

CHAPTER 5510

BUREAU OF MEDIATION SERVICES

IMPLEMENTATION OF THE PUBLIC EMPLOYMENT LABOR RELATIONS ACT

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5510.0100 DEFINITIONS.

Subpart 1. **Board.** "Board" means the Public Employment Relations Board.

Subp. 2. **Bureau.** "Bureau" means of mediation services.

Subp. 3. **Director.** "Director" means the director of the Bureau of Mediation Services or his authorized agent.

Subp. 4. **Hearing officer.** "Hearing officer" means the director or his agent.

Subp. 5. **Party.** "Party" means public employer, exclusive representative of public employees, public employee organization, or public employer organization whose legal rights, duties, or privileges will be directly affected by the proceedings or who has a substantial interest in the outcome of the proceedings.

Subp. 6. **Service, serve.** "Service" or "serve" means service of a document required by parts 5510.0100 to 5510.2300, by person or certified United States mail, with return requested, postage prepaid, and addressed to the party at his last known address, unless some other manner of service is required by law. "Certified mail" means mail which must be signed for by the addressee upon receipt of said mail.

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Subp. 7. **Time.** In computing any period of time prescribed or allowed by parts 5510.0100 to 5510.2300, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. For any time period of ten days or less, Saturdays, Sundays, or legal holidays shall not be included in computing the period of time.

Subp. 8. **Unfair election practice.** "Unfair election practice" means any of the prohibitions outlined in part 5510.1800 and any unfair labor practice committed by an employer, or representative candidate, or an employee or group of employees which affect the result of an election.

Subp. 9. **Definitions from Minnesota Statutes, section 179.63.** All other words, terms, and phrases in parts 5510.0100 to 5510.2300 shall have the same meaning and definition as contained in the definitions used in Minnesota Statutes, section 179.63.

Statutory Authority: *MS s 179.71 subd 5*

5510.0200 APPLICATION.

Parts 5510.0100 to 5510.2300 govern the conduct of proceedings before the director of the Bureau of Mediation Services involving determination of an appropriate unit or units, representative elections, investigation, certification and decertification of exclusive representative, and unfair election practice arising under the Public Employment Labor Relations Act.

Statutory Authority: *MS s 179.71 subd 5*

5510.0300 POLICY.

Parts 5510.0100 to 5510.2300 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. Any requirements of parts 5510.0100 to 5510.2300 may be waived by agreement of all parties and the approval of the director.

Statutory Authority: *MS s 179.71 subd 5*

5510.0400 PETITION FOR DETERMINATION OF APPROPRIATE UNIT.

A petition for determination of an appropriate unit shall be filed in person or by certified mail with the bureau by a public employer, by an employee organization, or by a joint request of public employer and employee organization. Such petition shall be in writing in the form prescribed. Such form is available from the bureau.

Statutory Authority: *MS s 179.71 subd 5*

5510.0500 PETITION FOR CLARIFICATION OR AMENDMENT OF APPROPRIATE UNIT.

Subpart 1. **Filing.** A petition for clarification or amendment of an appropriate unit shall be filed in person or by certified mail with the bureau by a public employer, by an employee organization, or by a joint request of public employer and employee organization. Such petition shall be in writing in the form prescribed. Such form is obtainable from the bureau.

Subp. 2. **Limitation of filing petition.** Where there is an exclusive representative and where a contract is in effect, the bureau shall entertain a petition for a clarification or amendment of a unit upon a joint request from the employer and the exclusive representative. A petition by either party for clarification or amendment of a unit may be entertained by the director.

Statutory Authority: *MS s 179.71 subd 5*

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5510.0600 CONTENTS OF PETITION.

The petition shall contain the following information:

A. type of organization making the request, be it the employee organization, public employer, or a joint request of both parties;

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

C. the name, address, and telephone number of the opposite party, if known;

D. type of governmental agency involved;

E. a statement of the proposed unit, or units, and the approximate number of employees involved;

F. the name, address, and telephone number of any other employee organization known to represent employees in the proposed unit; and

G. such other information as the director may require from time to time.

Statutory Authority: *MS s 179.71 subd 5*

5510.0700 PETITION FOR CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.

If the petition submitted by an employee organization requests certification as an exclusive representative, in addition to the information defined in part 5510.0600, evidence must be submitted with the petition that at least 30 percent of the employees in the proposed unit wish to be represented by the petitioning employee organization. Authorization signatures so submitted shall be dated within six months prior to the receipt of the petition.

Statutory Authority: *MS s 179.71 subd 5*

5510.0800 JOINT REQUEST FOR CERTIFICATION OF EXCLUSIVE REPRESENTATIVE.

If the petition submitted is a joint request for certification of an exclusive representative, in addition to the information defined in part 5510.0600, the petition form must be notarized and evidence must be submitted with the petition that more than 50 percent of the employees in the proposed unit wish to be represented by the employee organization. The employee organization is further required to submit a copy of its constitution and bylaws. Such petition shall be in writing in the form prescribed, which form may be obtained from the bureau.

