

3920.1100 REQUEST FOR SUSPENSION OF PENALTY.

Subpart 1. **Scope.** A jurisdiction which has been notified that it is subject to a penalty under Minnesota Statutes, section 471.9981, subdivision 6, paragraph (c), may submit a request for suspension of penalty with the department. A jurisdiction is not required to submit a reconsideration request before submitting a request for suspension of penalty.

Subp. 2. **Evidence for request.** The department may suspend the penalty for a specified time if a jurisdiction provides written evidence to the department demonstrating that:

A. the failure to implement equitable compensation relationships was attributable to circumstances beyond its control or to severe hardship; or that

B. noncompliance results from factors unrelated to the sex of the members dominating the affected classes and that the subdivision is taking substantial steps to achieve compliance to the extent possible.

Subp. 3. **Initiating a request.** To initiate a request for suspension of penalty, the jurisdiction must submit written notice to the department within 30 days after the date of the penalty notice sent by the department.

Subp. 4. **Burden of proof.** During the request for suspension of penalty process, the burden of proof is on the jurisdiction to demonstrate to the department that the penalty should be suspended.

Subp. 5. **Notice to employees.** A request for suspension of penalty must include:

A. a statement signed by the chief elected official or, if none, the chief appointed official, verifying that exclusive representatives and employees have been notified of the request for suspension of penalty, as explained in subpart 6; and

B. a copy of the notice sent and posted as explained in subpart 6.

Subp. 6. **Notice requirements.** A jurisdiction submitting a request for suspension of penalty must send a written notice to each exclusive representative, if any, for employees of the jurisdiction. The jurisdiction must also post the notice in a prominent location accessible to all employees, and make a copy available in the public library.

The notices must be sent and posted before the request for suspension of penalty is submitted to the department. Posted notices must remain posted for at least 90 days after the request for suspension of penalty is submitted to the department.

The written and posted notices must include the following information:

A. a statement that the jurisdiction is subject to a penalty for noncompliance with the Local Government Pay Equity Act and that the jurisdiction is submitting a request for suspension of penalty;

- B. a description of the grounds for the request;
- C. a statement that the department's determination and the materials submitted in support of the request for suspension of penalty are public information available to anyone requesting the information;
- D. a statement that any comments concerning the request for suspension of penalty may be submitted to the department; and
- E. the department's address and telephone number.

Subp. 7. **Comments.** A person or entity may submit a complaint about the accuracy or completeness of a jurisdiction's request for suspension of penalty by writing to the department. The complaint must specify the information believed to be inaccurate or incomplete. In response to a complaint, the department must decide either that the complaint is without merit and that no review is necessary, or that the complaint may have merit and a review is necessary.

In addition, the department may initiate a review of the accuracy and completeness of a jurisdiction's request for suspension of penalty for the purpose of ensuring that the department's suspension decision is based upon correct and complete information. If the department decides that a review is necessary, it must follow the procedures in part 3920.0700, subpart 2.

Subp. 8. **Decision on request.** The department must make a finding on the request for suspension of penalty, based on the evidence in subparts 2 and 7, and must provide written notice of the finding to the jurisdiction.

A. If the department finds that the penalty should be suspended, it must notify the Department of Revenue of its decision. In this case, the department must extend the time to achieve compliance and notify the jurisdiction of the date when a second revised report will be required. The department must review the second revised report according to parts 3920.0400 to 3920.0700.

B. If the department finds that the penalty should not be suspended, the Department of Revenue must enforce the penalty except as provided under part 3920.1200.

Statutory Authority: *MS s 43A.04*

History: *17 SR 712*

Published Electronically: *August 7, 2009*