

1 Bureau of Mediation Services

2

3 Adopted Rules Governing Questions of Representation; Fair Share

4 Fees and Public Employee Dispute Resolution

5

6 Rules as Adopted

7 5510.0110 APPLICATION.

8 Parts 5510.0110 to 5510.2310 apply to proceedings before
9 the director involving matters of representation and fair share
10 fee challenges under the Public Employment Labor Relations Act.

11 5510.0210 POLICY.

12 Parts 5510.0110 to 5510.2310 shall be liberally construed
13 to accomplish the purposes and provisions of the act. Any
14 requirements of these parts may be waived by agreement of all
15 parties and the approval of the director.

16 The director shall grant approval unless the director
17 determines that waiving the particular requirements in question
18 is likely to result in significant harm to the general public or
19 to specific nonparties or is likely to result in substantial
20 impairment or frustration of the intent or purposes of the act.

21 The joint request for waiver shall be made in writing to
22 the director in a timely fashion. The director shall set forth
23 in writing the reasons for granting or denying the waiver.

24 5510.0310 DEFINITIONS.

25 Subpart 1. General. For the purpose of parts 5510.0110 to
26 5510.2310 the words defined in this part have the meanings given
27 them.

28 Subp. 2. Amendment of certification or amendment of
29 exclusive representative. "Amendment of certification" or
30 "amendment of exclusive representative" means a change in the
31 certification by the director of a nature which the director
32 deems does not raise a question of representation.

33 Subp. 3. Appearance status. "Appearance status" means the
34 status of a nonparty having an interest in a matter before the
35 director to participate in bureau proceedings.

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1 Subp. 4. Act. "Act" means the Public Employment Labor
2 Relations Act of 1971, as amended.

3 Subp. 5. Board. "Board" means the Public Employment
4 Relations Board.

5 Subp. 6. Bureau. "Bureau" means the Bureau of Mediation
6 Services.

7 Subp. 7. Certification of exclusive representative or
8 certification. "Certification of exclusive representative" or
9 "certification" means the granting of the status of exclusive
10 representative to an employee organization by a written order of
11 the director.

12 Subp. 8. Certification petition. "Certification petition"
13 means a petition filed by an employee organization stating that
14 at least 30 percent of the employees of a proposed appropriate
15 unit, which is presently unrepresented, wish to be represented
16 by the petitioner.

17 Subp. 9. Decertification petition. "Decertification
18 petition" means a petition filed by an individual employee or
19 group of employees stating that the current exclusive
20 representative no longer represents the majority of the
21 employees in an appropriate unit and that at least 30 percent of
22 the employees no longer wish to be represented.

23 Subp. 10. Determination of affiliation or affiliation.
24 "Determination of affiliation" or "affiliation" means the
25 determination of affiliation of a supervisory or confidential
26 employee organization under Minnesota Statutes, section 179A.06,
27 subdivision 2.

28 Subp. 11. Director. "Director" means the director of the
29 Bureau of Mediation Services or an authorized agent.

30 Subp. 12. Effective date of orders. "Effective date of
31 orders" means, for any determination or decision issued by the
32 director, the day following issuance unless otherwise provided.

33 Subp. 13. Hearing officer or mediator. "Hearing officer"
34 or "mediator" means the director or an authorized agent.

35 Subp. 14. Holiday or legal holiday. "Holiday" or "legal
36 holiday" means those dates designated by Minnesota Statutes, ~~the~~

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1 section 645.44, subdivision 5, as holidays for the state of
2 Minnesota.

3 Subp. ~~14~~ 15. Open-window period. "Open-window period"
4 means the following period of time prior to the expiration of a
5 labor contract:

6 A. for the state executive branch, 270 to 210 days;

7 B. for teachers, 180 to 120 days; and

8 C. for all other public employees, 120 to 60 days.

9 Subp. ~~15~~ 16. Party. "Party" means any exclusive
10 representative, employee organization, or public employer
11 recognized by the director whose legal rights, duties, and
12 privileges will be directly determined in the proceedings; or
13 any public employee who has filed a fair share fee challenge or
14 decertification petition.

15 Subp. ~~16~~ 17. Petition. "Petition" means a written
16 document containing information required by the director.

17 Subp. ~~17~~ 18. Representation petition. "Representation
18 petition" means a petition filed by an employee organization
19 stating that the exclusive representative no longer represents
20 the majority of employees in an appropriate unit; and at least
21 30 percent of the employees in the appropriate unit wish to be
22 represented by the petitioner.

23 Subp. ~~18~~ 19. Service or serve. "Service" or "serve" means
24 service of a document required by parts 5510.0110 to 5510.2310,
25 in person or by the United States Postal Service, postage
26 prepaid and addressed to the bureau or a party at its last known
27 address, unless some other manner of service is required by
28 law. Unless otherwise provided by these parts, service upon the
29 director or a party is effective upon receipt.

30 Subp. ~~19~~ 20. Showing of interest or interest. "Showing of
31 interest" or "interest" means the submission of authorization
32 signatures in the form of individual authorization cards to show
33 support for a petition filed with the director.

34 Subp. ~~20~~ 21. Time. "Time" means, in computing any period
35 of time prescribed or allowed by parts 5510.0110 to 5510.2310,
36 that the day or any act or event on which the designated period

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1 of time begins to run shall not be included. The last day of
2 the time period shall be included unless it is a Saturday,
3 Sunday, or legal holiday.

4 Subp. 21 22. Transfer of exclusive representative status.
5 "Transfer of exclusive representative status" means the transfer
6 of the rights and obligations of an exclusive representative to
7 another employee organization.

8 Subp. 22 23. Unfair election practice. "Unfair election
9 practice" means any prohibition defined in part 5510.2110, or a
10 violation of an election order issued by the director, and any
11 unfair practice as defined by Minnesota Statutes, section
12 179A.13, committed by an employer or its agents or an employee
13 organization or its agents, or an employee, which affects the
14 result of a certification, representation, or decertification
15 election.

16 Subp. 23 24. Unit clarification or clarification
17 petition. "Unit clarification" or "clarification petition"
18 means a determination of the director regarding an appropriate
19 unit involving:

- 20 A. inclusions or exclusions of positions or job
21 classifications in an appropriate unit;
22 B. the confidential, supervisory, or essential status
23 of positions, classifications, or the unit itself;
24 C. modification of the unit description; or
25 D. modification of the unit structure.

26 5510.0410 FILING PETITION.

27 Subpart 1. Conditions. To file a petition an employee
28 organization or exclusive representative must:

- 29 A. have a written constitution or bylaws that
30 provides for:
31 (1) election of officers;
32 (2) filling of vacancies in elected offices; and
33 (3) a purpose which, in whole or in part, must be
34 to deal with public employers concerning grievances and terms
35 and conditions of employment; and

- 36 B. have the petition signed by an authorized

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1 representative of the employee organization.

2 To file a petition an employer must have the petition
3 signed by an authorized representative of the employer.

4 To file a petition a public employee must be included in an
5 appropriate unit for which there is an exclusive representative,
6 or be subject to a fair share fee assessment by the exclusive
7 representative.

8 Subp. 2. Eligibility; single-party petition.

9 A. An employee organization may file petitions for:

10 (1) certification of exclusive representative;

11 and

12 (2) challenge of affiliation.

13 B. An employer may file petitions for:

14 (1) certification of exclusive representative;

15 (2) unit clarification;

16 (3) amendment of certification; and

17 (4) challenge of affiliation.

18 C. An exclusive representative may file petitions for:

19 (1) unit clarification;

20 (2) amendment of certification;

21 (3) transfer of exclusive representative status;

22 and

23 (4) abandonment of exclusive representative

24 status.

25 D. A public employee may file petitions for:

26 (1) decertification of exclusive representative;

27 (2) challenge of fair share fee assessment; and

28 (3) challenge of affiliation.

