

**Under the Rainbow Early Education Center,
Relator,
v.
County of Goodhue, Respondent.**

No. A21-1349

Supreme Court of Minnesota

August 24, 2022

Tax Court Office of Appellate Courts

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P.A., Minneapolis, Minnesota, for relator.

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SYLLABUS

The tax court erred by denying summary judgment to an early childhood center on its claim for a tax exclusion as a "seminar[y] of learning" under Minn. Const., art. X, § 1, and Minn. Stat. § 272.02, subd. 5 (2020). The controlling standard is that an institution is an exempt seminary of learning when it has an educational purpose, provides a broad general education, and does so in a thorough and comprehensive manner, and the early childhood center presented uncontroverted evidence of each element.

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OPINION

ANDERSON, JUSTICE

The Minnesota Constitution, art. X, § 1, provides that "academies, colleges, universities, [and] all seminaries of learning . . . shall be exempt from taxation." This requirement is further codified in Minn. Stat. § 272.02, subd. 5 (2020), which states that "[a]ll academies, colleges, and universities, and all seminaries of learning are exempt [from property taxes]." Our prior decisions concerning the meaning of "seminaries of learning" concerned secondary or

postsecondary institutions. Relator Under the Rainbow Early Education Center (Rainbow), an early childhood education center, petitioned for a property tax exemption, claiming status as a seminary of learning, citing licensure, facilities, programming, and rating by a government-administered best practices program as support for its claim. Both relator and respondent Goodhue County (the County) sought summary judgment. The tax court denied Rainbow's summary judgment motion and granted summary judgment to the County, citing our decision in *State v. Northwestern Preparatory School*, 83 N.W.2d 242 (Minn. 1957). Although *Northwestern Preparatory* controls whether relator is exempt from taxation, the tax court did not correctly apply the *Northwestern Preparatory* standard. Because we hold that an institution is a tax-exempt seminary of learning when it (1) is educational in nature, and (2) teaches a general curriculum, (3) in a thorough and comprehensive manner, and because relator presented undisputed evidence that it met each of these criteria, we reverse the tax court and conclude that relator was entitled to summary judgment.

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FACTS

Rainbow is a childcare center operating as a 501(c)(3) nonprofit.^[1] *Business Record Details*, Minnesota Secretary of State, <https://mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=2dbe7d17-a6d4-e011-a886-001ec94ffe7f> (last visited August 16, 2022) [opinion attachment]. Rainbow provides care for children beginning as infants and continuing through 12 years of age, although Rainbow's president states that children typically stop attending before age 10. In its parent handbook, Rainbow describes itself as a "childcare provider" and states that its mission is "[o]pening the pathway to allow children to grow, learn, and develop to their full potential."

The Rainbow facility that is the subject of this property tax dispute opened in 2003. Rainbow's property contains eight "classrooms" divided between infants, toddlers, preschoolers,

and school-age children. *See* Minn. R. 9503.0005, subp. 2 (2020) (defining the age categories). One of the classrooms is a "large room designed to simulate a kindergarten environment" for children ages three through five. Rainbow's president described the large room as containing "all the typical features of a kindergarten classroom," such as desks and a smart whiteboard. The facility also has four playgrounds.

Rainbow manages activities through individual written lesson plans based on the age group of each child. These lesson plans are based on a third-party-developed "Creative Curriculum." The Creative Curriculum provides guidance on topics such as setting up a

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physical environment; methods of instruction, including "Language and Literacy," math, science, relationship building, and behavioral development; and how to encourage learning through play with toys. And three times per year, Rainbow performs written evaluations of children in its care. These evaluations are recorded on the Minnesota Department of Human Services (DHS) "Early Childhood Indicator of Progress" form and assess "Social & Emotional Development," "Language Development & Communication," "Cognitive Development," and "Physical and Motor Development." Rainbow staff meet with the parents in biennial conferences to discuss these evaluations.

