

5510.5170 ARBITRATION.

Subpart 1. **Referral to arbitration.** If the response of the chief administrative officer or designee is not received within the period under part 5510.5160 (step three) or does not satisfy the exclusive representative, the exclusive representative may serve written notice on the employer of its intent to refer the case to arbitration within ten days after the response required by part 5510.5160 (step three) is due.

Subp. 2. Selecting arbitrator.

A. Within ten days of the service of written notice of intent to arbitrate, the employer's chief administrative officer or designee must consult with the exclusive representative's agent and attempt to mutually agree on an arbitrator to hear and decide the grievance.

B. If the parties do not agree on an arbitrator, either party may request a list of impartial arbitrators from the commissioner under chapter 5530. The parties must alternately strike names from a list of seven names to be provided by the commissioner until only one name remains, and the remaining name is the selected arbitrator. Which party begins the striking process must be made by mutual agreement or a coin flip. If one party refuses to strike names from the arbitration list, the other party may serve written notice of this refusal on the commissioner, with a copy to the offending party.

C. Unless it is confirmed that the parties have otherwise selected or agreed on an arbitrator within three days of the notice's service under item B, the commissioner must assign one name from the list previously provided to the parties, and the arbitrator assigned by the commissioner has full power to act as the arbitrator.

Subp. 3. Arbitrator's authority; award.

A. An arbitrator has no authority to amend, modify, add to, or subtract from the terms of an existing contract.

B. The arbitrator's decision and award is final and binding on both parties.

Subp. 4. Arbitration expenses.

A. The employer and the exclusive representative must share equally the arbitrator's fees and necessary expenses. Cancellation fees must be paid by the party requesting the cancellation, and any fees incurred as the result of a request for clarification must be paid by the party requesting the clarification. Each party is responsible for compensating its own representatives and witnesses as provided under part 5510.5180, subpart 1.

B. For purposes of this subpart, "request for clarification" means a party's request to an arbitrator to clarify the arbitrator's decision and award under subpart 3.

Subp. 5. Briefs and transcripts.

A. Briefs are as provided under part 5510.5260.

B. If a party requests a transcript be made, the arbitrator must allow a transcript to be made if the party requesting the transcript:

- (1) arranges for the transcript;
- (2) pays for all transcript-related costs; and
- (3) provides:
 - (a) a free copy to the arbitrator; and
 - (b) a copy to the other party upon request, with the other party paying the full cost of the copy.

Subp. 6. **Hearing recording and arbitrator notes.** An arbitrator may maintain written notes of the hearing and may use an electronic recording device. The arbitrator's notes are the arbitrator's private and personal property and must not be made available to the parties or another party.

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

History: *11 SR 2077; 23 SR 1564; 46 SR 1387*

Published Electronically: *July 27, 2022*