Statutory Authority: *MS s 179.71 subd 5*

5510.0900 INVESTIGATION AND HEARINGS ON A PETITION FOR DETERMINATION OF APPROPRIATE UNIT.

Subpart 1. Notice of hearing. Upon receipt by the bureau of a petition in proper form, the director shall investigate to determine if sufficient evidence of a question of representation exists and hold hearings as necessary to determine the appropriate unit. Notice of any such hearing will be served on all parties named in the petition and any other party known to the director to have a substantial interest. Copies of the notice of hearing shall be posted by the employer immediately upon receipt of same in a conspicuous place at the work location or locations. A copy of the petition filed by the petitioner shall be included with the notice of hearing.

Subp. 2. Order maintaining status quo. Following receipt of the petition, the director may issue a cease and desist order directing maintenance of the status quo in part or in whole, with respect to terms and conditions of employment or contract negotiations. Such order shall not conflict with existing contract or statutory provisions.

Subp. 3. Hearing on petition for determination of appropriate unit. The hearing shall be conducted by a hearing officer with a reporter making a stenographic record of the proceeding. The hearing will be conducted as follows.

A. All hearings shall be public meetings except when otherwise provided by the director.

B. It shall be the duty of the hearing officer to inquire fully into the facts in dispute, to call, examine, and cross-examine witnesses and to require the production of documentary or other evidence as he may deem necessary to fully acquaint himself with all facts relating to the case.

C. Any party shall have the right to appear at the hearing in person or be represented by an agent to present pertinent evidence and testimony that is competent, relevant, and material to the issues.

D. The public employer shall provide the names and job classifications of employees within the suggested appropriate unit and make available such information to all parties submitting a 30 percent showing of interest.

E. 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 record of the hearing. No objection shall be deemed waived by further participation in the hearing.

F. The hearing officer 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 the proceeding.

G. At the close of the hearing, the hearing officer may allow the parties to submit written arguments. The hearing officer shall fix the time for the filing of the arguments.

Subp. 4. Record. The record shall consist of the following:

- A. the petition of determination;
- B. the notice of hearing;
- C. proof of service of such notice upon the parties to the proceeding;
- D. the objections of any person to the proceedings;
- E. all stipulation between the parties;
- F. exhibits;
- G. documentary evidence;
- H. depositions;
- I. memoranda submitted by the parties;
- J. upon appeal, the transcript, or parts thereof, as determined pursuant to parts 5510.2200 and 5510.2300; and
- K. any information obtained during investigations. (Such information shall be made available to all parties prior to a determination.)

Subp. 5. Determination of unit. The director will determine the appropriate unit or units on the basis of the record.

Subp. 6. Effective date of unit determination. Determination of an appropriate unit shall take effect ten days after notice to the parties unless appealed to the board. Copies of the unit determination shall be posted by the employer immediately upon receipt of same in a conspicuous place at the work location or locations of the employees involved.

If requested by the director, the employer, following the receipt of the appropriate unit determination, shall provide the addresses of employees within the appropriate unit to employee organization(s) on the ballot.

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Subp. 7. **Orders pending appeal of unit determination.** At the request of the board, the director shall issue such orders as are requested by the board pending the determination of an appeal to the board.

Statutory Authority: *MS s 179.71 subd 5*

5510.1000 PETITION FOR CERTIFICATION OR DECERTIFICATION.

Subpart 1. **Certification petition.** A petition for certification as an exclusive representative in an appropriate unit shall be filed in person or by certified mail with the bureau by the employee organization, showing evidence that at least 30 percent of the employees wish to be represented by the petitioner or by a joint request of the employer and the organization.

The petition filed by the employee organization shall be in writing in the form prescribed in parts 5510.0600 and 5510.0700. Forms for filing this information may be obtained from the office of the bureau.

The joint request of the employer and the employee organization shall be in writing in the form prescribed in parts 5510.0600 and 5510.0800, which form may be obtained from the bureau.

Subp. 2. **Decertification petition.** A petition for decertification of an exclusive representative in an appropriate unit shall be filed in person or by certified mail with the bureau showing evidence that at least 30 percent of the employees in the unit wish to decertify. Such petition shall be in writing in the form prescribed in part 5510.0600. Forms for filing this information may be obtained from the office of the bureau.

Subp. 3. **Incumbent representative.** An incumbent exclusive representative shall by virtue of its certification be considered a party and be entitled to be on the ballot.

