

CHAPTER 5500
BUREAU OF MEDIATION SERVICES
HEARING PROCEDURES

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MEDIATION PROCEEDINGS BEFORE THE COMMISSIONER

5500.0100 DEFINITIONS.

Unless the language or context clearly indicates that a different meaning is intended, the terms in parts 5500.0100 to 5500.2100 have the meanings given in Minnesota Statutes, chapters 179 and 179A.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.0200 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5500.0100 to 5500.0500 govern the conduct of all proceedings before the commissioner involving mediation and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act.

B. The commissioner may waive any requirement of parts 5500.0100 to 5500.0500 unless a party shows that the waived requirement prejudices the party.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 17 SR 1279; 46 SR 1387*

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5500.0210 FILING.

A document filed under parts 5500.0100 to 5500.1100 is effective according to part 5510.0320, subpart 2.

Statutory Authority: *MS s 179.02; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.0300 PETITION FOR MEDIATION.

A petition for mediation filed under Minnesota Statutes, section 179.06, subdivision 1, must be in writing and include:

- A. the petitioner's name, address, e-mail address, and telephone number;
- B. the name, address, e-mail address, and telephone number of the petitioner's agent or attorney;
- C. the adverse party's name, address, e-mail address, and telephone number;
- D. the name, address, e-mail address, and telephone number of the adverse party's attorney, if known;
- E. if the petitioner or adverse party is an employers association, a list giving the names, addresses, e-mail addresses, and telephone numbers of all association members directly interested in the petition;
- F. the nature of the industry, business, or institution involved in the dispute;
- G. the number of employees involved in the dispute, directly and indirectly; and
- H. a clear and concise statement about the dispute and the petitioner's demands.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 46 SR 1387*

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5500.0400 [Repealed, 46 SR 1387]

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5500.0500 MEDIATION CONFERENCE.

Subpart 1. Conference.

A. Upon receiving a petition under part 5500.0300, the commissioner must:

- (1) fix the time and place for a conference; and
- (2) notify the parties to the dispute in writing of the conference's time and place.

B. A conference under this part is informal and limited by the commissioner to matters relative and material to settling the dispute. The conference is closed to the public and is limited to the parties and their representatives interested in the dispute.

C. If all parties agree, the conference may take place virtually through an online conferencing or videoconferencing tool.

Subp. 2. **Agreement binding.** An agreement reached under subpart 1, item B, is binding if agreed to by both parties and put in writing.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 46 SR 1387*

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PROCEEDINGS BEFORE COMMISSIONS APPOINTED IN LABOR DISPUTES

5500.0600 [Repealed, 46 SR 1387]

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5500.0700 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5500.0700 to 5500.1100 govern the conduct of all proceedings before a commission appointed in labor disputes affecting public interests under Minnesota Statutes, sections 179.07 and 179.08, and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. A commission may waive any requirement of parts 5500.0700 to 5500.1100 unless a party shows that the waived requirement prejudices the party.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.0800 APPEARING BEFORE COMMISSION.

Subpart 1. **Party directly affected by dispute.** A party to or affected by a dispute may appear before the commission in person or through an attorney or a representative. A party is entitled to offer competent evidence and to be heard on the issues at any commission hearing.

Subp. 2. **Party indirectly involved in dispute.**

A. A party not directly involved in a dispute desiring to appear and have the same rights before the commission as parties directly involved must file a petition in writing with the commission setting forth the grounds upon which the party claims to be interested.

B. The commission must rule on all petitions filed under item A, and the parties to the dispute may present arguments and be heard on the question of permitting an appearance under this subpart. The commission must permit an appearance in person, by attorney, or by a representative to the extent and under terms as the commission determines necessary to help resolve the dispute and issue its report under Minnesota Statutes, section 179.07.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 46 SR 1387*

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5500.0900 EXAMINING WITNESSES.

A witness must be examined according to part 5505.0700.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.1000 SUBPOENAS.