29 Subp. 3. Eligibility; joint-party petition.

30 A. One or more employee organizations and an employer

31 may file a joint petition for certification of exclusive

32 representative.

33 B. An exclusive representative and an employer may

34 file a joint petition for unit clarification.

35 C. Two or more employee organizations may jointly

36 file any petition which a single employee organization has the

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1 right to file.

2 Subp. 4. Petition requirements. A petition must be in
3 writing on forms available from the bureau and shall contain the
4 name, address, and phone number of:

- 5 A. the petitioner;
- 6 B. the petitioner's representative, if any;
- 7 C. the other party; and
- 8 D. the other party's representative, if any.

9 5510.0510 LIMITATION ON FILING PETITION.

10 Subpart 1. Contract bar. If there is an exclusive
11 representative and a labor contract in effect, the director
12 shall consider a petition for clarification, decertification, or
13 representation only:

- 14 A. when it is submitted during the open-window period
15 or after the expiration date in the contract;
- 16 B. when it is submitted jointly by the employer and
17 the exclusive representative; or
- 18 C. when the director determines that the interests of
19 good labor relations policy warrant consideration of the
20 petition during the life of the existing contract.

21 Subp. 2. One-year election bar. When a certification
22 election, representation election, or decertification election
23 has been held, no petition seeking an election shall be
24 entertained for a one-year period from the date the director has
25 issued the certification of the results of the election.

26 Subp. 3. Transfer bar. The director shall not entertain a
27 petition for transfer of exclusive representative status for a
28 one-year period from the date of certification or from the date
29 of transfer of exclusive representative status.

30 Subp. 4. Arbitration bar. If there is an exclusive
31 representative and a labor contract, and impasse in the
32 negotiation of a successor contract has been certified for
33 arbitration under Minnesota Statutes, section 179A.16,
34 subdivision 1 or 2, a petition raising a question of
35 representation or decertification shall not be considered
36 following certification of impasse to the board. This bar shall

1 continue in effect until the arbitration award is issued and a
2 contract is executed pursuant to Minnesota Statutes, section
3 179A.20, subdivision 1.

4 Subp. 5. Fair share fee challenge. A petition challenging
5 the fair share fee assessment must be received by the director
6 no later than 30 days after receipt of the written notice of
7 assessment by the petitioner and must be accompanied by the
8 proper filing fee.

9 Subp. 6. Constitution and bylaws. A current copy of the
10 employee organization's constitution or bylaws, unless on file
11 with the director, must accompany the following petitions:

- 12 A. certification election;
- 13 B. representation election;
- 14 C. amendment of certification; and
- 15 D. transfer of exclusive representative status.

16 Subp. 7. Petitions filed with director. All petitions
17 shall be filed with the director in person or by mail.

18 5510.0610 WITHDRAWAL.

19 Subpart 1. Generally. A certification, representation, or
20 decertification petition or a showing of interest may be
21 withdrawn by a party at any point prior to the fifth day
22 following issuance of an appropriate unit determination by the
23 director. A clarification, transfer of exclusive representative
24 status, fair share challenge, amendment of certification, or
25 affiliation petition may be withdrawn at any time prior to the
26 close of the hearing on the petition. A withdrawal must either
27 be stated on the record at the hearing or be in writing and
28 served as provided by parts 5510.0110 to 5510.2310.

29 Subp. 2. Certification election. If the employee
30 organization withdraws, and no other employee organizations have
31 petitioned or intervened, the petition shall be dismissed. If
32 another employee organization has also petitioned or has
33 intervened, the matter shall proceed, but the withdrawing
34 organization shall not be listed on the ballot.

35 Subp. 3. Representation election. If the incumbent
36 exclusive representative withdraws, the matter will be processed

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1 as though a certification petition had been filed by the
2 challenging employee organization.

3 A challenging employee organization which withdraws in
4 accordance with this chapter shall not be listed on the ballot.
5 If all challengers have withdrawn, the petition shall be
6 dismissed.

7 Subp. 4. Decertification election. If the petitioner
8 withdraws and no other employee organization has petitioned or
9 intervened, the petition shall be dismissed. If the petitioner
10 withdraws, but another employee organization which has
11 petitioned or intervened does not, the matter shall be processed
12 as a representation petition.

13 5510.0710 CERTIFICATION, REPRESENTATION, AND DECERTIFICATION
14 PETITIONS.

15 Subpart 1. Filing of petition. ~~An-employee-organization~~
16 ~~or-an-employer-may-file-a-certification,-representation,-or~~
17 ~~decertification-petition.~~ A petition for certification,
18 representation, or decertification must include:

19 A. the name, address, and phone number of all other
20 employee organizations or exclusive representatives known to
21 have an interest in or claiming to represent any of the
22 employees involved;

23 B. a statement regarding whether there is a labor
24 contract in effect and its expiration date;

25 C. the type of public employer involved;

26 D. the approximate number of employees included in
27 the proposed or previously determined appropriate unit;

28 E. the proposed or previously determined appropriate
29 unit description;

30 F. a statement indicating that at least 30 percent of
31 the employees in the proposed or previously determined unit
32 support the intent of the petition;

33 G. the date the petition is signed; and

34 H. the name and title of the person signing the
35 petition.

36 Subp. 2. Showing of interest. Evidence of a showing of
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1 interest in the form of authorization signatures must accompany
2 all petitions. An adequate showing of interest for the conduct
3 of an investigation or hearing shall be authorization signatures
4 from 30 percent or more of the estimated number of employees in
5 the established or proposed appropriate unit. Evidence of a
6 showing of interest may continue to be submitted up to the close
7 of the hearing.

8 5510.0810 AUTHORIZATION SIGNATURES.

9 Subpart 1. Confidentiality. Authorization signatures
10 submitted in support of a petition shall be privileged and
11 confidential information pursuant to Minnesota Statutes, section
12 179A.12, subdivision 6, and may only be withdrawn by the
13 petitioner.

14 Subp. 2. Valid authorization signatures. Authorization
15 signatures submitted in accordance with Minnesota Statutes,
16 section 179A.12, must be in the form of individual authorization
17 cards which include:

18 A. a statement clearly reflecting the employee's
19 support for the purpose of the petition;

20 B. the clearly printed name of the employee making
21 the authorization;

22 C. the signature of the employee; and

23 D. the date the employee signed the card.

24 Authorization cards may contain the name, address, and
25 phone number of an employee organization.

26 Subp. 3. Invalid authorization card. The director shall
27 consider invalid any authorization card which:

28 A. does not include the information and statements
29 required by parts 5510.0110 to 5510.2310;

30 B. contains statements of explanation,
31 interpretation, or advice;

32 C. is modified or altered in any way; or

33 D. is dated more than six months prior to the receipt
34 of the petition by the director.

35 Subp. 4. Effect of invalid authorization card. The

36 director shall not include invalid authorization cards in
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1 determining whether a petition has the necessary showing of
2 interest. If there is evidence that authorization cards
3 submitted to establish a showing of interest were obtained or
4 submitted in a fraudulent manner, the petition or intervention
5 will be denied and a one-year election bar for that unit shall
6 be applied to the party submitting fraudulent cards.

7 5510.0910 UNIT CLARIFICATION PETITION.

8 Subpart 1. Filing of petition. ~~An-exclusive~~
9 ~~representative-or-an-employer-may-file-a-unit-clarification~~
10 ~~petition.~~ A petition for unit clarification must include:
11 A. a statement regarding whether there is a labor
12 contract in effect and its expiration date;
13 B. the type of public employer involved;
14 C. the approximate number of employees affected by
15 the proposed unit clarification;
16 D. a specific statement of the unit clarification
17 requested and the reasons for the request;
18 E. the date the petition is signed; and
19 F. the name and title of the person signing the
20 petition.

