

CHAPTER 7315

PUBLIC EMPLOYMENT RELATIONS BOARD

INDEPENDENT REVIEW

7315.0210	SCOPE.	7315.1600	DEFAULT.
7315.0300	POLICY.	7315.1700	INTERVENTION.
7315.0400	DEFINITIONS.	7315.1800	SUBSTITUTION OF PARTY'S REPRESENTATIVE.
7315.0500	PETITION.	7315.1900	CONSOLIDATION.
7315.0650	ANSWER.	7315.2100	THE HEARING.
7315.0750	JURISDICTION.	7315.2200	BOARD DECISIONS AND ORDERS.
7315.0900	PRESIDING OFFICER; BOARD OR PANEL.	7315.2300	REQUEST FOR REHEARING.
7315.1000	PRESIDING OFFICER; ADMINISTRATIVE LAW JUDGE.	7315.2400	PETITION FOR REHEARING.
7315.1100	BRIEFS.	7315.2500	CONSIDERATION.
7315.1200	NOTICE OF HEARING.	7315.2600	DETERMINATION.
7315.1300	CONTINUANCE OF HEARING.	7315.2700	NOTICE OF REHEARING.
7315.1400	RIGHT TO REPRESENTATION.	7315.2800	REHEARING PROCEDURE.
7315.1500	INFORMAL DISPOSITION.	7315.2900	DECISION AFTER REHEARING.

7315.0200 [Repealed by amendment, 8 SR 293]

7315.0210 SCOPE.

This chapter applies to procedures governing independent review pursuant to Minnesota Statutes, section 179A.25.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.0300 POLICY.

Parts 7315.0200 to 7315.0800 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

Statutory Authority: *MS s 179A.25*

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 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 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

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 must provide all parties a copy of the petition at the time of filing with the board.

Subp. 2. **Petition contents.** The petition must 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.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.0600 [Repealed, 8 SR 293]

7315.0650 ANSWER.

Within 15 calendar 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 must 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 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

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 179A.25*

History: *8 SR 293*

7315.0800 [Renumbered 7315.2200]

7315.0900 PRESIDING OFFICER; BOARD OR PANEL.

The board, as a full body or as a panel of three of its members, may hear and decide an independent review. Whenever possible, a panel must consist of an equal number of representatives of public employees and public employers, and the member who represents the public at large.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.1000 PRESIDING OFFICER; ADMINISTRATIVE LAW JUDGE.

The board may appoint an administrative law judge to hear the grievance. The administrative law judge shall have authority as the board deems necessary and appropriate to hear

7315.1000 INDEPENDENT REVIEW

32

the grievance. The administrative law judge must submit to the board recommended findings, conclusions, and order as requested by the board. The final decision on the grievance shall in all cases be made by the board.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.1100 BRIEFS.

The board may request the parties to submit a brief if the written brief will assist the board in making its determination. If briefs are necessary, the board must establish a briefing schedule and notify the parties of the dates for submission of the briefs.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.1200 NOTICE OF HEARING.

At least 15 calendar days before the hearing date, the board must provide to all parties by certified mail 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 must be included with the notice of hearing.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.1300 CONTINUANCE OF HEARING.

A request for continuance of hearing, if mutually consented to by all of the parties, must be granted by the board's executive director. If there is no mutual consent, the board must consider the request for continuance at its next meeting and may grant the request upon good cause shown. If a board meeting is not scheduled that provides the opportunity for the board to consider the request and provide a timely response, the board chair has the authority to consider and decide the request.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

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 179A.25*

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 179A.25*

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 179A.25*

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 179A.25*

History: 8 SR 293

7315.1800 SUBSTITUTION OF PARTY'S REPRESENTATIVE.

Substitution of a party's representative may be allowed only if notice of the substitution is served on all other parties and the board at least seven calendar days before the hearing date.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: 8 SR 293; 15 SR 2107

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 must serve on all parties the order of consolidation.

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

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: 8 SR 293; 15 SR 2107

7315.2000 [Repealed, 15 SR 2107]**7315.2100 THE HEARING.**

Subpart 1. **How conducted.** The hearing must 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, must 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.

7315.2100 INDEPENDENT REVIEW

34

D. Witnesses must 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 must 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 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.2200 BOARD DECISIONS AND ORDERS.

All decisions and orders issued by the board must be in writing and must 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 14.06; 179A.05; 179A.25*

History: *8 SR 293; 15 SR 2107*

7315.2300 REQUEST FOR REHEARING.

The board on its own motion or on petition of any party and for good cause shown, may reopen, rehear, and redetermine an independent review decision. The petition for rehearing by the parties must be served on all parties and the board within 15 calendar days of the date of the board's written decision.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2400 PETITION FOR REHEARING.

A petition for rehearing must contain:

- A. the name and address of the petitioner;
- B. the board designation of the case;
- C. a statement as to the issues on which rehearing is sought; and
- D. the reason why the issue should be reheard.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2500 CONSIDERATION.

The board may consider evidence and argument in written or oral form with respect to granting or denying the petition to rehear.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2600 DETERMINATION.

A petition for rehearing may be granted only if the petition or the board record reveals:

- A. irregularities in board proceeding;
- B. errors of law occurring during board proceedings;

- C. newly discovered material evidence;
- D. a change in existing law material to the independent review; or
- E. good cause for failure to appear.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2700 NOTICE OF REHEARING.

A notice of rehearing must be provided in the same manner prescribed for a hearing by part 7315.1200.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2800 REHEARING PROCEDURE.

A rehearing of an independent review must be conducted in the same manner prescribed for a hearing by part 7315.2100.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7315.2900 DECISION AFTER REHEARING.

The decision after rehearing must be issued in the same manner prescribed for the decision after a hearing by part 7315.2200.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*