As a childcare facility, Rainbow is required by law to be licensed by the State of Minnesota. Minn. R. 9503.0170, subp. 1 (2020) (requiring licensure of all childcare facilities in Minnesota). Rainbow is licensed by DHS as a childcare center and may provide care for up to 123 children, including no more than 24 infants, 49 toddlers, 71 preschoolers, and 5 school-age children. To maintain this license, Rainbow must comply with the applicable DHS regulations concerning childcare centers. DHS refers to these childcare center regulations as "Rule 3," and the regulations are found in Minn. R. 9503.0005-.0170 (2020).

Rule 3 regulations cover topics such as facilities and transportation, Minn. R. 9503.0150-.0155; food and water, Minn. R. 9503.0145; recordkeeping, Minn. R. 9503.0110-0125; and parent access, Minn. R. 9503.0090-.0095. Rule 3 also governs the maximum allowable staff-to-child ratios. Minn. R. 9503.0040. These ratios vary by child age group; for example, one staff person may supervise seven toddlers but only four infants. *Id.*, subp. 1. The rules also govern the minimum qualifications required for the

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staff, who may be categorized as either a "teacher," "assistant teacher," or "aide." Minn. R. 9503.0032-0034. Staff are qualified on a sliding scale balancing education and experience. *See* Minn. R. 9503.0032-0033. For example, a person with only a high school diploma must have 4,160 hours of relevant work experience and 24 quarter credits of relevant education to qualify as a teacher, but a person with a license from the Minnesota Department of Education for teaching prekindergarten/nursery may qualify as a teacher without meeting additional requirements. Minn. R. 9503.0032, subp. 2; *see also* Minn. R. 9503.0030 (defining what constitutes acceptable experience and educational credit). The rules govern what duties may be performed by teachers, assistant teachers, and aides. *See, e.g.*, Minn. R. 9503.0040, subp. 2.

Rule 3 also requires that each childcare center develop a written childcare program plan. Minn. R. 9503.0045, subp. 1. Program plans describe the supervision of children and delineate the size and hours of the program. *Id.* Program plans must also "describe the general educational methods to be used by the program and the religious, political, or philosophical basis, if any." *Id.* The plan must state goals "to promote the physical, intellectual, social, and emotional development of the children." *Id.* Plans must specify activities that will be provided and must include activities that vary based on location, activity level, level of direction from adults, and materials used. *Id.* Specifically, childcare programs like Rainbow

that operate more than three hours a day must include daily activities in eight categories: "creative arts and crafts," "construction," "dramatic or practical life activities," "science," "music," "fine motor activities," "large muscle activities," and "sensory stimulation activities." *Id.*, subp. 2. Childcare centers must offer

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parent conferences at least twice a year to keep the parents informed of "the status of the child's intellectual, physical, social, and emotional development." Minn. R. 9503.0090, subp. 2.

DHS last inspected Rainbow in 2021 and found it to be "in compliance." The president of Rainbow specifically averred that Rainbow complies with Rule 3 requirements.

In addition to its licensure, Rainbow has a four-star rating through the Parent Aware program. Parent Aware is a program established by DHS. It provides rating, certification, and information services for early childhood care. Participation in Parent Aware by childcare centers is voluntary. Parent Aware is supported by federal block grants, and every state in the nation has a similar program to support early childhood education. The program has two functions. First, the program is designed to help childcare providers keep abreast of current best practices. Second, Parent Aware provides a public rating of childcare facilities that parents can use to find quality programs.