21 5510.1010 AMENDMENT OF CERTIFICATION PETITION.

22 Subpart 1. Filing petition. ~~An-exclusive-representative~~
23 ~~or-an-employer-may-file-an-amendment-petition.~~ A petition for
24 amendment of certification must include:
25 A. a statement of the amendment requested;
26 B. the date the petition is signed; and
27 C. the name and title of the person signing the
28 petition.

29 5510.1110 CHALLENGE TO AFFILIATION PETITION.

30 Subpart 1. Filing petition. ~~An-employee,-employer,-or~~
31 ~~employee-organization-may-file-a-petition-challenging-the~~
32 ~~affiliation-of-an-employee-organization-in-accordance-with~~
33 ~~Minnesota-Statutes,-section-179A.06,-subdivision-2.~~ A petition
34 challenging affiliation under Minnesota Statutes, section
35 179A.06, subdivision 2 must include:

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- 1 A. a statement of the reasons the affiliation is
2 improper;
3 B. the name of the employee organization involved;
4 C. the date the petition is signed; and
5 D. the name and title of the person signing the
6 petition.

7 Subp. 2. Status of certification. If the affiliation of
8 an employee organization is determined to be improper, the
9 director shall withdraw the certification of the involved
10 employee organization as the exclusive representative for the
11 unit for which the challenge was raised, and dismiss any matters
12 pending before the bureau involving questions of representation
13 or mediation.

14 If the affiliation of an employee organization is
15 determined to be proper, the director shall affirm its standing
16 as a proper employee organization and dismiss the challenge
17 petition.

18 Subp. 3. Status of contract. Upon the withdrawal of the
19 status of exclusive representative pursuant to a determination
20 of improper affiliation, any labor contract within the meaning
21 of Minnesota Statutes, section 179A.20, which covers employees
22 of the unit for which withdrawal was ordered and to which the
23 involved organization is a party is null and void as of the date
24 of the director's determination.

25 5510.1210 TRANSFER OF EXCLUSIVE REPRESENTATIVE STATUS.

26 Subpart 1. Filing petition. ~~An-exclusive-representative~~
27 ~~may-file-a-transfer-petition.~~ A petition transferring exclusive
28 representative status must include:

29 A. documentation substantiating that the requirements
30 of parts 5510.0110 to 5510.2310 have been met;

31 B. a copy of the incumbent exclusive representative's
32 current constitution or bylaws unless on file with the director;

33 C. documentation substantiating that the requirements
34 of the constitution or bylaws of the exclusive representative
35 have been met;

36 D. a copy of the current constitution or bylaws of

1 the employee organization which has agreed to accept the
2 transfer of the exclusive representative's rights and
3 obligations, unless on file with the bureau; and

4 E. a copy of the current labor contract and
5 certification of the exclusive representative.

6 Subp. 2. Right to transfer. An exclusive representative
7 may transfer its rights and obligations to another employee
8 organization by complying with subparts 3 and 4.

9 Subp. 3. Notice. The exclusive representative must
10 provide advance written notice of the proposed transfer to each
11 employee in the appropriate unit. The notice must state the
12 time and location of the meeting or meetings to be held by the
13 exclusive representative relating to the proposed transfer.

14 Subp. 4. Meeting. The exclusive representative must hold
15 a meeting or meetings to permit discussion of the proposed
16 transfer at a time and location which is reasonably convenient
17 for the majority of the employees in the appropriate unit.

18 Subp. 5. Election. The exclusive representative must
19 conduct a secret ballot election among all employees in the
20 appropriate unit to determine approval or rejection of the
21 proposed transfer in accordance with their constitutional
22 requirements.

23 Subp. 6. Petition. If a majority of the employees vote in
24 favor of the transfer, a petition shall be filed by the
25 exclusive representative with the director.

26 Subp. 7. Order. Based on the record of hearing or an
27 investigation, the director may:

28 A. issue an amended certification of exclusive
29 representative;

30 B. order a representation election; or

31 C. dismiss the petition.

32 Subp. 8. Rights. The incoming exclusive representative
33 shall have all rights and obligations established by the labor
34 contract in effect and the act; and administer the existing
35 labor contract until its expiration.

36 5510.1310 ABANDONMENT OF EXCLUSIVE REPRESENTATIVE STATUS.

1 Subpart 1. Filing petition. An-exclusive-representative
 2 may-file-an-abandonment-petition-subject-to-parts-5510.0110-to
 3 5510.2310. A petition abandoning the status of exclusive
 4 representative must contain a statement that clearly indicates
 5 that the exclusive representative no longer wishes to represent
 6 the appropriate unit at the expiration of the contract or the
 7 one-year certification period.

8 Subp. 2. When effective. An exclusive representative may
 9 abandon its status effective on or after the expiration of the
 10 labor contract or effective on or after the expiration of a
 11 one-year period from the date of certification, whichever is
 12 later.

13 Subp. 3. Retention of rights and duties. An exclusive
 14 representative abandoning its status retains the rights and
 15 obligations under the act and under the labor contract until its
 16 expiration.

17 Subp. 4. Notice. A notice of abandonment must be served
 18 in writing upon the director and the employer.

19 Subp. 5. Contract bar. If abandonment occurs, there shall
 20 be no bar to the conduct of a certification election.

21 5510.1410 FAIR SHARE FEE CHALLENGE PETITION.

22 Subpart 1. Advance notice of fair share fee assessment.
 23 Notice-of-the-fair-share-fee-must-be-provided The exclusive
 24 representative must provide written notice of the amount of the
 25 fair share fee assessment to the director, the employer, and
 26 each employee assessed:

27 A. upon initial implementation of the fair share fee
 28 assessment;

29 B. to employees hired after the original notice has
 30 been issued; and

31 C. upon a change in the amount of the fair share fee
 32 assessment.

33 Subp. 2. --Notice-of-assessment.--The-exclusive
 34 representative-must-provide-advance-written-notice-of-the-amount
 35 of-the-fair-share-fee-assessment-to-the-director,-the-employer,
 36 and-each-employee-assessed. The notice must contain:

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1 A. the name, address, and telephone number of the
2 exclusive representative;

3 B. the amount of the regular dues of the exclusive
4 representative;

5 C. the amount of the fair share fee assessment;

6 D. a statement identifying benefits available only to
7 members of the exclusive representative and the monetary cost of
8 the regular membership dues attributable to each benefit;

9 E. the bureau's current mailing address; and

10 F. a statement as follows: "An employee may
11 challenge this assessment by filing a challenge with the Bureau
12 of Mediation Services within 30 calendar days after receipt of
13 this notice. The challenge must specify those portions of the
14 assessment being contested and the reasons therefor, and copies
15 of the challenge must be sent to your employer and this
16 organization. The Public Employment Labor Relations Act
17 requires a fee for filing challenges. Forms for challenges and
18 a copy of the rules governing them are available from the bureau
19 without charge."

20 Subp. 3 2. Employer provided information. The employer
21 shall provide to the exclusive representative the name, home
22 mailing address, and social security number or other necessary
23 payroll deduction information for all employees in the
24 appropriate unit. Questions of necessary payroll deduction
25 information shall be determined by the director.

26 Subp. 4 3. Mailing notice. The notice of the fair share
27 fee assessment shall be mailed by the exclusive representative
28 to the employee's last known home mailing address provided by
29 the employer.

30 Subp. 5 4. Assessment. On the effective day of the fair
31 share fee assessment and thereafter, the amount of the
32 assessment shall be deducted by the employer from the pay of the
33 employee. The amounts deducted must be held in escrow by the
34 employer and not remitted to the exclusive representative for a
35 period of 30 calendar days from the effective date of the
36 deduction notice is provided under subpart 1.