Statutory Authority: *MS s 179.71 subd 5*

5510.1100 INVESTIGATION AND HEARING ON A PETITION FOR CERTIFICATION OR DECERTIFICATION.

Subpart 1. **Notice of hearing.** Upon receipt of a certification or decertification petition in proper form, the director shall investigate to determine if sufficient evidence on the question of 30 percent interest exists and hold hearings as necessary. Notice of any such hearing will be served on all parties named in the petition and any other party known to the director to have a substantial interest. Copies of the notice of hearing shall be posted by the employer immediately upon receipt of same in a conspicuous place at the work location or locations. A copy of the petition filed by the employee organization or employees shall be included with the notice of hearing.

Subp. 2. **Order maintaining status quo.** Following receipt of the petition, the director may issue a cease and desist order directing maintenance of the status quo, in part or in whole, with respect to terms and conditions of employment or contract negotiations. Such order shall not conflict with existing contract or statutory provisions.

Subp. 3. **Hearing.** All hearings shall be conducted in conformity with part 5510.0900, subpart 3.

Subp. 4. **Record.** The record shall consist of those items outlined in part 5510.0900, subpart 4.

Subp. 5. **Determination.** Based upon the record, the director shall determine in the appropriate case: whether the decertification petition should be granted or denied; whether a secret ballot election should be held pursuant to the certification or decertification petition.

Subp. 6. **Combined hearings.** The director may combine hearings in determination of appropriate units and certification procedures.

Statutory Authority: *MS s 179.71 subd 5*

REPRESENTATIVE ELECTIONS

5510.1200 ELECTION ORDER.

Upon proper showing the director shall issue an election order, requiring that a secret ballot election be held. The election order shall contain a sample ballot and a list of eligible voters. The order shall be sent to the parties at least ten days prior to balloting. Said order and accompanying documents shall be posted by the employer immediately upon receipt of same in a conspicuous place at the work location or locations of the employees involved.

Statutory Authority: *MS s 179.71 subd 5*

5510.1300 VOTER ELIGIBILITY.

The right of any employee to vote at an election will be determined by the director as a result of the hearing procedure herein prescribed. Upon the determination by the director of the appropriate representation unit, and the determination of the employees eligible to vote, such determination will be contained in the election order sent to the parties involved. Any employee listed as an eligible voter who has been terminated voluntarily or involuntarily and who has not appealed that termination between the eligibility date and the date of the election is ineligible to vote. Eligible voters should be permitted to vote during their work hours without loss of pay.

Statutory Authority: *MS s 179.71 subd 5*

5510.1400 ELECTION BALLOT.

The ballot shall provide a choice, in addition to the incumbent representative, if there be one, of as many employee organizations as have demonstrated they represent 30 percent or more of the employees in the appropriate unit, and a choice for "No Representation." Absentee ballots will be provided in all elections.

Statutory Authority: *MS s 179.71 subd 5*

5510.1500 ELECTION PROCEDURES.

Subpart 1. Time and place. The election shall be held during such hours as the director may determine, on the premises where the voters are employed, unless the director determines that the election can be more fairly held at another location or by mail ballot.

Subp. 2. Conducted by bureau. The director may conduct the election directly or assign an agent to conduct the election for him.

Subp. 3. Observers. The parties to the election may each designate an observer who shall be permitted to be present at each place of the election during the casting of the ballots and the counting thereof by the director or his agents. The observers named by the parties involved shall have the right to object to the conduct of the election including the right to question the identities of the persons eligible to vote.

Subp. 4. Tally of ballots. Upon the conclusion of the election, the director or his agent shall prepare a report containing a tally of the ballots and the results of the election. Immediately upon the completion of the tally of the ballots cast, the agent shall place all ballots cast and a copy of the tally sheet in an envelope which shall be sealed by the agent and signed by the observers. Said envelope shall be retained by the director for a period of not less than 60 days. The observers at the election shall be furnished with a tabulation of the ballots cast in the election and the results.

Statutory Authority: *MS s 179.71 subd 5*

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5510.1600 RUN-OFF ELECTION.

In the event none of the choices on the ballot receives a majority of the votes cast of the employees in the appropriate unit, a run-off election shall be conducted with the ballot listing only the two choices receiving the greatest number of votes.

Statutory Authority: *MS s 179.71 subd 5*

5510.1700 BAR ON ELECTIONS.

The director shall not consider a petition for an election for a period of one year following an election.

The director shall not consider a petition for a decertification or certification election during the effective term of a contract except for a period for not more than 120 days to not less than 60 days before its date of termination except in the case of teachers, when the period shall be not more than 180 days to not less than 120 days before its date of termination.

Statutory Authority: *MS s 179.71 subd 5*

5510.1800 ELECTION PROHIBITIONS.

Public employers, or their agents, and employee organizations, or their agents, and public employees are prohibited from:

- A. campaigning on the day or days of the election;
- B. congregating in the polling place during the time polls are open;
- C. refusing to comply with such other provisions contained in the election order or a subsequent order issued by the director or his agent conducting the election; and
- D. coercing or intimidating or otherwise unlawfully attempting to influence any eligible voter during an election.

