

5510.2930 CERTIFICATION TO INTEREST ARBITRATION.**Subpart 1. Certification; filing and service.**

A. The commissioner must certify a matter to arbitration:

(1) in the case of essential employees, according to Minnesota Statutes, section 179A.16, subdivision 2; or

(2) in the case of nonessential employees, according to Minnesota Statutes, section 179A.16, subdivision 1.

B. Requests for arbitration and agreements to arbitrate:

(1) must be in writing and served on the other party and filed with the commissioner according to part 5510.0320; and

(2) are binding on the parties except to the extent they otherwise agree in writing.

Subp. 2. Form of arbitration. All interest arbitration must 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 arbitration; or

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

Subp. 3. Unresolved issues. In requesting or agreeing to interest arbitration, each party must list all issues, items, or matters not previously agreed on. Based on the submissions of the parties and prior efforts to mediate the dispute, the commissioner must determine the unresolved items to be submitted to arbitration for essential employees according to Minnesota Statutes, section 179A.16, subdivision 2.

Subp. 4. Final positions.

A. When an agreement or requirement to arbitrate has been established and the commissioner has determined the items to be submitted to arbitration, the commissioner must certify the matters to arbitration and direct each party to submit its final position on the items certified by the commissioner. Final positions must be:

(1) presented in the form of the contract language desired by each party to resolve the matter in dispute; and

(2) filed with the commissioner within 15 calendar days of the certification date, but the filing deadline may be extended a reasonable period by the commissioner upon a party's adequate and timely showing of good cause.

B. If the arbitration form is a final offer, the final positions of the parties may not be withdrawn or amended except by mutual written consent or to correct nonsubstantive errors of a clerical-technical nature or matters solely of form.

C. When final positions have been received from both parties, the commissioner must provide each party with a copy of the opposing party's final position. The commissioner may provide copies of final positions to the arbitrator, but part 5510.2905, subpart 2, governs the protected nature of the final positions.

Subp. 5. [Repealed, 23 SR 1564]

Subp. 6. **Effect of untimely final positions; final offer.** The failure of a party to submit timely final positions on an item that has been submitted to final-offer arbitration:

A. must be noted by the arbitration panel or arbitrator; and

B. results in a default award unless the delinquent party demonstrates good cause for the delinquency to the panel or arbitrator, in which case the panel or arbitrator may proceed as if the delinquency had not occurred.

Subp. 6a. **Effect of untimely final positions; conventional.** The failure of a party to submit timely final positions in conventional arbitration:

A. must be noted by the arbitration panel or arbitrator; and

B. may be considered by the panel or arbitrator in weighing the testimony, evidence, and party's overall good-faith behavior regarding the items before the panel or arbitrator.

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

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

History: *13 SR 1275; 23 SR 1564; 46 SR 1387*

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