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1 If at the end of the 30-day period an employee has not
2 challenged the fair share fee assessment, assessments shall be
3 remitted to the exclusive representative without the need for
4 escrow by the employer.

5 If an employee challenges the fair share fee assessment,
6 the assessment for that employee shall continue to be deducted,
7 but must be held in escrow by the employer until otherwise
8 ordered by the director.

9 5510.1510 FAIR SHARE FEE CHALLENGE PETITION.

10 Subpart 1. Filing petition. An-employee-being-assessed-a
11 fair-share-fee-or-an-employee-who-has-been-notified-of-a-fair
12 share-fee-assessment-may-file-a-fair-share-fee-challenge
13 petition. A petition challenging a fair share fee assessment
14 may be filed by individual employees and must include:

15 A. the name, address, and phone number of the
16 petitioner and agent, if any;

17 B. the name, address, and phone number of the
18 exclusive representative and agent, if any;

19 C. the name, address, and phone number of the
20 employer and agent, if any;

21 D. the job classification of the petitioner;

22 E. the amount of regular membership dues in the unit;

23 F. the amount of the fair share fee assessment;

24 G. the amount that represents 85 percent of the
25 regular membership dues;

26 H. the percent of regular membership dues which the
27 fair share fee represents;

28 I. the benefits asserted to be available only to
29 members of the exclusive representative;

30 J. a statement regarding whether the cost of benefits
31 asserted to be available only to members is greater than the
32 amount by which the regular membership dues were reduced in
33 establishing the amount of the fair share fee;

34 K. the amount by which the fair share fee should be
35 reduced; and

36 L. the date on which the petitioner received notice

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1 of the fair share fee assessment.

2 Subp. 2. Filing petition. A petition challenging the fair
3 share fee assessment must be filed in person or by mail with the
4 director. ~~The petition must be received by the director no~~
5 ~~later than 30 days after receipt by the employee of the notice~~
6 ~~of assessment.~~

7 Subp. 3. Filing fee. The challenge petition must be
8 accompanied by a certified check or other guaranteed form of
9 payment in the amount of \$10, made payable ~~in the proper amount~~
10 to "Treasurer, State of Minnesota." A challenge petition filed
11 without the proper filing fee shall be returned to the
12 individual filing the petition.

13 Subp. 4. Receipt of petition. Upon receipt of the
14 challenge petition and filing fee, the director shall provide a
15 written receipt to the petitioner.

16 Subp. 5. Service on exclusive representative and
17 employer. A copy of the challenge petition shall be served by
18 the petitioner upon the exclusive representative and the
19 employer, in person or by mail, within the 30-calendar-day
20 challenge period. A petition not timely served shall be
21 dismissed.

22 Subp. 6. Computing time. For purposes of computing time,
23 a petition shall be considered filed on the day it is received
24 by the director.

25 1510.1610 INVESTIGATION OR HEARING.

26 Upon receipt of a valid and timely challenge petition, the
27 director shall hear or investigate the matter and issue a
28 determination. The exclusive representative shall have the
29 burden of proof to establish the validity of the amount of the
30 fair share fee. Failure of a party to appear, in person or
31 through a representative, at a hearing may prejudice its rights.

32 5510.1710 FAIR SHARE FEE APPLICATION.

33 The determination of the validity of the amount of the fair
34 share fee assessment shall apply from the effective date of the
35 assessment being challenged to all employees in an appropriate

1 unit who have an employment relationship which is similar to the
2 petitioner, and who were assessed the same fair share fee.

3 Fair share fee determinations based on lack of proper
4 notice ~~applies~~ apply only to employees who have filed ~~or-joined~~
5 a challenge.

6 5510.1810 JOINT-PARTY PETITION.

7 Subpart 1. Certification of exclusive representative. A
8 joint petition for certification of an exclusive representative
9 must include:

- 10 A. notarized signatures of the parties;
- 11 B. authorization signatures from more than 50 percent
12 of the employees within the proposed appropriate unit; and
- 13 C. identification of the employees and job
14 classifications included within the proposed appropriate unit
15 and those employees and job classifications excluded from the
16 proposed appropriate unit.

17 Subp. 2. Unit clarification. In addition to complying
18 with the other requirements of this chapter, a joint-party
19 petition for unit clarification must include the name, title,
20 and signature of the representative of both the exclusive
21 representative and the employer.

22 5510.1910 HEARINGS OR INVESTIGATIONS.

23 Subpart 1. Policy. The bureau believes that stipulations
24 or agreements reached by the parties are conducive to harmonious
25 and stable labor and management relationships. The bureau will
26 encourage the parties to enter into these agreements whenever
27 possible and will accept stipulations which are consistent with
28 bureau policies and the act.

29 Subp. 2. Scope. Hearings or investigations shall address
30 all issues raised by a valid petition that are within the
31 jurisdiction of the director.

32 Subp. 3. Consolidation of hearings. The director may
33 consolidate one or more hearings or petitions to the extent the
34 director determines the consolidation will serve the purposes of
35 the act.

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1 Subp. 4. Procedures. Upon receipt of a petition, the
2 director shall hold hearings or conduct an investigation as
3 required. Following receipt of a petition, the director may
4 issue a ~~cease-and-desist~~ an order prohibiting negotiations and
5 maintaining the status quo, in part or in whole, of the
6 employees' terms and conditions of employment.

7 Subp. 5. Prehearing conference. The purpose of a
8 prehearing conference is to simplify the issues to be
9 determined, to obtain stipulations regarding foundation for
10 testimony or exhibits, to identify the proposed witnesses for
11 each party, to consider other matters that may be necessary or
12 advisable and, if possible, to reach a settlement without the
13 necessity for hearing. Any final settlement must be made a part
14 of the record.

15 Upon the request of any party or upon his own motion, the
16 director may, in his discretion, hold a prehearing conference
17 prior to a hearing. The director may require the parties to
18 file a prehearing statement containing items the director deems
19 necessary. The prehearing conference shall be informal.
20 Agreements regarding the simplification of issues, amendments,
21 stipulations, or other matters may be entered on the record or
22 may be made the subject of an order by the director.

23 Subp. 6. Subpoenas. Requests for subpoenas for the
24 attendance of witnesses or the production of documents must be
25 made in writing to the director and contain a brief statement
26 demonstrating the relevance of the potential testimony or
27 evidence sought, identify all persons to be subpoenaed, and
28 identify with specificity any documents sought.

29 A subpoena must be served by the sheriff, his deputy, or
30 any other person who is not a party in accordance with Rule
31 45.03 of the Rules of Civil Procedure for the District Courts of
32 Minnesota.

33 The cost of service, fees, and expenses of any witness
34 subpoenaed must be paid by the party at whose request the
35 witness appears.

36 The person serving a subpoena shall make proof of service

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1 by filing the subpoena and an affidavit of service with the
2 director.

3 Upon motion made at or before the time specified in the
4 subpoena, the director may quash or modify the subpoena if he
5 finds that it is unreasonable or oppressive.

6 Subp. 7. Intervenor. The director shall permit an
7 employee organization which submits a 30 percent showing of
8 interest to intervene on a certification, representation, or
9 decertification petition. The director shall permit a group of
10 employees submitting a 30 percent showing of interest wishing to
11 decertify an exclusive representative to intervene on a
12 representation petition.

13 Subp. 8. Hearing. Parties shall have the right to present
14 evidence, rebuttal testimony and argument on the issues, and to
15 cross-examine witnesses. Individuals or organizations having an
16 appearance status shall only be allowed to review exhibits and
17 make statements for the record.

18 Any party may be a witness or may present witnesses at the
19 hearing. All oral testimony must be under oath or affirmation.
20 At the request of a party or upon the director's own motion,
21 witnesses may be excluded from the hearing room so that they
22 cannot hear the testimony of other witnesses.