A subpoena and associated fees and mileage are as provided under part 5505.0800.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.1100 HEARINGS; RECORD.

Subpart 1. **Conduct and report.**

A. A hearing under parts 5500.0700 to 5500.1100 must be conducted according to part 5505.0600, subparts 2 to 8.

B. After conducting the hearing, the commission must meet and issue a report according to Minnesota Statutes, section 179.07.

Subp. 2. [Repealed, 46 SR 1387]

Subp. 3. [Repealed, 46 SR 1387]

Subp. 4. [Repealed, 46 SR 1387]

Subp. 5. [Repealed, 46 SR 1387]

Subp. 6. [Repealed, 46 SR 1387]

Subp. 7. [Repealed, 46 SR 1387]

Subp. 8. [Repealed, 46 SR 1387]

Subp. 9. **Record.** The record in the proceedings consists of:

- A. the order appointing the commission under Minnesota Statutes, section 179.07;
- B. the notice to the parties under Minnesota Statutes, section 179.07;
- C. proof of service of notice on the parties to the proceedings;
- D. the objections of any person to the proceedings;
- E. the rulings on the objections;
- F. all motions, stipulations, exhibits, documentary evidence, and depositions;
- G. the transcript, if kept; and
- H. the commission's report.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 46 SR 1387*

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PROCEEDINGS BEFORE LABOR REFEREES

5500.1200 [Repealed, 46 SR 1387]

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5500.1300 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5500.1300 to 5500.2100 govern the conduct of all proceedings before labor referees appointed according to Minnesota Statutes, section 179.083, and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. A labor referee may waive any requirement of parts 5500.1300 to 5500.2100 unless a party shows that the waived requirement prejudices the party.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: 46 SR 1387

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5500.1310 FILING AND SERVICE.

Part 5510.0320 applies to a document filed or served under parts 5500.1300 to 5500.2100.

Statutory Authority: *MS s 179.02; 179.82; 179A.04; 179A.16; 626.892*

History: 46 SR 1387

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5500.1400 FILING NOTICE OF CONTROVERSY.

A written notice that a jurisdictional controversy exists may be filed with the commissioner by a labor organization or organizations or by an employer or employers association. The notice must include:

A. the petitioner's name, address, e-mail address, and telephone number and the address of the petitioner's principal office or place of business;

B. if filed by an employer or employers association, the:

(1) names, addresses, e-mail addresses, and telephone numbers of all labor organizations involved in the jurisdictional controversy;

(2) nature of the employer's business or industry; and

(3) name, address, e-mail address, and telephone number, if known, of any representative or attorney for the employer or employers association;

C. if filed by a labor organization, the:

(1) names, addresses, e-mail addresses, and telephone numbers of all employers and all other labor organizations involved in the jurisdictional controversy;

(2) nature of the employer's business or industry; and

(3) name, address, e-mail address, and telephone number, if known, of any representative or attorney of the employer or employers association;

D. the classification of employment, the approximate number of employees in each classification, and the approximate number of employees involved in the jurisdictional controversy;

E. the names of all labor organizations with whom the employer or employers association has labor agreements and the expiration date of the agreements;

F. a clear and concise statement of the nature of the jurisdictional controversy, the history of past collective bargaining experience between the parties involved, the date on which the jurisdictional controversy arose, and whether the jurisdictional controversy is made the grounds for one or more of the following:

- (1) picketing;
- (2) declaring a strike; or
- (3) declaring a boycott against the employer or employers association; and

G. if applicable, the name of the labor organization taking an action under item F, subitems (1) to (3).

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 46 SR 1387*

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5500.1500 [Repealed, 46 SR 1387]

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5500.1600 REFEREE APPOINTMENT AND DUTIES.

A. If the commissioner appoints a labor referee to hear and determine the jurisdictional controversy, the labor referee must:

- (1) immediately fix a time and place for the hearing; and
- (2) at least five calendar days before the hearing, serve on each party:
 - (a) a notice of hearing;
 - (b) a copy of the notice under part 5500.1400; and
 - (c) a copy of parts 5500.1300 to 5500.2100.

