

**5510.2930 CERTIFICATION TO INTEREST ARBITRATION.**

Subpart 1. **Certification.** The commissioner may certify a matter to arbitration when the commissioner has determined that further mediation efforts would serve no purpose and:

A. in the case of essential employees, either or both parties have requested arbitration; or

B. in the case of nonessential employees, a request to arbitrate has been made by one party and has been agreed to by the other within 15 days of the request.

Requests for arbitration and agreements to arbitrate must be in writing and be served on the other party and the commissioner under part 5510.0310, subpart 19. The requests and agreements are binding on the parties except to the extent they otherwise agree in writing. An offer to arbitrate for nonessential employees that has not been accepted in writing within the 15-day period shall be considered rejected and withdrawn.

Subp. 2. **Form of arbitration.** All interest arbitration shall be conventional arbitration except:

A. if the parties agree in writing to limit the arbitrator's authority to final offer item-by-item or final offer total-package; or

B. if the case involves a unit of principals and assistant principals, the panel must use final offer item-by-item arbitration.

Subp. 3. **Unresolved issues.** In requesting or agreeing to interest arbitration, each party shall list all issues, items, or matters not previously agreed upon. Based upon the submissions of the parties and prior efforts to mediate the dispute, the commissioner shall determine the unresolved items that will be submitted to arbitration.

Subp. 4. **Final positions.** When an agreement or requirement to arbitrate has been established, and the commissioner has determined the items to be submitted to arbitration, the commissioner shall certify the matters to arbitration and direct each party to submit their final position on the items certified by the commissioner. Final positions shall be presented in the form of the contract language desired by each party to resolve the matter in dispute. Final positions must be submitted to the commissioner within 15 days of the date of certification. The deadline for submitting final positions may be extended a reasonable period of time by the commissioner upon an adequate and timely showing of good cause by a party.

If the arbitration form is a final offer variety, the final positions of the parties may not be withdrawn or amended except by mutual written consent or to correct nonsubstantive errors of a clerical-technical nature or matters solely of form. When final positions have been received from both parties, the commissioner shall provide each party with a copy of the opposing party's final positions. The commissioner may provide copies of final positions

to the arbitrator, but part 5510.2905, subpart 2, shall govern the protected nature of the final positions.

Subp. 5. [Repealed, 23 SR 1564]

Subp. 6. **Effect of untimely final positions.** The failure of a party to submit timely final positions on an item that has been submitted to final-offer arbitration shall be noted by the arbitration panel or arbitrator and shall result in a default award unless the delinquent party, in the sole discretion of the panel or arbitrator, can demonstrate good cause for the delinquency, in which case the panel or arbitrator may proceed as if the delinquency had not occurred. The failure of a party to submit timely final positions in a conventional arbitration matter shall be noted by the arbitration panel or arbitrator and may be considered by the panel or arbitrator in weighing the testimony, evidence, and overall good faith behavior of that party with respect to the items before the panel or arbitrator.

Subp. 7. **Continued mediation.** The commissioner may continue efforts to aid the parties in resolving issues after a matter has been certified for arbitration.

**Statutory Authority:** *MS s 179A.04*

**History:** *13 SR 1275; 23 SR 1564*

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