

CHAPTER 7315

PUBLIC EMPLOYMENT RELATIONS BOARD

INDEPENDENT REVIEW

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7315.0200 [Repealed by amendment, 8 SR 293]

7315.0210 SCOPE.

This chapter shall apply to independent review pursuant to Minnesota Statutes, section 179.76.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.0400 DEFINITIONS.

Subpart 1. **Other words, terms, and phrases.** Except as otherwise provided in this chapter, the words, terms, and phrases in this chapter shall have the same meaning and definition as defined in part 7300.0100.

Subp. 2. **Party.** "Party" means any person, public employee, public employer, exclusive representative of public employees, public employee organization, or public employer organization whose legal rights, duties, or privileges will be directly determined in an independent review.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.0500 PETITION.

Subpart 1. **Authority to petition.** An employee may petition the board in writing for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such procedure exists to hear that grievance. The petitioner shall provide all parties a copy of the petition at the time of filing with the board.

Subp. 2. **Petition contents.** The petition shall contain:

- A. the name, address, and telephone number of the petitioner;
- B. the name, address, and telephone number of the other parties; and
- C. a concise statement specifying:
 - (1) the terms and conditions of employment claimed to be violated;
 - (2) whether the terms and conditions of employment claimed to be violated are established by law, rule, contract, or practice;
 - (3) the law, rule, contract provision, or practice claimed to be violated;
 - (4) the conduct which is claimed to violate the law, rule, contract, or practice;
 - (5) the relief requested; and
 - (6) why independent review of the grievance is not available under any other procedure.

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Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.0600 [Repealed, 8 SR 293]

7315.0650 ANSWER.

Within ten days after receipt of a petition, all other parties shall file with the board and provide to the other parties an answer to the petition. The answer shall contain a concise statement specifying whether:

A. the terms and conditions of employment claimed to be violated are established by law, rule, contract, or practice;

B. the law, rule, contract provision, or practice has been violated by the respondent;

C. if a violation is found, the relief requested is appropriate; and

D. independent review of the grievance is not available under any other procedure.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.0700 [Repealed, 8 SR 293]

7315.0750 JURISDICTION.

The board, on its own motion or on motion of any party, may dismiss a petition if the board lacks jurisdiction. The board may conduct a hearing on the question of jurisdiction.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.0800 [Renumbered as 7315.2200]

7315.0900 PRESIDING OFFICER; BOARD OR PANEL.

The board, as a full body or as a panel of one or more of its members, may hear and decide an independent review. Whenever possible, a panel shall consist of an equal number of representatives of public employees and public employers, unless otherwise agreed to by the parties.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1000 PRESIDING OFFICER; HEARING EXAMINER.

The board may appoint a hearing examiner to hear the grievance. The hearing examiner shall have such authority as the board deems necessary and appropriate to hear the grievance. The hearing examiner shall submit to the board recommended findings. The final decision on the grievance shall in all cases be made by the board.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1100 BRIEFS.

The board may establish a briefing schedule as it deems appropriate.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1200 NOTICE OF HEARING.

At least 15 days prior to the hearing date, the board shall serve upon all parties a notice of hearing providing:

- A. the date, time, and place of hearing;
- B. a statement of the grievance to be determined;
- C. the rights of the parties to representation; and
- D. that failure to appear may prejudice the party's rights.

A copy of this chapter shall be included with the notice of hearing.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1300 CONTINUANCE OF HEARING.

A request for continuance must be served upon the parties and filed with the board within seven days of the hearing unless exceptional circumstances are shown.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1400 RIGHT TO REPRESENTATION.

Any party may be represented by a designated agent in an independent review proceeding before the board.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1500 INFORMAL DISPOSITION.

Informal disposition may be made of any grievance or any issue by stipulation, settlement, or agreement at any point in the proceedings so long as the stipulation, settlement, or agreement does not violate any law and is approved by the board.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1600 DEFAULT.

The board may decide a grievance adversely to a party who fails to appear after receiving due notice and an opportunity for hearing.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1700 INTERVENTION.

The board may, upon timely application, allow a person to intervene in an independent review proceeding if the applicant establishes that its legal rights, duties, or privileges will be directly determined in the matter.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

7315.1800 SUBSTITUTION OF PARTY.

Substitution of a party or its representative may be allowed only if notice of the substitution is served on all other parties and filed with the board at least five days prior to the hearing date.

Statutory Authority: *MS s 179.72 subds 2,4*

History: 8 SR 293

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7315.1900 CONSOLIDATION.

Subpart 1 **Basis.** The board may consolidate cases either on its own motion or on motion of any party if it determines that:

- A. separate grievances present substantially the same issues;
- B. a decision in one case would affect the rights of a party in another case; and
- C. consolidation would not substantially prejudice any party.

Subp. 2. **Stipulation.** Notwithstanding the requirements of subpart 1, the parties may stipulate and agree to consolidation subject to board approval.

Subp. 3. **Order.** The board shall serve on all parties the order of consolidation.

Subp. 4. **Severance from consolidation.** Within five days of receipt of the order of consolidation, a party may file with the board a petition for severance from consolidation which shall include the reasons why the requirements of subpart 1 are not met.

Statutory Authority: *MS s 179.72 subds 2,4*

History: *8 SR 293*

7315.2000 EXTENSION OF TIME.

The parties, with the approval of the presiding officer, may stipulate and agree to extend any time period provided in this chapter.

Statutory Authority: *MS s 179.72 subd 2,4*

History: *8 SR 293*

7315.2100 THE HEARING.

Subpart 1. **How conducted.** The hearing shall be conducted as follows:

A. It shall be the duty of the presiding 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 the presiding officer may deem necessary to be fully acquainted with all facts relating to the case.

B. 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 the objection and included in the record of the hearing. No objection shall be deemed waived by further participation in the hearing.

C. The presiding officer may admit evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The presiding officer shall give effect to any rule or privilege recognized by law.

D. Witnesses shall testify under oath and shall be subject to cross-examination by all parties.

E. Upon a showing of good cause the presiding officer may allow the taking of depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules of Civil Procedure.

Subp. 2. **Transcript of board hearing.** A verbatim record shall be taken by a hearing reporter or recording equipment of any hearing conducted pursuant to subpart 1.

Subp. 3. **Decorum.** The presiding officer may prohibit the operation of a television, newsreel, motion picture, still, or other camera and mechanical recording devices in the hearing room while the hearing is in progress if such operation shall be determined to have a significantly adverse effect on the hearing.

No person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere or threaten interference with

the hearing.

Statutory Authority: *MS s 179.72 subds 2,4*

History: *8 SR 293*

7315.2200 BOARD DECISIONS AND ORDERS.

All decisions and orders issued by the board shall be in writing and shall be accompanied by a statement of the reasons therefor. All decisions and orders shall be binding on all parties and served on all parties to the case.

Statutory Authority: *MS s 179.72 subds 2,4*

History: *8 SR 293*