23 Subp. 9. Rules of evidence. The director may admit all
24 evidence which possesses probative value, including hearsay, if
25 it is the type of evidence on which reasonable prudent persons
26 are accustomed to rely in the conduct of their serious affairs.
27 The director shall give effect to the rules of privilege
28 recognized by law. Evidence which is incompetent, immaterial, or
29 unduly repetitious may be excluded.

30 All evidence to be considered in the case, including all
31 records and documents in the possession of the director or a
32 true and accurate photocopy thereof must be made a part of the
33 record. Matters not part of the record may not be considered in
34 the determination of the case.

35 The director may seek additional evidence and examine
36 witnesses to the extent the director deems appropriate, but

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1 shall do so on the record and with the opportunity for any party
2 to contest the evidence.

3 The director may take judicial notice of facts not in
4 dispute.

5 Subp. 10. The record. The director shall maintain the
6 record in each case. The record shall contain:

7 A. all pleadings, motions, and orders;

8 B. evidence received;

9 C. offers of proof, objections, and rulings on
10 objections;

11 D. all memoranda or data submitted by any party in
12 connection with the case; and

13 E. an audiomagnetic or stenographic recording of the
14 hearing.

15 The director ~~must~~ shall retain the audiomagnetic or
16 stenographic recording of the hearing for a period not less than
17 60 calendar days after the issuance of his order. ~~The record~~
18 ~~shall be transcribed, in whole or in part, at the request of any~~
19 ~~party to the hearing, provided the request is timely and the~~
20 ~~party requesting the transcript pays a charge per page as~~
21 ~~established by the director~~ In the event that an appeal of the
22 director's order is initiated by any party to the hearing on the
23 matter, the record shall be transcribed, in whole or in part, at
24 the request of any party, provided the request is timely and the
25 party requesting the transcript pays a charge per page, as
26 established by the director, for transcript production and for
27 duplication of other requested or necessary parts of the
28 record. In the event a party to a hearing before the director
29 requests that all or part of the record be transcribed absent a
30 pending appeal from or prior to the issuance of the director's
31 order in such matter, the director shall require the party to
32 pay the full costs associated with the production of the
33 transcript. In all cases, the director shall maintain original
34 documents as a part of bureau records and parties requesting
35 copies of the record for any purpose shall be required to pay a
36 charge per page, as established by the director.

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1 Subp. 11. Continuances. The timely processing of
2 petitions relating to questions of representation is in the
3 public interest and of value to a constructive and stable labor
4 relations environment. Accordingly, the director will grant
5 continuances or postponements of hearings on these matters only
6 upon a showing of substantial cause.

7 All requests for continuances or postponements of a hearing
8 must be served in accordance with parts 5510.0110 to 5510.2310.
9 Requests served less than six calendar days prior to a hearing
10 shall be denied unless the director determines that the request
11 could not have been filed earlier and that the rights of a party
12 will be substantially affected by denial.

13 The director may, at his discretion, continue a hearing
14 which has already commenced whenever the action appears
15 necessary for determination of the issues. In those instances,
16 oral notice on the record by the director is sufficient.

17 Subp. 12. Conduct of hearing. Unless the director
18 determines that the public interest will be otherwise served,
19 the hearing must be conducted substantially in the following
20 manner:

21 A. After opening the hearing, the director must state
22 the procedural rules for the hearing including the following:

23 (1) all parties may present evidence and
24 cross-examine witnesses;

25 (2) all parties have a right to be represented at
26 the hearing;

27 (3) any objection to the conduct of the hearing,
28 including the introduction of evidence, must be stated orally,
29 together with a statement of the grounds for the objection;

30 (4) no objection to the conduct of the hearing,
31 including the introduction of evidence, shall be waived by
32 further participation in the hearing; and

33 (5) failure to appear at the hearing in person or
34 through an authorized representative may prejudice the rights of
35 a party.

36 B. Any stipulations, settlement agreements, or

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1 consent orders entered into by any of the parties prior to the
2 hearing shall be entered into the record.

3 C. The party with the burden of proof may make an
4 opening statement. The other parties may make opening
5 statements in a sequence determined by the director.

6 D. After any opening statements, the party with the
7 burden of proof shall present its evidence. The other parties
8 shall follow in a sequence determined by the director.

9 E. Cross-examination of witnesses is conducted in a
10 sequence determined by the director.

11 F. When all parties and witnesses have been heard,
12 final argument may, in the discretion of the director, be
13 permitted. The director shall determine the timing and sequence
14 of the argument, and whether the argument is presented in
15 written or oral form, or both.

16 G. After final argument, the director shall close or
17 continue the hearing.

18 H. The record of the proceeding shall be closed upon
19 receipt of the final written memorandum, transcript, if any, or
20 late-filed exhibits which the parties and the director have
21 agreed should be received into the record, whichever occurs
22 later.

23 Subp. 13. Disruption of hearing. No television, newsreel,
24 motion picture, still or other camera, and no mechanical
25 recording devices other than those provided by the director
26 shall be operated in the hearing room during the course of the
27 hearing.

28 No person shall interfere with the free, proper, and lawful
29 access to or egress from the hearing room. No person shall
30 interfere or threaten interference with the conduct of the
31 hearing.

32 Subp. 14. Determinations. All determinations issued by
33 the director must be based upon the record.

34 Subp. 15. Order pending appeal. Any order appealed to the
35 board shall continue in effect unless ordered otherwise by the
36 board or unless stayed by the director upon request of one or

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1 more parties.

2 5510.2010 ELECTIONS.

3 Subpart 1. Showing of interest. The director shall not
4 order an election unless there is at least a 30 percent showing
5 of interest for the unit determined appropriate.

6 Subp. 2. Location. If the director orders an election for
7 any purpose, it shall be conducted by secret ballot either at a
8 site of employment or by mail.

9 Subp. 3. Order. An election order shall be mailed to all
10 parties at least ten calendar days prior to the date of the
11 on-site election or the date of the tabulation for a mail ballot
12 election. The election order shall:

- 13 A. identify the appropriate unit;
- 14 B. establish the cut-off date for voter eligibility;
- 15 C. include a list of the eligible voters;
- 16 D. include a sample ballot;
- 17 E. establish campaign and election rules;
- 18 F. provide for the parties to appoint observers;
- 19 G. identify the date, time, and location of an
20 on-site election and provide for absentee ballots;
- 21 H. identify the date of mailing ballots in a mail
22 ballot election;
- 23 I. include any other conditions which are necessary
24 for the conduct of a fair election; and
- 25 J. provide for posting by the employer of the
26 election order and attachments.

27 Subp. 4. Voter eligibility. All employees within the
28 appropriate unit who are employed on the cut-off date and are
29 identified on a list established by the director shall be
30 eligible to vote in an election subject to this chapter.

31 Subp. 5. Correction of voter eligibility list.

32 A. The director shall determine questions concerning
33 the addition or deletion of names on the voter eligibility list.

34 B. Names shall not be added to the voter eligibility
35 list after the close of the hearing on the election petition
36 unless names were inadvertently omitted or the cut-off date for

1 voter eligibility is changed because of an appeal to the board
2 or court order.

3 C. Names shall be deleted from the voter eligibility
4 list based on:

5 (1) transfer, promotion, or demotion of an
6 employee out of the unit which is not prohibited by the-eease
7 and-desist an order maintaining the status quo;

8 (2) an appeal to the board or court action which
9 delays the conduct of the election or changes the cut-off date
10 for voter eligibility; or

11 (3) voluntary or involuntary termination of an
12 eligible voter who has not appealed the termination.

13 The deletion shall be made immediately prior to the opening
14 of the polls or tabulation of the ballots.

15 D. A written request to correct the voter eligibility
16 list must be received by the director within seven calendar days
17 after the date of the election order.

