

CHAPTER 5505**MEDIATION SERVICES BUREAU****MINNESOTA LABOR RELATIONS; COLLECTIVE BARGAINING**

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5505.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Bureau of Mediation Services.

Subp. 3. **Competent evidence.** "Competent evidence" has the meaning given in Minnesota Statutes, section 179.01, subdivision 12.

Subp. 4. **Dispute.** "Dispute" means a controversy regarding the representation of employees under Minnesota Statutes, section 179.16.

Subp. 5. **Employee.** "Employee" has the meaning given in Minnesota Statutes, section 179.01, subdivision 4.

Subp. 6. **Employer.** "Employer" has the meaning given in Minnesota Statutes, section 179.01, subdivision 3.

Subp. 7. **Labor organization.** "Labor organization" has the meaning given in Minnesota Statutes, section 179.01, subdivision 6.

Subp. 8. **Party.** "Party" means an employee, group of employees, labor organization, employer, or employers association affected by a dispute.

Subp. 9. **Representative of employees.** "Representative of employees" has the meaning given in Minnesota Statutes, section 179.01, subdivision 5.

Subp. 10. **Serve.** "Serve" has the meaning given in part 5510.0310, subpart 19.

Subp. 11. **Unit.** "Unit" means a unit of employees determined under Minnesota Statutes, section 179.16.

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

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5505.0200 PURPOSE, CONSTRUCTION, AND WAIVER.

A. This chapter governs the conduct of all proceedings before the commissioner for investigating and certifying representatives for collective bargaining under Minnesota Statutes, section 179.16, and is to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. The commissioner may waive any requirement under this chapter unless a party shows that the waived requirement prejudices the party.

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

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5505.0210 FILING AND SERVICE.

Part 5510.0320 applies to a document filed or served under this chapter.

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

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5505.0300 FILING REQUEST FOR INVESTIGATION.

As provided under Minnesota Statutes, section 179.16, subdivision 2, a party may file a request for investigation with the commissioner.

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

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

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5505.0400 REQUEST; REQUIRED INFORMATION.

A request under part 5505.0300 must include:

- A. the type of organization making the request and the petitioning organization's name, address, e-mail address, and telephone number;
- B. the name, address, e-mail address, and telephone number of the organization's agent or attorney;
- C. the adverse party's name, address, e-mail address, and telephone number;
- D. if known, the name, address, e-mail address, and telephone number of the adverse party's agent or attorney;
- E. the names, addresses, e-mail addresses, and telephone numbers of all other individuals or labor organizations known to have an interest in or claiming to represent any of the employees involved;
- F. the nature of the employer's business;
- G. the approximate number of employees in the unit the petitioning organization claims is appropriate, and a statement as to the unit or units claiming the right of representation; and
- H. a detailed list of the classifications in the proposed unit indicating the number of employees in each classification.

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

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

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5505.0500 NOTICE OF HEARING AND INVESTIGATION.

Subpart 1. **Investigating request; hearing.** Upon receiving a completed request under part 5505.0300, the commissioner:

- A. must investigate the dispute; and
- B. may provide for a hearing before the commissioner.

Subp. 2. **Giving notice.**

A. The commissioner must serve notice of an investigation or hearing to all parties directly involved in or directly affected by the dispute, and the parties are deemed parties to the proceedings. A copy of the notice must be posted in a conspicuous place at the place of employment of the petitioning organization at least two calendar days before the scheduled date of investigation or hearing.

B. Together with the notice under item A, a copy of the request under part 5505.0300 must be given to a representative of each party and posted according to item A.

Subp. 3. **Hearing recording.** If a hearing is ordered, the commissioner must maintain the hearing recording for 90 calendar days.

Statutory Authority: *MS s 179.02; 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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5505.0600 HEARINGS.

Subpart 1. **Conformity.** All hearings under this chapter must be conducted according to subparts 2 to 9.

Subp. 2. **Conduct.** All hearings before the commissioner are open to the public. The commissioner has the powers under Minnesota Statutes, section 179.16, subdivision 3.

Subp. 2a. **Virtual hearing.** If all parties agree, the hearing may take place virtually through an online conferencing or videoconferencing tool.

Subp. 3. **Testimony and evidence.** A party to the proceedings is entitled to:

- A. appear in person or by attorney or representative;
- B. call, examine, and cross-examine witnesses; and
- C. introduce only competent evidence, either documentary or other evidence as the commissioner deems admissible.

Subp. 4. **Stipulation.** The parties to the dispute may stipulate to agreed-upon facts and evidence.

