

CHAPTER 5505

BUREAU OF MEDIATION SERVICES

COLLECTIVE BARGAINING REPRESENTATIVES

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5505.0100 DEFINITIONS.

Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases in parts 5505.0100 to 5505.1500 shall have the same meaning and definition as is contained in the definitions used in Minnesota Statutes, chapters 179 and 179A.

Statutory Authority: *MS s 179A.04 subd 3*

5505.0200 PURPOSE, CONSTRUCTION, AND WAIVER.

Parts 5505.0100 to 5505.1500 govern the conduct of all proceedings before the commissioner of mediation services involving investigation and certification of representatives for collective bargaining under Minnesota Statutes, section 179.16. Parts 5505.0100 to 5505.1500 shall be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179. The commissioner may waive any requirement of parts 5505.0100 to 5505.1500 unless a party shows prejudice thereby.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.0300 REQUEST FOR INVESTIGATION.

A request for investigation by the commissioner of mediation services of a question concerning the representation of employees for collective bargaining may be filed with the commissioner by any employee, group of employees, labor organization, employer, or group of employers. Such request shall be in writing in the form hereinafter prescribed. Forms for filing this information may be obtained from the office of the commissioner of mediation services.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.0400 REQUIRED INFORMATION.

The request shall be addressed to the commissioner of mediation services and shall contain the following information:

A. the type of organization making the request, be it labor organization, employer, employee, or unorganized group of employees, and the name, address, and telephone number of the petitioner or petitioners;

B. the name, address, and telephone number of the agent or attorney who represents the petitioner or petitioners;

C. the name, address, and telephone number of the opposing party in the dispute;

D. the name, address, and telephone number of the agent or attorney for the opposing party, if known;

E. the names, addresses, and telephone numbers of all other individuals or labor organizations known to have an interest in or claiming to represent any of the employees involved;

F. the nature of the business of the employer;

G. the approximate total number of employees in the unit the petitioner claims is appropriate, and a statement as to the bargaining unit or units claiming the right of representation, whether employer unit, craft unit, plant unit, or other unit as proposed by the petitioner; and

H. a detailed list of the classifications in the proposed appropriate bargaining unit, indicating the number of employees in each classification.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.0500 NOTICE OF HEARING AND INVESTIGATION.

Upon receipt of a request in proper form, the commissioner shall investigate the controversy by any suitable means. The commissioner may investigate such controversy personally or through an agent appointed by the commissioner. The commissioner may provide for an appropriate hearing before the commissioner or agent. Notice of such investigation or hearing shall be given to all parties directly involved in or directly affected by the controversy, so far as named in the request or known to the commissioner. All such parties shall be deemed parties to the proceedings. The notice shall be posted in a conspicuous place at the place of employment of the employees therein referred to at least two days prior to the scheduled date of investigation or hearing. A copy of the request filed by the petitioner shall be given to each party, excepting individual employees, with the first notice, and shall be posted in a like manner. If a hearing is ordered, the commissioner shall cause a stenographic report of the hearing to be kept.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.0600 HEARINGS.

Subpart 1. **Conformity.** All hearings before the commissioner shall be conducted in conformity with subparts 2 to 9.

Subp. 2. **Conduct.** All hearings before the commissioner shall be open to the public. It shall be the duty of the commissioner conducting the hearing to inquire fully into the facts in dispute, to call, examine, and cross-examine witnesses, and to require the production of such documentary or other evidence as the commissioner may deem necessary to be fully acquainted with all the facts relating to the dispute.

Subp. 3. **Testimony and evidence.** Any party in interest to the proceeding shall have the right to appear at such hearing in person, by counsel or representative and to call, examine, and cross-examine witnesses and to introduce into evidence such documentary or other evidence as the commissioner may deem admissible. In such proceeding the parties thereto shall be permitted to introduce only competent evidence, as defined in Minnesota Statutes, section 179.01, subdivision 12.

Subp. 4. **Stipulation.** At any such hearing the parties to the dispute may enter into stipulation of facts which shall have the same weight as though evidence had been adduced to prove the same.