18 Subp. 6. Right to vote. Eligible voters shall be
19 permitted to vote during their work hours without loss of pay.

20 Subp. 7. Election ballot.

21 A. A certification election ballot shall contain the
22 following choices:

23 (1) the name of employee organizations which have
24 submitted the required showing of interest; and

25 (2) no representation.

26 B. A representation election ballot shall contain the
27 following choices:

28 (1) the name of the exclusive representative;

29 (2) the name of employee organizations which have
30 submitted the required showing of interest; and

31 (3) no representation if the required showing of
32 interest has been submitted in accordance with part 5510.0710,
33 subpart 2.

34 C. A decertification election ballot shall contain
35 the following choices:

36 (1) the name of the exclusive representative;

1 (2) the name of employee organizations which have
2 submitted the required showing of interest; and

3 (3) no representation.

4 Subp. 8. Absentee ballot. Any eligible voter unable to be
5 present at an on-site election may secure an absentee ballot by
6 submitting an individual written request to the director which
7 must be received by the director no later than specified in the
8 election order. The written request must be dated and contain
9 the name and home mailing address of the eligible voter,
10 identification of the employer, signature of the eligible voter,
11 and date of the election.

12 Upon receipt of a timely request for an absentee ballot,
13 the director shall mail a ballot, return envelope, and a letter
14 of explanation to the voter.

15 Absentee ballots must be received by the director in the
16 return envelope no later than specified in the election order.

17 Subp. 9. Election procedures. An election shall be held
18 on the premises where the voters are employed during hours the
19 director determines, unless the director determines that the
20 election shall be held at another location, by mail ballot, or
21 by a combination of on-site and mail balloting.

22 The parties to an on-site election may designate one
23 observer who is permitted to be present at each polling location
24 during the casting of the ballots and their tabulation. The
25 director may ~~require~~ allow attendance of more than one observer
26 per party.

27 The parties to a mail ballot election may each designate
28 one observer who is permitted to be present during the
29 tabulation of the ballots. The director may ~~require~~ allow
30 attendance of more than one observer per party.

31 The role of the observer is to identify employees eligible
32 to vote and the observers are subject to orders of the director.

33 Subp. 10. Marking ballot. The ballot shall be marked in
34 accordance with the instructions on the ballot. A ballot which
35 is defaced or identifies the voter shall be voided. When a
36 voter inadvertently spoils a ballot, the voter shall immediately

1 return the ballot to the director who shall destroy the spoiled
2 ballot and provide another ballot to the voter.

3 When a voter states that, because of physical disability or
4 inability to read or write, the voter cannot mark the ballot the
5 director shall assist the voter privately in marking the ballot.

6 A voter who has been mailed an absentee ballot by the
7 director shall not be permitted to vote at the on-site election
8 under any circumstances.

9 Subp. 11. Status of scheduled election during appeal to
10 board. In the event of an appeal to the board, the director
11 shall conduct the scheduled election unless otherwise ordered by
12 the board.

13 Subp. 12. Tabulation of ballots. All ballots cast by
14 eligible voters shall be tabulated by the director in the
15 presence of the election observers, if any, at the site
16 designated in the election order.

17 Envelopes containing timely mail or absentee ballots shall
18 be opened in the presence of the election observers, if any, and
19 shall be placed in the ballot box and mixed with other ballots
20 before they are tabulated.

21 The director shall immediately rule on each ballot as to
22 whether it is valid, void, or blank; and the ballots must be
23 separated into those categories.

24 Blank or void ballots shall not be counted as votes cast
25 for purposes of the election.

26 Mail ballots returned by employees whose names have been
27 deleted from the eligibility list shall not be counted.

28 Subp. 13. Tabulation of election results. Upon the
29 conclusion of the election, the director shall prepare and sign
30 a tabulation of election results. A copy of the tabulation of
31 election results shall be furnished to each party observer
32 present. Following the completion of the tabulation, the
33 director shall retain all election ballots and materials for at
34 least 60 calendar days.

35 Subp. 14. Run-off election. When a ballot contains more
36 than two choices and none of the choices receives a majority of

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1 the valid votes cast, a run-off election shall be conducted
2 between the choices receiving the greatest and second greatest
3 number of votes. In a representation or decertification
4 election, where the exclusive representative does not qualify
5 for a run-off election, the election shall be considered a
6 certification election for purposes of tie votes.

7 Subp. 15. Tie vote. A tie vote in an election containing
8 no more than two choices shall result in the following:

9 A. Certification election; certification that no
10 exclusive representative has been selected.

11 B. Representation election; certification that the
12 exclusive representative remains certified.

13 C. Decertification election; certification that the
14 exclusive representative remains certified.

15 5510.2110 UNFAIR ELECTION PRACTICES.

16 Subpart 1. Definition of charges. The following acts are
17 prohibited and constitute unfair election practices if committed
18 by an employer or its agents, an employee organization or its
19 agents, or an employee:

20 A. campaigning on the day of the on-site election;

21 B. congregating in or near the polling place during
22 the time the polls are open;

23 C. coercing or intimidating or otherwise unlawfully
24 attempting to influence any eligible voter;

25 D. committing an unfair practice as defined by
26 Minnesota Statutes, section 179A.13; or

27 E. ~~violation-of~~ violating an election order.

28 Subp. 2. Filing charges. A party to an election may file
29 a charge of an unfair election practice with the director. A
30 copy of the charge shall be served by the charging party on all
31 other parties to the election. A charge shall be filed within
32 ten calendar days from the date of the ~~tabulation-of-ballets~~
33 certification of election results. The charge shall be in
34 writing, be signed by the charging party, and state the name and
35 address of the party against whom made. The charge shall
36 specify the alleged unfair election practice and the facts

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1 supporting the charge.

2 Subp.-3.--Charge-filed-prior-to-election.--If-the-alleged
3 unfair-election-practice-appears-to-materially-affect-the
4 results-of-an-election-to-be-held,-the-director-may:

5 A.--postpone-the-election-until-the-charge-has-been
6 heard-or-investigated;

7 B.--hold-the-election-and-conduct-a-hearing-or-an
8 investigation-at-a-later-date-to-determine-whether-the-election
9 should-be-voided;-or

10 C.--hold-the-election-and-impound-the-ballots-until-a
11 hearing-or-an-investigation-has-been-completed.

12 Subp.-4.--Charge-filed-after-election. If a charge of an
13 unfair election practice is filed after-an-election-has-been
14 held, the director may:

15 A. stay the election results pending conduct of a
16 hearing or investigation if the alleged unfair election practice
17 appears to have materially affected the election results;

18 B. conduct a hearing or investigation; and

19 C. rescind the certification of exclusive
20 representative or the certification of election results.

21 Subp. 5 3. Determination. Based on a hearing or
22 investigation, the director shall issue an order. If an unfair
23 election practice is established, the election may be voided and
24 a new election may be ordered.

25 5510.2210 REQUEST FOR RECONSIDERATION.

26 Subpart 1. General. A party may file a request for
27 reconsideration of orders issued by the director.

28 Subp. 2. Timeliness of request. A request shall be filed
29 within ten calendar days following the date of-issuance of the
30 order.

31 Subp. 3. Form of request. The request shall be filed in
32 writing and contain a statement of the request and the grounds
33 supporting the request. Unfair election practice charges shall
34 not be a ground for reconsideration.

35 Subp. 4. Staying of order. If the director determines
36 that the request raises substantial and material issues, the

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1 challenged order may be stayed until a hearing or investigation
2 has been held and a decision is issued.

3 5510.2310 STATUS OF EMPLOYEE ORGANIZATION.

4 Subpart 1. Change in exclusive representative. When there
5 is a change in exclusive representative, the incumbent exclusive
6 representative retains the rights and obligations established by
7 the act and the labor contract through the contract's expiration
8 including:

- 9 A. fair share fee assessments;
10 B. dues check-off; and
11 C. time off for union officers.