Statutory Authority: *MS s 179.71 subd 5*

5510.1900 UNFAIR ELECTION PRACTICES.

Subpart 1. Violation. A violation of any of the prohibitions outlined in part 5510.1800 or any other unfair labor practice which affects the results of an election shall constitute an unfair election practice.

Subp. 2. Charges. An employer, employee, employee organization, or any other person or organization aggrieved by an alleged unfair election practice may file a charge in person or by certified mail with the director. The charge shall be filed in writing stating the name and address of the party against whom the charge is filed and shall contain a clear and concise statement of the facts constituting the alleged unfair election practice. A copy of the charge shall be sent by the charging party by certified mail to the party against whom the alleged charges are made. If a charge is filed alleging an unfair election practice which may affect the results of an election to be held, the director may: hold the election and conduct a hearing at a later date to determine whether the election should be voided; hold the election and seal the ballots until a hearing has determined the issue; or postpone the election until the director issues his decision.

Subp. 3. Investigation and hearing. Upon receipt by the director of an alleged unfair election practice(s), he shall investigate the issue(s) and hold hearings as necessary. Notice of such hearing shall be served by certified mail on all parties. All hearings shall be conducted in accordance with part 5510.0900, subpart 3.

Subp. 4. Determination. The director will issue his findings and such orders as he deems appropriate. If an unfair election practice is found by the director to have affected the results of the election, he may void such election

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result and order a new election.

Statutory Authority: *MS s 179.71 subd 5*

5510.2000 CERTIFICATION.

The director shall, upon completion of the election, certify to the parties in writing the name of the exclusive representative, if any. Where certification is made effective upon a joint request, the certification shall not become effective for a period of ten days following issuance.

Statutory Authority: *MS s 179.71 subd 5*

5510.2100 OBJECTIONS TO CERTIFICATION.

An objection to certification, to be valid, must be in writing and postmarked to the director within ten days from the receipt of the certification order. If it appears to the director that such objection may raise substantial material issues with respect to the correctness of said certification, he shall serve upon the parties a notice fixing a time and place of a hearing upon said objections. All hearings shall be conducted in accordance with part 5510.0900, subpart 3. If the director determines, after the close of such hearing, upon the record made therein, that such objections are valid, he shall declare the certification void and shall proceed in the same manner as though no certification had been made. Upon an objection to the certification, the director may stay the order of certification until a hearing and determination of the objections to the original order of certification have been made.

Statutory Authority: *MS s 179.71 subd 5*

5510.2200 TRANSCRIPTS AND RECORD FOR APPEAL.

Within ten days after service of the notice of appeal the appealing party shall in writing, with a copy to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record, order from the Bureau of Mediation Services a transcript of such parts of the proceedings not already part of the record as it deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appealing party, within said ten days, shall file and serve on the respondent a description of the parts of the transcript which it intends to include in the record and the statement of the issues it intends to present on appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary it shall within ten days of service of such description order such parts from the Bureau of Mediation Services or serve and file a motion with the Bureau of Mediation Services for an order requiring the appealing party to do so. At the time of ordering, a party must make satisfactory arrangements with the Bureau of Mediation Services for the payment of the cost of the transcript and all necessary copies. The Bureau of Mediation Services shall promptly acknowledge receipt of said order and its acceptance of it, in writing, with copies to the executive secretary of the Public Employment Relations Board and all parties or their representatives of record and in so doing shall state the date by which the transcript will be furnished. The Bureau of Mediation Services shall file with the executive secretary of the Public Employment Relations Board the transcript with a certificate evidencing the date of the delivery of the transcript. Parties may order copies of the transcript from the bureau.

Statutory Authority: *MS s 179.71 subd 5*

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5510.2300 TRANSCRIPT AND RECORD FEES.

Fees for the preparation of the transcript and for the machine copies of the "record" as required under Bureau of Mediation Services and Public Employment Relations Board rules for appeal shall be established by the bureau.

Statutory Authority: *MS s 179.71 subd 5*

NEGOTIATIONS

5510.2400 DEFINITIONS.

The words, terms, and phrases in parts 5510.2400 to 5510.2800 shall have the same meaning and definition as contained in part 5510.0100.

Statutory Authority: *MS s 179.71 subd 5*

5510.2500 POLICY.

Parts 5510.2400 to 5510.2800 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. Any requirements of parts 5510.2400 to 5510.2800 may be waived by agreement of all parties and the approval of the director.

Statutory Authority: *MS s 179.71 subd 5*

5510.2600 APPLICATION.

Parts 5510.2400 to 5510.2800 govern the conduct of negotiations between a certified exclusive representative and a public employer.

Statutory Authority: *MS s 179.71 subd 5*

5510.2700 NEGOTIATION PROCEDURE.

Subpart 1. **Notice.** A notification of the desire to meet and negotiate shall be filed by the exclusive representative with the public employer or by the public employer with the exclusive representative. In all cases, the notice shall be filed with the bureau. Upon receipt of the notice, the bureau shall acknowledge the notice.