Parent Aware assigns participating institutions a rating of up to four stars based on a comprehensive review of a childcare center's curriculum, facilities, and programming. DHS provides a checklist informing facilities what is required to achieve a high rating. The checklist states that the goal of Parent Aware is "to help get kids ready for kindergarten and life!" DHS reviews five categories of childcare center performance: "Teaching and Relationships with Children," "Relationships with Families," "Assessment and Planning for Each Individual Child," "Professionalism," and "Health and Well-being." These categories must be supported by specific evidence, and DHS's checklist provides

a detailed

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accounting of what DHS requires to achieve a high rating. Achieving any rating through Parent Aware requires that certain staff persons, such as the program directors and one lead teacher per classroom, must maintain up-to-date career development and continuing education portfolios. To obtain a three- or four-star rating, a facility must also have its classes observed by the University of Minnesota Center for Early Education Development. Parent Aware further requires that childcare programs either use a preexisting approved curriculum or, when a program creates its own curriculum, it must submit that curriculum for a rigorous review and approval process. The final rating is assigned by a panel at DHS. Childcare centers must renew their Parent Aware rating every 2 years.

Rainbow, and comparable public institutions including the Red Wing public school district in Goodhue County, participate in the Parent Aware program. Rainbow has obtained the highest available four-star rating through Parent Aware and has maintained this rating since at least 2017. The Red Wing public school district, for its part, offers an early childhood education program at its Colvill Family Center. The Colvill program advertises itself as a "Four Star Parent Aware rated, community preschool program run by Red Wing Schools." The Minnesota Department of Education also uses the Parent Aware program as a criterion for its Early Learning Scholarships program. All Early Learning Scholarships must be used at a Parent Aware-rated facility. Minn. Dep't of Educ., *Early Learning Scholarships*, <https://education.mn.gov/MDE/dse/early/elprog/sch/> (last visited June 16, 2022) [opinion attachment]. The amount of scholarship varies by Parent Aware rating; children attending four-star facilities are eligible for a higher level of support. *Id.*

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And certain early learning scholarships are available only for use at four-star rated facilities.

Id.

In February 2019, Rainbow applied for exemption from property taxes, claiming status as a seminary of learning under Minn. Stat. § 272.02, subd. 5.^[2] The application indicated that the principal use of the subject property was "[p]roviding early childhood education for ages 6 weeks-12 years." The application stated that the property was used for no other purposes.

On March 12, 2019, the county assessor denied Rainbow's application. The assessor stated that the property "does not meet the minimum requirements for property tax exemption under the North Star guidelines." The *North Star* guidelines refer to the standards from *North Star Research Institute v. County of Hennepin*, 236 N.W.2d 754 (Minn. 1975). This decision interpreted the meaning of purely public charity, *id.* at 756, a separate tax exemption that did not form the basis for Rainbow's application. Rainbow challenged the denial by petitioning the tax court.

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After the close of discovery, both parties sought summary judgment. Rainbow presented evidence about its facilities and programming consistent with our recitation of the evidence above. Rainbow also established that it was a properly DHS-licensed childcare center and had achieved a four-star rating through the Parent Aware program. Rainbow further provided documentary evidence, including sample child evaluation forms, sample daily lesson plans, and a list of its staff and their credentials. This documentary evidence was not specific to 2019, the year for which Rainbow sought the tax exemption. Rather, the earliest of these documents was dated to May 2020. Rainbow argued that summary judgment in its favor was appropriate because this unopposed evidence demonstrated that its programming was educational in nature.

The County also sought summary judgment. The County provided no evidence or anticipated testimony of its own. The County did not dispute that Rainbow was a licensed and

four-star rated facility. Nor did the County argue that Rainbow, or any portion of Rainbow's operations, was categorically ineligible for a tax exemption. Rather, the County sought summary judgment because it asserted that Rainbow's evidence was insufficient to support necessary claims. Specifically, the County repeatedly took the position-both during the discovery process and in its motion for summary judgment-that, to grant Rainbow's application for tax exemption as a seminary of learning, the County "would need documentation from the school district" proving that Rainbow's programming paralleled offerings at the local public schools.

The tax court denied summary judgment to Rainbow and granted summary judgment to the County. *Under the Rainbow Early Educ. Ctr. v. County of Goodhue*, No. 25-CV-19-824, 2021 WL 4313124, at *12 (Minn. T.C. Sept. 15, 2021).

