission of a decision as provided in subpart 8. No final decisions of the board shall be made at board committee meetings even if a quorum of the board is present.

Subp. 6. **Board deliberations.** During board deliberation and consideration of a specific agenda matter, board members may ask questions of agency staff, counsel, or interested persons, and may discuss and amend proposed findings, conclusions, and resolutions or propose alternative findings, conclusions, or resolutions based on the record before the board. As provided in part 7000.0500, subpart 18, the board may decide to continue or recess a meeting with instructions to counsel, agency staff, or interested persons to draft findings consistent with the board's directions. Upon reconvening to consider the findings, the board need not provide an opportunity for additional oral or written comments.

Subp. 7. **Reconsideration of decision.** Any decision of the board may be reconsidered during the course of the same meeting at which the original decision was made if a board member who voted on the prevailing side makes a motion for reconsideration before the board moves on to its next agenda item or if all interested persons are present and given an opportunity to comment.

Subp. 8. **Rescission of decision.** Upon placement on the agenda by a board member as provided in part 7000.0550 and upon the affirmative vote of two-thirds of the entire board, any decision of the board or a decision by the commissioner exercised under Minnesota Statutes, section 116.03, may be rescinded as permitted by applicable law.

Subp. 9. **Stay of decision.** A person may petition for a stay of a board or commissioner decision. Petitions must comply with the requirements of part 7000.2100 relating to timing, serving of a petition, and petition contents. The board's or commissioner's grounds for granting or denying a petition and the board's or commissioner's consideration of the petition are the same as the requirements of part 7000.2100.

Statutory Authority: *MS s 14.06; 116.07*

History: *19 SR 1310; 20 SR 2629; 28 SR 1249*

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