Subp. 2. **Contents of Notice.** The notice shall be in writing and contain the following:

A. the name, address, and telephone number of the party filing the notice;

B. the name, address, and telephone number of the agent of the party filing the notice;

C. the name, address, and telephone number of the other party or agent to the negotiation;

D. the type of governmental agency or agencies involved;

E. the date the employer is required by statute, charter, ordinance, or resolution, to submit his tax levy or budget, or certify the taxes voted, to the appropriate public officer, agency, public body, or office; and

F. the number of employees involved.

Forms for filing this information may be obtained from the bureau.

Statutory Authority: *MS s 179.71 subd 5*

5510.2800 NOTICE OF SETTLEMENT AND CONTRACT TRANSMITTAL.

Upon the culmination of negotiations resulting in a written contract or memorandum of contract, it shall be the duty of the employer to notify the bureau that an agreement has been reached and submit a copy of the contract or memorandum of contract.

Statutory Authority: *MS s 179.71 subd 5*

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MEDIATION

5510.2900 DEFINITIONS.

The words, terms, and phrases in parts 5510.2900 to 5510.3400 shall have the same meaning and definition as contained in part 5510.0100.

Statutory Authority: *MS s 179.71 subd 5*

5510.3000 APPLICATION.

Parts 5510.2900 to 5510.3400 govern the conduct of proceedings before the bureau involving mediation between a certified exclusive representative of public employees and a public employer.

Statutory Authority: *MS s 179.71 subd 5*

5510.3100 POLICY.

Parts 5510.2900 to 5510.3400 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. Any requirements of parts 5510.2900 to 5510.3400 may be waived by agreement of all parties and the approval of the director.

Statutory Authority: *MS s 179.71 subd 5*

5510.3200 PETITION FOR MEDIATION.

A petition for mediation to the bureau may be filed by an exclusive representative or by a public employer and shall be in writing and shall contain the following:

A. the name, address, and telephone number of the party or parties filing the petition;

B. the name, address, and telephone number of the agent representing the petitioner;

C. the name, address, and telephone number of the adverse party;

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

E. if either party is a member of a multiemployer or multiemployee organization, the name, address, and telephone number of the employer or employee organization shall be included with the petition;

F. the type of governmental agency involved in the dispute;

G. the number of employees involved in the dispute, and description of the appropriate unit; and

H. a clear and concise statement of the terms and conditions of employment in dispute and the demands of the party filing the petition.

Forms for filing this information may be obtained from the bureau.

Statutory Authority: *MS s 179.71 subd 5*

5510.3300 MEDIATION PROCEDURE.

Subpart 1. Notice. The bureau, upon receiving such petition, shall fix the time and place for meetings of the parties to the dispute and shall notify the parties. It shall be the duty and obligation of the parties to the dispute to comply with the notice of mediation meeting, and the duty to meet and negotiate in good faith continues through the mediation process.

Subp. 2. Conduct of meeting. Mediation meeting shall be informal and limited by the mediator assigned to matters relevant and material to the settlement of the dispute. Recording devices, stenographic records, or other similar devices are prohibited in mediation meetings unless allowed by the director and agreed to by the parties. The parties shall respond to the summons of the director for joint and separate conferences and continue in such conferences until excused by the mediator. The director will maintain mediation

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jurisdiction over the parties until such time as the parties reach an agreement, including assisting in drafting a contract.

Statutory Authority: *MS s 179.71 subd 5*

5510.3400 DIRECTOR INITIATION OF MEDIATION.

When the director deems it to be in the public interest, he may initiate mediation without a petition. Such mediation shall be instituted by notification to the parties.

Statutory Authority: *MS s 179.71 subd 5*

CERTIFICATION OF A DISPUTE

5510.3500 DEFINITIONS.

The words, terms, and phrases in parts 5510.3500 to 5510.3900 shall have the same meaning and definition as contained in 5510.0100.

Statutory Authority: *MS s 179.71 subd 5*

5510.3600 POLICY.

Parts 5510.3500 to 5510.3900 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. Any requirements of parts 5510.3500 to 5510.3900 may be waived by agreement of all parties and the approval of the director.

Statutory Authority: *MS s 179.71 subd 5*

5510.3700 CERTIFICATION TO THE BOARD.

Subpart 1. Jurisdiction of the board. The director shall only certify a dispute to the Public Employment Relations Board when he has determined that an impasse has been reached and that further mediation efforts would serve no purpose.

Subp. 2. Contents. A certification shall contain the following:

- A. the petition or petitions requesting arbitration;
- B. a concise written statement by the director indicating that an impasse has been reached and that further mediation efforts would serve no purpose;
- C. a determination of matters not agreed upon based upon the director's efforts to mediate the dispute;
- D. the final positions of the parties; and
- E. those agreed upon items to be excluded from arbitration.