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The tax court, citing our decision in *State v. Northwestern Preparatory School*, 83 N.W.2d 242 (Minn. 1957), found that, to qualify as a "seminary of learning," Rainbow must prove that it (1) was an institution of learning, (2) reduced the burden of public education by providing education that the public school system would otherwise have to provide, and (3) provided a curriculum comparable to a public school that could be "readily assimilated" into the public school system. *Under the Rainbow*, 2021 WL 4313124, at *5-6. The court held that there was no dispute of material fact as to the first element and that Rainbow functioned as an educational institution. *Id.* at *9-10. But-focusing primarily on the lack of supporting testimony from the public school district-the court held that Rainbow's licensing and Parent Aware ratings were not sufficient to prove that Rainbow either reduced the burden on the public schools or that its programming could readily assimilate into the public school curriculum. *Id.* at *10-12.

Rainbow filed a timely petition for a writ of certiorari, seeking our review.

ANALYSIS

A.

At issue is the claimed tax exemption by an early childhood education center as a seminary of learning. Both the Minnesota Constitution and Minnesota statutes provide that "all seminaries of learning" are exempt from property taxes. Minn. Const. art. X, § 1; Minn. Stat. § 272.02, subd. 5. Neither the constitution nor the statute defines the term "seminaries of learning." Historically, a "seminary" simply meant an "educational institution." *Seminary, Black's Law Dictionary* (11th ed. 2019). This definition is mirrored

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by historical language from other jurisdictions. See, e.g., *Hebrew Free Sch. Ass'n v. City of New York*, 2 N.E. 399, 400 (N.Y. 1885) (discussing a tax exemption for "school-houses and seminaries of learning"); *Town of New London v. Colby Acad.*, 46 A. 743, 744 (N.H. 1899) ("A 'seminary' is a place of education.").

The parties here dispute what is required of an early childhood education center to establish that it is a seminary of learning. This is a legal question, which we review de novo. See *HMN Financial, Inc. v. Comm'r of Revenue*, 782 N.W.2d 558, 563 (Minn. 2010) ("we review the tax court's legal conclusions-including interpretation of statutes-de novo"). An entity seeking a tax exemption bears the burden of proving that it is entitled to the exemption. *Nw. Preparatory*, 83 N.W.2d at 246. Though most tax exemptions are strictly construed, in accord with a constitutional policy favoring more educational opportunities, the tax exemption for seminaries of learning is not. *Id.*

We defined the term seminary of learning, in the context of secondary and post-secondary institutions, in a line of cases in the 1950s. First, in *State v. Northwestern Vocational Institute, Inc.*, 45 N.W.2d 653 (Minn. 1951), and *Graphic Arts Educational Foundation, Inc. v. State*, 59 N.W.2d 841 (Minn. 1953), we considered vocational training programs. We held that the purpose of the seminaries-of-learning tax exemption was to "lessen the tax burden

imposed upon our citizens" by supporting institutions that "provide at least some substantial part of the educational training which otherwise would be furnished by the various publicly supported schools." *Nw. Vocational Inst.*, 45 N.W.2d at 655. We held that, although providing valuable education, vocational training programs did not teach enough different subjects to constitute a sufficiently general education. *Id.* at

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656; *Graphic Arts Educ. Found., Inc.*, 59 N.W.2d at 847-48. And even though the school in *Graphic Arts Educational Foundation* purported to teach a range of subjects, such as chemistry and mathematics, we noted that these classes were in fact additional vocational training-for example, the "chemistry" classes solely taught how to make ink and metal type for professional printing. 59 N.W.2d at 847.