12 The incoming exclusive representative, prior to the
13 expiration of the labor contract, has all rights and obligations
14 necessary to carry out its status as an exclusive representative
15 including negotiation of the successor labor contract, and
16 access to financial information for use in negotiations.

17 Subp. 2. Decertification of exclusive representative.
18 When an exclusive representative is decertified, the labor
19 contract remains in effect until its expiration. The
20 decertified exclusive representative retains all its rights and
21 obligations established by the act and the labor contract
22 through the contract's expiration.

23 Subp. 3. Transfer of exclusive representative status. An
24 exclusive representative certified as the result of a transfer
25 of exclusive representative status assumes all its rights and
26 obligations established by the act and the existing labor
27 contract.

28 5510.2410 APPLICATION.

29 Parts 5510.2410 to 5510.3210 govern the conduct of
30 negotiations between an exclusive representative and an
31 employer, the conduct of mediation, the certification of impasse
32 to the board, the arbitration of impasse, and the notification
33 of intent to strike.

34 5510.2510 POLICY.

35 Parts 5510.2410 to 5510.3210 must be liberally construed to

1 effectuate the purposes and provisions of the act. Any
2 requirements of parts 5510.2410 to 5510.3210 may be waived by
3 agreement of all parties and the approval of the director.

4 The director shall grant approval unless the director
5 determines that waiving the particular requirements in question
6 is likely to result in significant harm to the general public or
7 to specific nonparties or is likely to result in substantial
8 impairment or frustration of the intent or purposes of the act.

9 The joint request for waiver shall be made in writing to
10 the director in a timely fashion. The director shall set forth
11 in writing the reasons for granting or denying the waiver.

12 5510.2610 DEFINITIONS.

13 The words, terms, and phrases in parts 5510.2410 to
14 5510.3210 have the meaning and definitions contained in part
15 5510.0110.

16 5510.2710 NEGOTIATION NOTICE.

17 A written notification of the desire to meet and negotiate
18 an original contract, renewal of a contract, or a reopener of a
19 contract must be served on the other party and the
20 director. The written notice shall include:

21 A. the name, address, and phone number of the
22 exclusive representative;

23 B. the name, address, and phone number of the
24 exclusive representative's representative;

25 C. the name, address, and phone number of the
26 employer;

27 D. the name, address, and phone number of the
28 employer's representative;

29 E. a description of the appropriate unit for which
30 such notice is being given;

31 F. the date of expiration of the current labor
32 contract, if any;

33 G. the total number of employees employed by the
34 employer;

35 H. the number of employees in the appropriate unit

1 covered by the notice;

2 I. the date the notice is signed; and

3 J. the name and title of the person signing the
4 notice.

5 5510.2810 PETITION FOR MEDIATION.

6 Subpart 1. Petition. A petition for mediation must be
7 served on the bureau by an exclusive representative, an
8 employer, or jointly. Petition forms may be obtained from the
9 bureau.

10 Subp. 2. Director initiation of mediation. When it is in
11 the public interest, the director may initiate mediation without
12 receiving a petition. Upon notice to the parties, mediation
13 shall proceed in accordance with parts 5510.2410 to 5510.3210.

14 Subp. 3. Notice. Upon receiving a petition for mediation,
15 the director must serve notice of the time and place for a
16 mediation meeting of the exclusive representative and the
17 employer..

18 Subp. 4. Obligation. It is the duty and obligation of the
19 parties to comply with the notice of the mediation meeting. The
20 parties must be represented by persons having the authority to
21 negotiate in good faith and be prepared to identify unresolved
22 issues and their positions regarding such issues.

23 Subp. 5. Mediation meetings. Joint or separate mediation
24 meetings of the parties may be scheduled by the director.
25 Mediation meetings are informal and must be limited by the
26 director to matters relevant to the settlement of the dispute.
27 The parties must continue to participate in a mediation meeting
28 until excused by the director. Use of recording devices,
29 stenographic records, or other recording methods is prohibited
30 in mediation meetings.

31 A mediation meeting may be closed to the public by the
32 director when, in his judgment, closing will facilitate
33 resolution of the dispute. In all cases a meeting will be
34 closed only after receipt by the bureau of a valid and timely
35 petition for mediation or after initiation of mediation by the
36 director. The director may close a meeting to the public prior

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1 to its start or at any time during the meeting.

2 When the director determines that it is in the interest of
3 resolution of a dispute, he may authorize a closed meeting of
4 the public employer's governing body for the purpose of review
5 and discussion of the status of negotiations and the employer's
6 positions.

7 No closed meeting may be authorized unless the bureau has
8 received a valid and timely petition for mediation or unless
9 mediation has been initiated by the director.

10 No closed meeting may be authorized when the director is
11 not physically present at the meeting unless the bureau has
12 received a timely and valid notice of intent to strike.

13 In the event the director determines that a closed meeting
14 is necessary, but the director cannot be physically present at
15 the meeting and a timely and valid notice of intent to strike
16 has been received by the bureau, the director may authorize a
17 closed meeting upon written notice to the governing body and
18 exclusive representative at least 24 hours prior to the closed
19 meeting. The written notice must include the date, time, and
20 place of the closed meeting of the governing body and limit the
21 purpose of the meeting to matters relevant to the dispute.

22 Subp. 6. Confidential information. Confidential
23 information includes:

24 A. information disclosed by any party to the director
25 in the performance of mediation functions; and

26 B. files, records, reports, documents, or other
27 papers received or prepared by the director during the
28 performance of duties and responsibilities related to mediation.

29 Confidential information shall not be divulged or produced
30 by any bureau personnel. Bureau personnel may not testify in an
31 adversary proceeding regarding confidential information.

32 5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD,
33 IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES
34 EXCEPT CONFIDENTIAL, ESSENTIAL, MANAGERIAL, SUPERVISORY
35 EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

36 Subpart 1. Mediation period. A mediation period commences

1 on the day following receipt by the bureau of a petition for
2 mediation or the day following issuance of notice that the
3 director has initiated mediation.

4 Subp. 2. Request to determine impasse. During the
5 mediation period, any party may request in writing that the
6 director determine the negotiations to be at impasse. The
7 request is considered an offer to arbitrate the dispute.

8 Subp. 3. Expiration of mediation period. Following the
9 expiration of the mediation period and expiration date of the
10 labor contract, negotiations are considered to be at impasse and
11 either party may request to arbitrate the dispute.

12 Subp. 4. Request for arbitration at impasse. A joint
13 request by the parties to submit the impasse to arbitration may
14 be served at any time during the negotiations, mediation period,
15 or thereafter. A joint request must be signed by the authorized
16 representatives of both parties and must contain a list of the
17 items in dispute and a statement agreeing to arbitrate the items.

18 A request by a single party to submit an impasse to
19 arbitration may be served at any time after the expiration of
20 the mediation period. In the case of teacher units the parties
21 must have been at impasse for a 45-calendar-day period following
22 the expiration of the mediation period. The request must be in
23 writing, signed by an authorized representative, and contain a
24 list of the items in dispute.

25 A request to arbitrate is accepted by the other party only
26 upon receipt by the bureau and the offering party of a written
27 acceptance. A joint request satisfies this requirement.

28 A joint request or written acceptance of a request to
29 arbitrate is binding upon the parties except to the extent they
30 otherwise mutually agree in writing.

31 A single-party offer to arbitrate an impasse is rejected:

32 A. by serving written notice of rejection on the
33 bureau and the other party;

34 B. by failing to accept the offer in writing within
35 15 calendar days following service of the request;

36 C. if the exclusive representative serves a notice of

1 intent to strike following receipt by the bureau of an offer to
2 arbitrate; or

3 D. if the exclusive representative does not withdraw
4 a previously served notice of intent to strike by serving a
5 written acceptance of the offer.