Statutory Authority: *MS s 179.71 subd 5*

5510.3800 PETITION FOR BINDING ARBITRATION FOR OTHER THAN ESSENTIAL EMPLOYEES.

Subpart 1. Procedures. Any petition for binding arbitration must be filed with the director. All such petitions, except joint petitions, must be served on all other parties to the dispute.

The director, within ten days of receipt of a petition for binding arbitration, shall determine and notify the parties as to whether further mediation efforts would serve a purpose. If further mediation efforts would serve a purpose he may reject the petition.

If the director determines that further mediation efforts would serve no purpose he shall so notify the parties within ten days of a receipt for binding arbitration. The notification shall contain the director's determination of the matters not agreed upon based upon his efforts to mediate the dispute, request the filing of final positions from the parties within 15 days and thereafter the director shall certify the dispute to the board for binding arbitration in accordance with part 5510.3700, subpart 2.

The 15-day periods defined in Minnesota Statutes, section 179.69, subdivisions 3, 5, and 6 shall in no event begin to run until the parties have been notified by the director that further mediation efforts would serve no purpose.

Subp. 2. Statutory time limitations. In the event the employer and the exclusive representative fail to execute a contract at least 90 days prior to the last date the employer is required by statute, charter, ordinance, or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body, or office, or by September 1, whichever date is earlier, they must submit their respective final positions on those terms and conditions of employment not agreed upon to the director at least 75 days prior to the last date the employer is required to submit its tax levy or budget, or certify its taxes voted to the appropriate public officer, agency, public body, or office, or by October 1, whichever date is earlier, except in the case of the executive branch of state government, where such final date shall be November 15 of even-numbered years. The director may then submit the final positions to the board for binding arbitration or he may retain jurisdiction and require the parties to mediate or continue to mediate the dispute. However, either or both parties, except for essential employees, may after this time petition the director for binding arbitration stating that an impasse has been reached. The procedures to be followed are those defined in parts 5510.3700, subpart 2 and 5510.3800.

Statutory Authority: *MS s 179.71 subd 5*

5510.3900 PETITION FOR BINDING ARBITRATION FOR ESSENTIAL EMPLOYEES.

Subpart 1. Procedures. Any petition for binding arbitration must be filed with the director. All such petitions, except joint petitions, must be served on all other parties to the dispute.

The director, within ten days of receipt of a petition for binding arbitration, shall determine and notify the parties as to whether further mediation efforts would serve a purpose. If further mediation efforts would serve a purpose he may reject the petition. If the director received a petition for binding arbitration from an exclusive representative of essential employees and he determines that further mediation efforts would serve no purpose he shall determine matters not agreed upon based upon his efforts to mediate the dispute, request the filing of final positions from the parties within ten days, and thereafter certify the dispute for binding arbitration in agreement with part 5510.3700, subpart 2.

Subp. 2. Statutory time limitations. In the event the employer and the exclusive representative fail to execute a contract at least 90 days prior to the last date the employer is required by statute, charter, ordinance, or resolution to submit its tax levy or budget or certify the taxes voted to the appropriate public officer, agency, public body, or office, or by September 1, whichever date is earlier, they must submit their respective final positions on those terms and conditions of employment not agreed upon to the director at least 75 days prior to the last date the employer is required to submit its tax levy or budget, or certify its taxes voted to the appropriate public officer, agency, public body, or office, or by October 1, whichever date is earlier, except in the case of the executive branch of state government, where such final date shall be November 15 of even-numbered years. The director may then submit the final positions to the board for binding arbitration or he may retain jurisdiction and require the parties to mediate or continue to mediate the dispute. However, the exclusive representative may, after this time, petition the director for binding arbitration, stating that an impasse has been reached. The procedures to be followed are those defined in part 5510.3900.

Statutory Authority: *MS s 179.71 subd 5*

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CHALLENGE OF A FAIR ASSESSMENT

5510.4000 DEFINITIONS.

The words, terms, and phrases in parts 5510.4000 to 5510.4500 shall have the same meaning and definition as contained in part 5510.0100.

Statutory Authority: *MS s 179.71 subd 5*

5510.4100 APPLICATION.

Parts 5510.4000 to 5510.4500 govern a challenge by an employee or by a person aggrieved by a fair share fee assessment.

Statutory Authority: *MS s 179.71 subd 5*

5510.4200 POLICY.

Parts 5510.4000 to 5510.4500 shall be construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

Statutory Authority: *MS s 179.71 subd 5*

5510.4300 FAIR SHARE FEE NOTICE FORM.

The advance written notice of a fair share fee assessment required by Minnesota Statutes, section 179.65, subdivision 2, shall consist of the following information:

A. the name, address, and telephone number of the exclusive representative;

B. the amount of the regular dues of the exclusive representative;

C. the amount of the fair share fee assessment;

D. a statement of any benefits available only to members of the exclusive representative and the portion of the regular membership dues attributable to each of those benefits; and

E. a statement as follows: "Within 30 days after receipt of this notice, an employee or person aggrieved by the assessment may challenge the assessment, specifying those portions of the assessment challenged and the reasons therefore."