Then, in *Northwestern Preparatory*, we considered a "cramming agency," which was established to assist students in passing the admissions tests for the United States military academies. 83 N.W.2d at 244-45. We clarified that the first inquiry was to determine "the actual function an institution performs in the field of public education as reflected by the *basic nature, thoroughness, scope, and purpose* of the educational program which it regularly offers to its students." *Id.* at 246. Once the program is established to be educational in nature, however, to qualify as a tax-exempt seminary of learning it must also establish that (1) "the required curriculum . . . embraces a sufficient variety of academic subjects to give the student a general education" and (2) the education could be "readily assimilated as an integral part of the public school system" because the teaching is of "a comprehensive and thorough manner." *Id.* at 246-47. Although the cramming agency was educational in nature and covered all the usual subjects taught in public high schools, we held that such a review agency did not teach "in a sufficiently comprehensive manner to constitute a reasonable substitute for" the education provided at comparable public institutions. *Id.* at 247. Specifically, because *Northwestern*

Preparatory concerned a secondary institution, we asked whether a student could transfer credits earned between the private program and a public high school. *Id.*

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B.

Since we decided *Northwestern Preparatory*, only minimal appellate litigation has addressed the meaning of "seminaries of learning." Consequently, we have had limited opportunity to consider the precise boundaries of this constitutional tax exemption, or whether *Northwestern Preparatory* fully captures the bounds of the constitutional language. But we are not called on here to examine the foundation of our prior decisions because neither party disputes that the interpretation of Article X, Section 1, of the Minnesota Constitution laid out in *Northwestern Preparatory* controls here. Rather, the parties dispute the application of that interpretation to the present facts in the summary judgment context.

This is an issue, which we also review de novo. *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017). A party is entitled to summary judgment when "there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. "A genuine issue of material fact must be established by substantial evidence." *Eng'g & Constr. Innovations, Inc. v. L.H. Bolduc Co.*, 825 N.W.2d 695, 704 (Minn. 2013) (citation omitted) (internal quotation marks omitted). We do not weigh evidence, and summary judgment is inappropriate when reasonable persons viewing the evidence presented could draw differing conclusions. *Osborne v. Twin Town Bowl, Inc.*, 749 N.W.2d 367, 371 (Minn. 2008). We must view the evidence presented "in the light most favorable to the nonmoving party" and must "resolve all doubts and factual inferences against the moving parties." *Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015). A party may be entitled to summary

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judgment when it presents undisputed facts and is entitled to judgment under the law applicable to those facts. *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997).

Prior Minnesota Tax Court decisions have applied the *Northwestern Preparatory* standard in the context of early childhood education. In these prior decisions, the tax court restated the *Northwestern Preparatory* standard in three parts. First, the tax court assessed whether a program was educational in nature. *Kid's Korner Educare Ctr., Inc. v. County of Steele*, Nos. C7-97-258-R, C4-98-311-R, C2-98-565-R, 1998 WL 898828, at *3 (Minn. T.C. Dec. 23, 1998). Second, the tax court considered whether the program "reduc[ed] the burden on the public" by providing a significant part of services the public schools would otherwise have to provide. *Id.* And third, the tax court considered whether the education provided would be "readily assimilated" into the public school system. *Id.* The tax court here used this same articulation of the *Northwestern Preparatory* standard to assess Rainbow's application. *Under the Rainbow*, 2021 WL 4313124, at *5-6.

Rainbow challenges the tax court's interpretation and application of *Northwestern Preparatory*, while the County argues that the tax court correctly interpreted the standard from *Northwestern Preparatory* in the context of early childhood education and correctly applied a three-part test of educational nature, reducing the public burden, and readily assimilating into public education. Each party asserts that *Northwestern Preparatory*, properly interpreted and applied to the facts here, compels summary judgment in its favor. We address each element in turn.

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1.

The first element of the *Northwestern Preparatory* standard is whether an institution is educational in nature. 83 N.W.2d at 246. Rainbow contends that its program is educational in nature, pointing to its own documentation and the requirements it meets

under both Rule 3 and the Parent Aware program. The County argues that Rainbow is a daycare provider, not an educational institution.