Subp. 5. **Objections.**

A. An objection on the conduct of the hearing, including an objection to the introduction of evidence, must be stated orally, together with a statement of the grounds for the objection, and be included in the recording.

B. A party does not waive its objection if the party continues to participate in the hearing.

Subp. 6. **Adjournment.** The commissioner may adjourn the hearing as the commissioner deems necessary upon appropriate notice to the parties.

Subp. 7. **At close of hearing.**

A. At the close of the hearing, the parties are entitled to submit either oral or written arguments as determined by the commissioner under this subpart.

B. If the commissioner permits oral argument, the commissioner must determine its length. Unless ordered by the commissioner, oral arguments are not part of the recording.

C. If there are written arguments, the commissioner must determine the deadline for filing.

Subp. 8. **Disregarding testimony.** All or any part of a witness's testimony may be disregarded by the commissioner if the witness refuses to answer any question that the commissioner has ruled proper.

Subp. 9. **Record.**

A. The record in the proceedings consists of:

- (1) the request for investigation under part 5505.0300;
- (2) the notice of hearing under part 5505.0500, subpart 2, item A;
- (3) proof of service of notice on the parties to the proceedings;
- (4) the objections of any person to the proceedings;
- (5) the rulings on the objections;
- (6) all motions, stipulations, exhibits, documentary evidence, depositions, and findings of fact and conclusions;
- (7) the hearing recording; and
- (8) the commissioner's final order.

B. The record must be kept for 90 calendar days.

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

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5505.0700 EXAMINING WITNESSES.

Witnesses must be examined orally under oath. Testimony of witnesses who reside outside the state or who are unable to testify in person before the commissioner may be deposed as prescribed by the commissioner.

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

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

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5505.0800 SUBPOENAS.

Subpart 1. **Issuing subpoenas.** Subpoenas requiring the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence, or other documents relating to a dispute under this chapter, must be issued by the commissioner.

Subp. 2. Applying for subpoenas.

A. An application for the issuance of subpoenas must be filed with the commissioner by the party to the proceedings requesting the subpoena.

B. The application must be timely and specify the names of the witnesses and the books, records, correspondence, or other documents relating to a dispute under this chapter that the witness must produce.

Subp. 3. Witnesses; fees and mileage.

A. Witnesses summoned before the commissioner must be paid fees and mileage in the same manner and amounts as are paid to witnesses in the district court of this state. Witnesses whose depositions are taken and individuals taking the depositions are entitled to the same fees as provided by law for taking depositions for use in the district court of this state.

B. Witness fees and mileage must be paid by the party requesting the subpoena when the subpoena is served on the witness whose attendance is required.

C. Witnesses subpoenaed by the commissioner must be paid as provided by law.

Statutory Authority: *MS s 179.02; 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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5505.0900 DETERMINING REPRESENTATIVE.

After the hearing, the commissioner must determine:

A. who are the representatives of the employees for collective bargaining; or

B. the method for determining who will be the representatives as provided under Minnesota Statutes, section 179.16, subdivision 2.

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

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

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5505.1000 ELECTION PROCEDURE; SECRET BALLOT.**Subpart 1. Taking secret ballot.**

A. The commissioner may take a secret ballot of employees, as provided under Minnesota Statutes, section 179.16, subdivision 2, to be conducted by a commissioner-designated agent.

B. After the secret-ballot election, the agent must prepare a report containing a tally of the ballots and the election results.

Subp. 2. **Designating challenger.** The employer and each person or organization claiming the right to act as representative of the employees may designate one individual as a challenger. Each designated challenger may observe the casting and counting of ballots.

Subp. 3. **Sealing ballots.** Immediately after tallying the ballots, the agent conducting the election must place all ballots and a copy of the tally sheet in an envelope, which must be:

- A. immediately sealed;
- B. endorsed across the seal by a challenger for each party, if any; and
- C. kept by the commissioner for no less than 30 calendar days.

Subp. 4. **Furnishing tally and election results.** The parties to the proceedings must be furnished with a tally of the ballots and the election results.

Statutory Authority: *MS s 179.02; 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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5505.1100 VOTER CHALLENGE.

Subpart 1. Challenging right to vote.

A. The right of any employee to vote at an election under part 5505.1000 may be challenged by:

- (1) any authorized challenger under part 5505.1000, subpart 2; or
- (2) an employee entitled to vote at the election.

B. The individual making the challenge must state fully the grounds for the challenge, and a record of the challenge must be made by the agent conducting the election.