Subp. 5. **Objections.** Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, shall be stated orally, together with a statement of the grounds of such objection, and included in the stenographic report of the hearing if one is kept. No objection shall be deemed waived by further participation in the hearing.

Subp. 6. **Adjournment.** The commissioner may adjourn the hearing from day to day or from time to time and from place to place as he may deem proper upon appropriate notice thereof to the parties to said proceeding.

Subp. 7. **At close of hearing.** At the close of the hearing the parties to the proceeding shall be entitled to submit the matter on either oral or written arguments as the commissioner may determine. When permission for oral argument is granted, the commissioner shall fix the length thereof, and such argument shall not be included in the stenographic record of the hearing unless it is so directed by the commissioner. If the matter is submitted on written argument, the commissioner shall fix the time for the filing thereof by the respective parties to the proceeding.

Subp. 8. **Disregarding testimony.** All or any part of the testimony of any witness may be disregarded by the commissioner, if said witness shall refuse to answer any question which the commissioner has ruled to be a proper one.

Subp. 9. **Record.** The record in the proceedings shall consist of the request for investigation, the notice of hearing, proof of service of such notice upon the parties to the proceedings, the objections of any person to the proceedings, the rulings thereon, all stipulations between the parties, exhibits, documentary evidence, depositions, findings of fact and conclusions, if such are made, the stenographic notes or record if kept, and the order of the commissioner.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.0700 EXAMINATION OF WITNESSES.

Witnesses shall be examined orally under oath; provided, however, that the testimony of all witnesses who reside outside of the state or who, through illness or other cause, are unable to testify in person before the commissioner may be taken by deposition in such manner and form as may be prescribed by the commissioner.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.0800 SUBPOENAS.

Subpoenas requiring the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence, or documents relating to any matter pending before the commissioner, shall be issued in the name of the commissioner over his or her signature. Applications for the issuance of such subpoenas shall be filed with the commissioner by the party to the proceedings desiring the subpoena. Such application shall be timely and shall specify the names of the witnesses and the books, records, correspondence, or documents required to be produced by the witness.

Witnesses summoned before the commissioner shall be paid fees and mileage in the same manner and amounts as are paid to witnesses in the District Court of this state. Witnesses whose depositions are taken and persons taking the same shall be entitled to the same fees as provided by law for taking of depositions for use in the District Court of this state. Witness fees and mileage shall be paid at the time of the service of the subpoena to the witness whose attendance is required by the subpoena, by the parties at whose instance the subpoena is issued, excepting witnesses subpoenaed by the commissioner who shall be paid as provided by law.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.0900 DETERMINATION OF REPRESENTATIVE.

The commissioner, upon the completion of the hearing, shall forthwith determine who are the representatives of the employees for collective bargaining, or the method to be used to ascertain who shall be such representatives.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.1000 ELECTION PROCEDURE.

On determining to take a secret ballot of the employees, the commissioner may direct that such election be conducted by a designated agent in such manner as he or she may prescribe. Upon conclusion of such election, the agent conducting the same shall prepare a report containing a tally of the ballots and the result of such election. The employer and each person or organization claiming the right to act as representative of the employees may designate one person as a challenger, who shall be permitted to be present at the place of election during the casting of the ballots and counting thereof by the commissioner or designated agent. Immediately upon the completion of the tallying of the ballots so cast, the person conducting the election shall place all ballots cast and a copy of the tally sheet in an envelope, which shall be immediately sealed, endorsed across the seal by a challenger for each party, if such there be, and retained in the files of the commissioner for a period of not less than 30 days, subject to inspection as hereinafter provided. The parties to the proceedings shall be furnished with a tabulation of the ballots cast in the election and the result thereof.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.1100 CHALLENGE OF VOTER.