6 An offer to arbitrate an impasse is considered to be
7 withdrawn if the offer is rejected by the other party in
8 accordance with parts 5510.2410 to 5510.3210.

9 Subp. 5. Certification of impasse to board. Following
10 receipt of a joint request to arbitrate or receipt of an
11 acceptance of a single-party offer to arbitrate, the director
12 must shall notify the board of the existence of an impasse. The
13 notice of impasse must contain a statement that the negotiations
14 between the parties are at impasse, a list of the issues
15 determined by the director to be at impasse, and any final
16 positions submitted by the parties.

17 Subp. 6. Option of final offer arbitration. The parties
18 may agree in writing to limit the arbitrator's authority to a
19 final offer item-by-item or a final offer total-package award.

20 A. In the event of that agreement, the parties must
21 file a written copy of the agreement with the bureau prior to
22 the date upon which final positions are due, as set forth in the
23 director's determination of impasse. If the parties do not
24 agree to final offer arbitration, the impasse shall be decided
25 by conventional arbitration.

26 B. If the final offer arbitration option is agreed
27 to, the parties may not withdraw or amend the final positions
28 filed with the director unless otherwise agreed to in writing by
29 the parties. The agreement may include, but is not limited to
30 an agreement:

31 (1) that an item certified to be at impasse has
32 been dropped as an item in dispute;

33 (2) that an item certified to be at impasse has
34 been settled by the parties; and

35 (3) to amend the submitted final positions on any
36 or all items certified to be at impasse. An Such agreement must

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1 specify the conditions and manner in which the final positions
2 are to be amended.

3 C. All final positions submitted to the bureau shall
4 be considered confidential.

5 Subp. 7. Notice of intent to strike.

6 A. A notice of intent to strike must be in writing
7 and signed by an authorized representative of the exclusive
8 representative. The notice must set forth the date upon which
9 the exclusive representative believes the right to strike will
10 mature. The date shall be subject to adjustment by the director
11 to conform to parts 5510.2410 to 5510.3210. The notice must be
12 served on the employer and the director by the exclusive
13 representative.

14 B. The notice of intent to strike is timely when the
15 requirements of Minnesota Statutes, section 179A.18, have been
16 fulfilled.

17 C. The 30-calendar-day strike notice period commences
18 the day following receipt by the director of the notice of
19 intent to strike, provided:

20 (1) A strike shall not begin during the first ten
21 calendar days of a strike notice period.

22 (2) Effective 12:01 a.m. of the 11th day and
23 continuing until 12:00 midnight of the 30th day of the strike
24 notice period, the right to strike matures.

25 (3) If the bureau receives a notice of intent to
26 strike not more than five calendar days prior to the expiration
27 of the mediation period or 45-day teacher impasse period, the
28 strike notice period begins the day following the expiration of
29 the mediation period. Notices received prior to these periods
30 are void and of no effect.

31 D. If the 30-calendar-day strike notice period
32 expires without a strike, the right to strike expires, but may
33 be renewed by serving a new notice of intent to strike not more
34 than five calendar days prior to the 30th day of the preceding
35 strike notice period. A renewed strike notice period shall
36 commence the day following expiration of the preceding period.

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1 The rules applying to the initial strike notice period,
2 including the ten-day waiting period, apply to any renewal
3 period.

4 E. The director ~~must~~ shall notify the parties in
5 writing of the date of any strike notice, the date upon which
6 the right to strike matures, and the date upon which the right
7 to strike expires.

8 5510.3010 RENEWAL OF EXISTING CONTRACT; MEDIATION, IMPASSE AND
9 ARBITRATION FOR CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES,
10 AND FOR PRINCIPALS AND ASSISTANT PRINCIPALS.

11 Subpart 1. Mediation. Mediation shall be scheduled by the
12 director upon receipt of a petition filed under part 5510.2810.

13 Subp. 2. Impasse. During mediation of the dispute, the
14 parties, individually or jointly, may request the director to
15 declare the negotiations at impasse. If the director determines
16 that further mediation efforts would not resolve the dispute, he
17 shall declare the negotiations to be at an impasse and notify
18 the parties in writing of that determination. The notice by the
19 director ~~must~~ shall include:

20 A. the date on which an impasse was declared;

21 B. a list of the matters determined by the director
22 to remain in dispute; and

23 C. the date upon which final positions of the parties
24 with respect to the matters at impasse are to be received by the
25 director.

26 Subp. 3. Final offer arbitration. The parties may agree
27 to limit the arbitrator's authority to a final offer
28 item-by-item or a final offer total package award. If the
29 parties do not agree to final offer arbitration, the impasse
30 shall be decided by conventional arbitration.

31 Subp. 4. Final positions. If the final offer arbitration
32 option is agreed to, the parties may not withdraw or amend the
33 final positions filed with the director unless otherwise agreed
34 to in writing by the parties. The agreement to amend may
35 include, but is not limited to, an agreement:

36 A. that an item certified to be at impasse has been

1 dropped as an item in dispute;

2 B. that an item certified to be at impasse has been
3 settled by the parties; and

4 C. to amend the submitted final positions on any or
5 all items certified to be at impasse. An Such agreement must
6 specify the conditions and manner in which the final positions
7 are to be amended.

8 Subp. 5. Certification of impasse to board. Following the
9 date established for submission of final positions of both
10 parties, the director shall notify the board of the existence of
11 an impasse. The notice of impasse shall contain a statement
12 that the negotiations between the parties are at impasse, a list
13 of the issues determined by the director to be at impasse, and
14 any final positions submitted by the parties.

15 Subp. 6. Confidentiality of final positions. All final
16 positions submitted to the bureau are confidential.

17 5510.3110 NEW OR DIFFERENT EXCLUSIVE REPRESENTATIVE; MEDIATION,
18 IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES.

19 Subpart 1. Procedures. Except as otherwise provided by
20 this part, parts 5510.2810 and 5510.2910 shall apply.

21 Subp 2. Negotiations. Following certification of a new or
22 different exclusive representative or resolution of a question
23 of representation by the director, the parties shall commence
24 negotiations.

25 Subp. 3. Mediation period. The 60-day or 45-day mediation
26 period provided under part 5510.2910 commences on the day
27 following ~~certification of a new or different exclusive~~
28 ~~representative or resolution or a question of representation by~~
29 ~~the director~~ receipt by the bureau of a petition for mediation
30 or the day following issuance of notice that the director has
31 initiated mediation.

32 5510.3210 CONTRACT TRANSMITTAL.

33 Upon the execution of a written labor contract or
34 memorandum of contract, the employer shall submit one copy of
35 the contract to the bureau.

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1
2 REPEALER. Minnesota Rules, parts 5500.2900, 5500.3000,
3 5500.3100, 5500.3200, 5500.3300, 5500.3400, 5500.3500,
4 5500.3600, 5500.3700, 5500.3800, 5500.3900, 5510.0100,
5 5510.0200, 5510.0300, 5510.0400, 5510.0500, 5510.0600,
6 5510.0700, 5510.0800, 5510.0900, 5510.1000, 5510.1100,
7 5510.1200, 5510.1300, 5510.1400, 5510.1500, 5510.1600,
8 5510.1700, 5510.1800, 5510.1900, 5510.2000, 5510.2100,
9 5510.2200, 5510.2300, 5510.2400, 5510.2500, 5510.2600,
10 5510.2700, 5510.2800, 5510.2900, 5510.3000, 5510.3100,
11 5510.3200, 5510.3300, 5510.3400, 5510.3500, 5510.3600,
12 5510.3700, 5510.3800, 5510.3900, 5510.4000, 5510.4100,
13 5510.4200, 5510.4300, 5510.4400, 5510.4500 are repealed.

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