Forms for challenges may be obtained from the Bureau of Mediation Services, Veterans Service Building, St. Paul, Minnesota 55155.

Statutory Authority: *MS s 179.71 subd 5*

5510.4400 PETITION.

Subpart 1. Filing. A petition asserting a challenge to a fair share fee assessment by an employee(s) or person(s) aggrieved by the assessment shall be filed in person or by certified mail with the director. Such petition shall be in writing in the form prescribed and obtainable from the bureau. A petition asserting a challenge to a fair share fee assessment must be filed within 30 calendar days after receipt of the written notice of the assessment. Receipt of the petition by all parties will be presumed effective on the date the petition is received by the director.

The petition shall contain the following information:

A. certification that a written challenge has been filed with the employer and the exclusive representative of the unit;

B. the name(s) of the employee(s) or person(s) aggrieved by the assessment and filing the petition;

C. the name, address, and telephone number of the agent/representative of the employee(s) or person(s) filing the petition, if any;

D. the name of the exclusive representative;

E. the name, address, and telephone number of the agent/representative of the exclusive representative;

- F. the name of the public employer;
- G. the name, address, and telephone number of the agent/representative of the public employer;
- H. the description of the bargaining unit of which the petitioner is a member;
- I. the amount of the regular membership dues in the unit;
- J. the amount which represents 85 percent of the regular membership dues in the unit;
- K. the amount of the fair share fee assessment;
- L. the percent of the regular membership dues represented by the fair share fee assessment;
- M. the benefits the petitioner asserts are financed through the membership dues and available only to members of the exclusive representative; and
- N. an assertion that the cost of benefits available only to members of the exclusive representative exceeds the amount by which the regular membership dues were reduced in arriving at the fair share fee.

Subp. 2. **Directors's duties.** Upon receipt of such a petition the employer shall hold the deductions for a fair share fee in escrow pending an order or decision by the director. Upon receipt of such a petition the director shall investigate to determine if sufficient evidence on or concerning the question of the circumstances or the amount of the fair share fee assessment exists. If the director determines that sufficient evidence exists:

- A. He may issue an order directing the employer to hold the fair share fee deductions, or the specific portion thereof which is challenged, in escrow pending a decision by the director.
- B. He shall require a reply in writing by the exclusive representative of the unit in the form prescribed by the bureau. The reply shall be filed in person or by certified mail with the director.
- C. He shall conduct a hearing in accordance with part 5510.0900, subpart 3, items A to C and E to G. Hearings may be combined as deemed appropriate and notice of any such hearings will be served on the challenger(s), the exclusive representative and the employer.

Statutory Authority: *MS s 179.71 subd 5*

5510.4500 DECISION.

The director shall decide the issues in a fair share fee challenge hearing on the basis of the record in accordance with part 5510.0900, subpart 4, but the burden of proof relating to the amount of the fair share fee shall be on the exclusive representative. The decision and order shall be issued to the parties and take effect ten days after issuance unless appealed to the board.

Statutory Authority: *MS s 179.71 subd 5*

GRIEVANCE PROCEDURE

5510.4600 DEFINITIONS.

Subpart 1. **Answer.** "Answer" means a concise response outlining the employer's position on the grievance.

Subp. 2. **Days.** "Days" mean calendar days excluding Saturday, Sunday, and legal holidays as defined by Minnesota Statutes.

Subp. 3. **Grievance.** "Grievance" means a dispute or disagreement as to the interpretation or application of any term or terms of any contract required under Minnesota Statutes, section 179.70, subdivision 1.

Subp. 4. **Reduced to writing.** "Reduced to writing" means a concise statement outlining the nature of the grievance, the provision(s) of the contract in dispute, and the relief requested.

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Subp. 5. **Service.** "Service" means personal service or by certified mail.

Subp. 6. **Small group of employees.** "Small group of employees" means a group of employees consisting of five or less.

Statutory Authority: *MS s 179.71 subd 5*

5510.4700 APPLICATION.

This grievance procedure shall be applicable whenever a public employer and the exclusive representative of public employees cannot reach agreement on a grievance procedure as required by Minnesota Statutes, section 179.70, subdivision 1.