The right of any employee to vote at an election held for the purpose of determining the representative of employees may be challenged by any authorized challenger designated as provided by part 5505.1000 or by any employee entitled to vote at the election. The person making the challenge shall state fully the grounds thereof and a record thereof shall be made by the agent conducting the election. The agent shall then examine the challenged employee as to the employee's qualifications for voting and shall make a record thereof. If the challenge be not then withdrawn, and the challenged employee shall insist on voting, the employee shall be permitted to vote upon filing with the agent a statement in writing, signed by the employee and witnessed by the agent, alleging that he or she is eligible to vote and setting forth the employee's qualifications. Ballots so received shall not be marked or otherwise distinguished from the other ballots cast. The agent conducting the election shall transmit the record of the proceedings upon all challenges to the commissioner with the returns of the election. If it appears therefrom that the number of challenged votes is sufficient to have affected the result of the election, the commissioner shall hold a hearing on the question after notice to the challenged voters, to the persons or organizations voted upon as representatives, and to other parties, if any, to whom notice of the election was given. The commissioner shall thereupon determine whether or not the respective challenged voters were eligible to vote and whether or not the result of the election might have been affected by votes cast by ineligible persons. On finding that the result of the election might have been so affected, the commissioner may declare the election void and proceed further, as though no election had been held.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.1200 CONSENT ELECTION.

Subpart 1. Agreement to hold election. Whenever a question or controversy has arisen concerning the representation of the employees of an employer within the meaning of Minnesota Statutes, section 179.16, the parties to such controversy may agree in writing, subject to the approval of the commissioner, that an election may be held by said commissioner for the selection of a representative for the purposes of collective bargaining who may be certified by the commissioner as such representative without the necessity of a hearing concerning the controversy. Such agreement to hold a consent election must be in the form prescribed by the commissioner. The approval of such agreement by the commissioner shall be subject to the following conditions:

Subp. 2. Notice of election. A notice of the consent election in the form prescribed by the commissioner shall be posted in a conspicuous place at the place of employment of the employees therein referred to.

Subp. 3. **Objections to election.** Upon objection being filed with the commissioner as provided in the notice, the commissioner may, on deeming it proper, revoke the acceptance and approval of the agreement for a consent election. With the consent of the parties to said agreement and upon notice to the person or persons filing such objections, the commissioner may, on deeming it proper, amend, in such manner as the commissioner may determine, the provisions contained in said agreement for a consent election.

Subp. 4. **Filing objections.** All persons having any objections to such consent election must file their objections thereto in writing with the commissioner at the commissioner's office in St. Paul, Minnesota, either in person or by registered or certified mail, not later than the date prescribed in the posted notice of such consent election. Any person or persons failing to file their objections to such consent election within the time hereinabove prescribed shall not thereafter be permitted to question the holding of such election unless permitted to do so by the commissioner.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.1300 CERTIFICATION ORDER.

The commissioner shall, upon the completion of the proceedings hereinbefore described, forthwith certify to the parties in writing the name or names of the representatives that have been designated or selected and serve the certification order upon the parties to these proceedings.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15*

5505.1400 OBJECTIONS TO CERTIFICATION.

Any party to the proceedings may, within seven days from the deposit of said certification order in the United States mail, file with the commissioner objections to the certification. If it appears to the commissioner that such objection may raise a substantial and material issue with respect to the correctness of said certification, the commissioner shall issue and cause to be served upon the parties to the proceeding a notice fixing a time and place of hearing upon said objections. On determining, after the close of such hearing, upon the record made therein that such objections are well taken, the commissioner shall forthwith declare the certification void and shall proceed in the same manner as though no certification had been made. Upon application by any party to the dispute, the commissioner may stay the operation of the order of certification until the hearing and determination of the objections to the order of certification.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*

5505.1500 RECONSIDERATION WITHIN ONE YEAR.

If the commissioner has certified the representatives as provided in Minnesota Statutes, section 179.16, and if a question should arise within the period of one year from the date of such certification concerning the representatives so certified, then any employee, group of employees, labor organization, or employer may file a petition in like form as provided in part 5505.0400, and in addition thereto a statement which shall set forth in detail the reasons upon which are based the request for a new certification of representatives of employees. Upon receiving such request the commissioner, after such investigation as the commissioner may deem necessary, shall notify all parties to the proceedings of his or her decision upon the request. On determining that further proceedings shall be had thereon, the commissioner shall proceed as hereinbefore provided for action on an original request for investigation of the question of representation for collective bargaining purposes.

Statutory Authority: *MS s 179A.04 subd 3*

History: *L 1987 c 186 s 15; 17 SR 1279*