We agree with the tax court that Rainbow is an educational institution. Rainbow states that its mission is to help children grow and develop. To maintain its DHS license, it follows a program plan with goals to "promote the physical, intellectual, social, and emotional development" of the children in its care. Minn. R. 9503.0045, subp. 1(F). As required by Rule 3, Rainbow performs regular evaluations of the children in its care and hosts regular conferences with parents. Rainbow's staff must meet the educational requirements to qualify as "teachers" and "assistant teachers." The Parent Aware program states that its goal is to prepare children for later education. Parent Aware requires that Rainbow teach a preapproved curriculum, developed by independent childhood education professionals to foster early learning and development.^[3] The Minnesota Department of

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Education uses the Parent Aware program to assess quality educational programs in awarding early learning scholarships. And the County has submitted no evidence disputing any of these facts.^[4] For example, the County presented no evidence that any of the children in Rainbow's care were too young to benefit from educational programming or that Rainbow failed to provide the services it claimed to. Rainbow has presented uncontroverted evidence that its program is educational in nature, and it was entitled to summary judgment on this element.

2.

For the second element of the *Northwestern Preparatory* standard, both the tax court and the County focus on whether Rainbow presented evidence that it reduced the burden

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on the public schools. The tax court focused on

the lack of testimony from the local public schools. This focus was on the wrong part of the inquiry. *Northwestern Preparatory* recognized a policy goal of reducing the public burden. 83 N.W.2d at 246. But it did not require direct evidence of this goal; rather, the required showing is whether the program "embraces a sufficient variety of academic subjects to give the student a general education." *Id.* at 247; *see also Nw. Vocational Inst.*, 45 N.W.2d at 656 (holding that an institution that provided "limited training" in vocational tasks was not a seminary of learning). That is, a quality general education will be assumed to reduce the public burden absent evidence to the contrary. In requiring direct evidence that a program reduces the burden on public schools, the tax court substantially increased the burden on educational institutions in a way that is not required by our previous decisions. Placing this burden on every private educational institution seeking tax-exempt status is contrary to our long-established policy of interpreting the seminaries of learning exemption broadly "to encourage the establishment of private educational institutions." *Nw. Preparatory*, 83 N.W.2d at 246.

Indeed, the County argues that the *only* way to demonstrate that a private educational program reduces the burden on the public school district is to have testimony from a local school official that the challenged program meets the *Northwestern Preparatory* standard. The County notes that, in the prior decisions in which early childhood education centers applied for the seminary-of-learning tax exemption, a local public school official testified on behalf of the program. *See, e.g., Kid's Korner Educare Ctr.*, 1998 WL 898828, at *3; *Eyota Kid's Korner, Inc. v. County of Olmstead*, No. C5-92-1513, 1992 WL 389787, at *6 (Minn. T.C. Dec. 29, 1992);

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Pine City Coop. Nursery Sch. v. County of Pine, No. C2-87-671, 1987 WL 26027, at *3 (Minn. T.C. Nov. 16, 1987). This kind of evidence was not required by *Northwest Preparatory*; in addition, requiring formal approval from an

unrelated organization would condition a party's ability to obtain a tax exemption not on the quality or nature of its programs but on the willingness of disinterested public officials, already facing significant demands of time and resources, to involve themselves in litigation between counties and third-party educational programs. Nothing in the language of the constitution or Minn. Stat. § 272.02, subd. 5, or in our prior decisions, imposes such a requirement. Testimony from officials with a public school district may be helpful, but it certainly is not required to establish tax-exempt status as a seminary of learning.