Statutory Authority: *MS s 179.71 subd 5*

5510.4800 STEP I. INFORMAL MEETING AND REDUCTION TO WRITING.

Whenever any employee or small group of employees have a grievance, he or they shall meet on an informal basis with the employee's or employees' immediate supervisor in an attempt to resolve the grievance within 20 days after the grievance occurred or 20 days after the employee(s), through the use of reasonable diligence, should have had knowledge of the occurrence that gave rise to the grievance. If the grievance is not resolved within 15 days of the first informal meeting, the grievance may be reduced to writing by the exclusive representative and served upon the public employer's designate (see Step II, part 5510.4900). Service must be made within 15 days of the last informal meeting. The employer shall, within five days of receipt of the written grievance, serve his answer upon the exclusive representative. In the event the exclusive representative refuses to process the grievance, the employee(s) may proceed with the grievance and if he so chooses, may select a designee to represent him.

If the grievance involves and affects more than five employees, the grievance may be reduced to writing by the exclusive representative (or the employees or their designated representative in the event the exclusive representative has declined to proceed with the grievance) and must be served upon the employer within 20 days after the grievance occurred or 20 days after the grievants, through the use of reasonable diligence, should have had knowledge of the occurrence that gave rise to the grievance. The employer shall within five days serve his answer upon the exclusive representative (or in the appropriate case, employee(s) or their designee).

Statutory Authority: *MS s 179.71 subd 5*

5510.4900 STEP II. RESOLUTION OR PROCEEDING WITH GRIEVANCE.

The employer's representative shall meet with the exclusive representative (or in the appropriate case, employee(s) or their designee) within seven days after receipt of the written grievance. The parties shall endeavor to mutually resolve the grievance. If a resolution of the grievance results, the terms of that resolution shall be written on or attached to the grievance and shall be signed by all parties. If no agreement is reached within 15 days of the first Step II meeting, the exclusive representative (or in the appropriate case, employee(s) or their designee), if he elects to proceed with the grievance, must proceed with Step III by serving a proper notification on the appropriate Step III official(s). The notification shall contain a concise statement indicating the intention of the party to proceed with the grievance, an outline of the grievance, the provision(s) of the contract in dispute, and the relief requested.

Statutory Authority: *MS s 179.71 subd 5*

5510.5000 STEP III. FURTHER PROCEDURES.

The employer, its chief administrator, or its special representative shall meet with the designated official of the exclusive representative (or in the appropriate case, employee(s) or their designee) within ten days after receiving notice of intention to proceed with the grievance pursuant to Step II. If resolution of the grievance results, the parties shall reduce the resolution to writing and sign the memorandum as provided in Step II. If the parties are unable to reach agreement within ten days after the first Step III meeting, either party may request arbitration by serving a written notice on the other party of their intention to proceed with arbitration.

If a grievance procedure is provided by a system of civil service or other such body, the exclusive representative or employee(s) must elect either to process the grievance through this procedure or the civil service's or other such body's procedure, and in no event may a grievant avail himself of both procedures.

Statutory Authority: *MS s 179.71 subd 5*

5510.5100 STEP IV. ARBITRATION.

Subpart 1. Arbitrator. The employer and the employee representative shall endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the employer and the employee representative are unable to agree on an arbitrator, they may request from the director of the Bureau of Mediation Services, state of Minnesota, a list of five names. The list maintained by the Director of the Bureau of Mediation Services shall be made up of qualified arbitrators who have submitted an application to the bureau. The parties shall alternately strike names from the list of five arbitrators until only one name remains. The remaining arbitrator shall hear and decide the grievance. If the parties are unable to agree on who shall strike the first name, the question shall be decided by a flip of the coin. Each party shall be responsible for equally compensating the arbitrator for his fee and necessary expenses. The arbitrator shall not have the power to add, to subtract from, or to modify in any way the terms of the existing contract. The decision of the arbitrator shall be final and binding on all parties to the dispute unless the decision violates any provision of the laws of Minnesota or rules promulgated thereunder, or municipal charters or ordinances or resolutions enacted pursuant thereto, or which causes a penalty to be incurred thereunder. The decision shall be issued to the parties by the arbitrator, and a copy shall be filed with the Bureau of Mediation Services, state of Minnesota.

Subp. 2. Wages. Processing of all grievances shall be during the normal workday whenever possible, and employees shall not lose wages due to their necessary participation. For purposes of this paragraph, employees entitled to wages during their necessary participation in a grievance proceeding are as follows: the number of employees equal to the number of persons participating in the grievance proceeding on behalf of the public employer; or if the number of persons participating on behalf of the public employer is less than three, three employees may still participate in the proceedings without loss of wages.

Subp. 3. Waiver. The parties, by mutual written agreement, may waive any step and extend any time limits in a grievance procedure. However, failure to adhere to the time limits may result in a forfeit of the grievance, or, in the case of the employer, require mandatory alleviation of the grievance as outlined in the last statement by the exclusive representative or employee.

Subp. 4. Severability. The provisions of this grievance procedure shall be severable, and if any provision or paragraph thereof or application of any such provision or paragraph under any circumstance is held invalid, it shall not affect

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any other provision or paragraph of this grievance procedure or the application of any provision or paragraph thereof under different circumstances.

Statutory Authority: *MS s 179.71 subd 5*