B. The notice under item A may be waived, or the time to serve the notice may be shortened, by agreement of the parties.

C. The notice of hearing must be given to all parties directly involved in or affected by the controversy so far as named in the notice under part 5500.1400 or known to the labor referee, and these parties are parties to the proceedings.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *17 SR 1279; 46 SR 1387*

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5500.1700 HEARINGS; RECORD.

A. A hearing before a labor referee must be conducted according to part 5505.0600, subparts 2 to 8.

B. The record in the proceedings consists of:

- (1) the order appointing the labor referee under Minnesota Statutes, section 179.083;

- (2) the notice of hearing under part 5500.1600;
- (3) proof of service of notice on the parties to the proceeding;
- (4) the objections of any person to the proceedings;
- (5) the rulings on the objections;
- (6) all motions, stipulations, exhibits, documentary evidence, depositions, findings of fact, and conclusions;
- (7) the transcript, if kept; and
- (8) the labor referee's determination of the jurisdictional controversy.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *17 SR 1279; 46 SR 1387*

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5500.1800 EXAMINING WITNESSES.

A witness must be examined according to part 5505.0700.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *46 SR 1387*

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5500.1900 SUBPOENAS.

A subpoena and associated fees and mileage are as provided under part 5505.0800.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *17 SR 1279; 46 SR 1387*

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5500.2000 REFEREE'S FINAL DETERMINATION.

A. After ending the hearing and investigation under parts 5500.1300 to 5500.1900, the labor referee must make a final determination on the jurisdictional controversy. The labor referee must:

- (1) write the determination that details the labor referee's findings on all the issues presented and the referee's decision on all issues presented; and
- (2) file simultaneously with the commissioner and the parties the determination.

B. If all parties to the controversy execute a written agreement before the labor referee's final determination:

(1) the agreement must be filed simultaneously with the labor referee and the commissioner; and

(2) the labor referee may not make a final determination and must include in the record the parties' written agreement.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *L 1987 c 186 s 15; 17 SR 1279; 46 SR 1387*

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5500.2100 RECONSIDERING FINAL DETERMINATION.

Subpart 1. Requesting reconsideration.

A. A party to a jurisdictional controversy may request a reconsideration or clarification of the labor referee's final determination on any or all of the following grounds:

(1) there is material evidence newly discovered that with reasonable diligence could not be found or produced at the hearing;

(2) the determination is not justified by the evidence; or

(3) an adverse party has been guilty of misconduct that materially affected the result.

B. A request under item A must be in writing and set forth the facts upon which the request is based. Within ten calendar days after the labor referee's determination under part 5500.2000, item A, is filed, a copy of the request must be served on all other parties to the proceeding and the labor referee.

Subp. 2. Determining reconsideration request; hearing.

A. After receiving a reconsideration request under subpart 1, the labor referee must:

(1) consider the request if the referee deems the grounds stated sufficient according to subpart 1, item A; or

(2) reject the request if the referee deems the grounds insufficient according to subpart 1, item A.

B. When determining to consider the request, the labor referee must order a preliminary hearing and give notice according to part 5500.1600.

C. After the preliminary hearing, the labor referee must make an order granting or denying the request. If granting the request, the labor referee must fix a time and place for a hearing and give notice according to part 5500.1600. The labor referee may by order limit the matters upon which the referee will receive new or additional evidence and must include in the order why the referee limited matters.

D. Further proceedings must be held according to parts 5500.1700 to 5500.1900. When the proceedings end, the labor referee must:

- (1) affirm the original determination under part 5500.2000, item A; or
- (2) make and file simultaneously with the commissioner and the parties an amended determination that supersedes the original determination.

Statutory Authority: *MS s 179.02; 179.71; 179.82; 179A.04; 179A.16; 626.892*

History: *17 SR 1279; 46 SR 1387*

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