With the inquiry properly framed, Rainbow has presented unrefuted evidence that it provides a general education. To maintain its DHS license, Rainbow must demonstrate that its educational programming provides daily learning opportunities in each of the eight categories specified in Minn. R. 9503.0045, subp. 2: "creative arts and crafts," "construction," "dramatic or practical life activities," "science," "music," "fine motor activities," "large muscle activities," and "sensory stimulation activities." Rainbow performs its child evaluations using comprehensive forms developed by DHS. To maintain its Parent Aware rating, Rainbow must establish that it follows current best practices for early education and that it teaches a curriculum that is preapproved by the State. Rainbow follows the preapproved "Creative Curriculum," a comprehensive program developed by third-party educational professionals. The Creative Curriculum further addresses

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emotional, physical, and intellectual development. And it provides programming and assessments in varied subject areas, including "Building Language and Literacy Skills," "Discovering Mathematical Relationships," and "Exploring like Scientists." Maintaining a four-star Parent Aware rating further requires Rainbow to show that it uses age-appropriate daily lesson plans for each child.

The County provided no evidence to the contrary. The County does not dispute Rainbow's license and Parent Aware rating. The County presented no evidence that Rainbow failed to follow DHS regulations or the Creative Curriculum. The County presented no testimony impeaching the pedagogy underlying the Creative Curriculum or asserting that Rainbow overlooked any critical areas of instruction. The County points to a lack of testimony about the content of comparable public programs, but a program does not need to exactly duplicate the offerings at a public school to qualify as a seminary of learning. *Cf. State v. Nw. Coll. of Speech Arts, Inc.*, 258 N.W. 1, 3 (1934) ("The private pre-school achieves the goal of lessening the public's tax burden even more so when it complements the public school's pre-school program."). Rainbow has presented evidence that it teaches a broad general education, and the County has presented no evidence to the contrary. Rainbow was entitled to summary judgment on this element.

3.

The tax court and the County interpret the third element from *Northwestern Preparatory* as whether Rainbow's programming will "readily assimilate" into the public schools. The County argues that Rainbow has failed to show this, arguing that to show whether a program can be readily assimilated into the public school curriculum, Rainbow

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would need to present evidence about what programs a comparable public school offered. Again the County argues that the only form such evidence could take is testimony from the local public school district. The tax court agreed, concluding that "Rainbow does not include any information from Red Wing School District 256 indicating any coordination with the school, warranting summary judgment." *Under the Rainbow*, 2021 WL 4313124, at *11 (citation omitted) (internal quotation marks omitted).

Here again, the County puts the cart before the horse. *Northwestern Preparatory*

stated that the goal was for the education to assimilate into the public system *because* it was offered in a sufficiently "comprehensive and thorough manner." 83 N.W.2d at 247. Because *Northwestern Preparatory* concerned a secondary institution, there the appropriate benchmark of a "comprehensive and thorough manner" was whether a public high school would give credit for the classes taken. *Id.* This inquiry is inapposite in the context of early childhood education. Indeed, in prior disputes the tax court has acknowledged that not every early childhood education program could be "readily assimilated" into the public school system in a direct manner because often no comparable public program exists. *Eyota Kid's Korner*, 1992 WL 389787, at *6; *Pine City Coop.*, 1987 WL 26027, at *3. Still, in *Pine City Cooperative* the tax court offered reasoning that is useful here: an early childhood program should still be tax exempt when its curriculum paralleled "what could be offered in the public school if the school board so chose." 1987 WL 26027, at *3; *see also Eyota Kid's Korner*, 1992 WL 389787, at *6 (finding that an early childhood center was tax exempt because "[i]f the public school had the resources . . . their curriculum would resemble" the center's curriculum). This logic is

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sound; although programs offered at public schools are likely to be comprehensive and thorough given the educational goals and standards of those institutions, the appropriate inquiry is not limited to whether the local public schools offer a similar program. Rather, the question is whether the program is sufficiently "comprehensive and thorough." *Nw. Preparatory*, 83 N.W.2d at 247.