C. After making a record, the agent must:

- (1) examine the challenged employee as to the employee's qualifications for voting; and
- (2) make a record of the examination.

Subp. 2. Challenge not withdrawn.

A. If the challenge is not withdrawn, and the challenged employee insists on voting, the employee must be permitted to vote upon filing with the agent a statement in writing, signed by the employee and witnessed by the agent, alleging eligibility to vote and describing the employee's qualifications.

B. Ballots received under this subpart must not be marked or otherwise distinguished from nonchallenged ballots.

Subp. 3. **Sending record of challenges to commissioner.** The agent conducting the election must send the record of all challenges to the commissioner with the tally sheet and election results.

Subp. 4. **Holding hearing on challenges.** If the commissioner determines that the number of challenged votes is sufficient to have affected the election results, the commissioner must hold a hearing under this chapter after notice to:

- A. all challenged voters;
- B. persons or organizations voted upon as representatives; and
- C. other parties, if any, to whom notice of the election was given.

Subp. 5. **Declaring election void.**

A. At the hearing under subpart 4, the commissioner must determine whether:

- (1) the respective challenged voters were eligible to vote; and
- (2) the election results might have been affected by votes cast by ineligible voters.

B. If the commissioner determines that the election results might have been affected by votes cast by ineligible voters, the commissioner must declare the election void.

Statutory Authority: *MS s 179.02; 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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5505.1200 CONSENT ELECTION.

Subpart 1. **Agreement to hold consent election.**

A. Whenever a dispute arises concerning the representation of the employees under part 5505.0300, the parties to the dispute may agree in writing, subject to commissioner approval, that an election may be held without a hearing under this chapter.

B. An agreement to hold a consent election must be in the form prescribed by the commissioner.

Subp. 2. **Notice of consent election.** A notice of the consent election must:

- A. be posted in a conspicuous place at the place of employment of the employees; and
- B. state the election date and that an objection may be filed with the commissioner according to subpart 4.

Subp. 3. **Objections to election.**

A. When an objection is filed with the commissioner under subpart 4, the commissioner must, on deeming it proper, revoke the agreement under subpart 1 for a consent election.

B. With the consent of the parties to the agreement and upon notice to the person filing the objection, the commissioner must, on deeming it proper, amend the provisions in the agreement for a consent election.

Subp. 4. **Filing objections.** An objection to the consent election must be filed in writing with the commissioner no later than the date prescribed in the notice under subpart 2. An objection filed after the prescribed date in the notice is void.

Statutory Authority: *MS s 179.02; 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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5505.1300 CERTIFICATION ORDER.

After a completed election under part 5505.1000 or 5505.1200, the commissioner must:

A. certify to the parties in writing the name or names of the representatives that have been designated or selected; and

B. serve the certification order to the parties to the proceedings.

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

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

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5505.1400 OBJECTIONS TO CERTIFICATION.

Subpart 1. **Filing objection to certification.** A party to the proceedings may, within seven calendar days of receiving the certification order under part 5505.1300, file with the commissioner an objection to the certification.

Subp. 2. **Scheduling hearing on objection.**

A. If the commissioner determines that the objection under subpart 1 may raise a substantial and material issue on the certification, the commissioner must issue and cause to be served on the parties a notice fixing a time and place of hearing for the objection.

B. The notice and the hearing are as provided under parts 5505.0500, subpart 2, and 5505.0600, respectively.

Subp. 3. **Declaring certification void.** On determining, after the close of the hearing and on the record of the hearing, that the objection is well taken, the commissioner must declare the certification void.

Subp. 4. **Staying certification.** Upon application by any party to the dispute, the commissioner must stay the certification order under part 5505.1300 until the hearing and determination under subpart 3.

Statutory Authority: *MS s 179.02; 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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5505.1500 RECONSIDERATION WITHIN ONE YEAR.

Subpart 1. **Requesting new certification.** Within one year after a certification under part 5505.1300, any party may request a new certification according to part 5505.0300. The request must state the reasons for requesting a new certification.

Subp. 2. **Investigating request for new certification.** Upon receiving a request under subpart 1, the commissioner must investigate whether sufficient reason exists, as required under Minnesota Statutes, section 179.16, subdivision 2, that requires the commissioner to approve a new certification.

Subp. 3. **Approving new certification.** If the commissioner approves a request for a new certification, the commissioner must notify all parties to the proceedings according to part 5505.0500, subpart 2, of the commissioner's decision to approve a new certification by completing an investigation without a hearing.

Statutory Authority: *MS s 179.02; 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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