Rainbow has presented evidence that its programming is comprehensive and thorough. Under DHS regulations Rainbow must prove that its staff meets training and educational standards. Rule 3 limits the number of children each teacher can oversee, ensuring that children receive individual attention and support. Staff must complete minimum continuing education and professional development hours-and to maintain its Parent Aware rating, Rainbow's

staff must go beyond the minimum required professional development hours. Rainbow must show that it is implementing a preapproved curriculum. To maintain its four-star Parent Aware rating, Rainbow must be inspected and approved by the Center for Early Education Development at the University of Minnesota. The only comparable public school program offered in Red Wing also advertises that it is a four-star Parent Aware program. And again, the County presents no evidence to the contrary: there is no evidence in the record that Rainbow is not living up to the requirements of its licensure or that it is overlooking essential elements of its education. Rainbow has presented uncontradicted evidence that it provides a thorough and comprehensive education, and it was entitled to summary judgment on this element.

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CONCLUSION

For the foregoing reasons, we reverse the decision of the tax court.

Reversed.

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Notes:

^[1] Rainbow originally incorporated under a different name in 1995, before adopting its current title in 2016. *Business Record Details*, Minnesota Secretary of State, <https://mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=2dbe7d17-a6d4-e011-a886-001ec94ffe7f> (last visited August 16, 2022).

^[2] We note that Minn. Stat. § 272.02, subd. 103 (2020), provides a tax exemption for "licensed childcare facilit[ies] that accept[] families participating in the child care assistance program under chapter 119B, and that [are] owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue

Code." Although passed into law after Rainbow filed its initial application, this exemption was available for tax year 2019. *See* Act of May 30, 2019, ch. 6, art. 4, § 7, 2019 Minn. Laws 1st Spec. Sess. 1, 79 ("For assessment year 2019 only, an exemption application under this subdivision must be filed with the county assessor by July 1, 2019."). This exemption, however, is not the basis for Rainbow's petition for tax exemption, and we have no cause to consider whether Rainbow could qualify for a tax exemption under subdivision 103.

^[3] Beyond its curriculum, facilities, mission statement, affidavits, licensure, and Parent Aware rating, Rainbow submitted further documentation such as sample child evaluation forms and sample daily lesson plans. This additional documentation was dated after 2019—the tax year at issue in this dispute—with the documents ranging from May 2020 to January 2021. Because these documents were dated after the tax year at issue, the tax court held that the documents were not relevant and therefore inadmissible. *Under the Rainbow*, 2021 WL 4313124, at *9 n.73. Rainbow argues that this ruling was in error because, it claims, its practices from 2020 raise at least an inference that it provided the same services in 2019. Because the undisputed evidence of Rainbow's curriculum, facilities, mission, and accreditations, when coupled with the lack of contradictory evidence from the County, is sufficient to resolve the questions before us, we do not consider whether Rainbow's sample documents from later years were admissible

evidence.

^[4] At oral argument the County suggested that, even if other portions of Rainbow's operations were tax-exempt, the programs caring for infants and school-age children would still not qualify as exempt. The County argued that the portion of Rainbow's services caring for infants could not qualify as a seminary of learning because infants are too young to learn from formal teaching. And the County suggested that the standards used for Rainbow's licensing and Parent Aware rating are not relevant to school-age children. But the County made no arguments before the tax court about dividing Rainbow's services into exempt and nonexempt portions, presented no evidence on the effect of education on infants, and presented no evidence that the educational standards governing Rainbow's operations are inappropriate for school-age children. Issues raised for the first time on appeal are forfeited. *Leuthard v. Indep. Sch. Dist. 912-Milaca*, 958 N.W.2d 640, 649 (Minn. 2021). We therefore do not consider whether any portion of Rainbow's facility should be treated separately in considering Rainbow's application for tax exemption. Moreover, we need not and do not decide whether childcare programs for infants and after-school programs for school-age children are tax-exempt as seminaries of learning. *Cf.* Minn. Stat. § 272.02, subd. 103 (providing that property used as a licensed childcare facility is exempt when certain criteria are met).
