

1 Bureau of Mediation Services

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3 Adopted Rules Relating to Public Employees, Labor Negotiations
4 and Dispute Resolution

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6 Rules as Adopted

7 5510.2710 NEGOTIATION NOTICE.

8 Subpart 1. Content of notice. A written notification of
9 the desire to meet and negotiate an original contract, renewal
10 of a contract, or a reopener of a contract must be served on the
11 other party and the director. The notice may be served on forms
12 available from the director or in other written format which
13 includes the following:

14 A. to J. [Unchanged.]

15 Subp. 2. Initial agreement. The An employer shall have
16 ten days following service of a negotiation notice ~~from~~ by an
17 employee organization to object to the employee organization's
18 status as exclusive representative, or to contest the
19 appropriateness of the unit ~~proposed-to-be-covered-by-the-labor~~
20 ~~contract~~. An objection must be made in writing to the employee
21 organization and the director, and the director must investigate
22 the matter pursuant to parts 5510.0110 to 5510.2310.

23 Subp. 3. Subsequent agreement. If a party to an existing
24 labor contract desires to meet and negotiate a subsequent labor
25 contract, the party shall serve written notice of the that
26 desire upon the other party to the labor contract and the
27 director at least 60 calendar days prior to the expiration date
28 in the existing labor contract. If a party desires to negotiate
29 a subsequent labor contract, but has failed to provide the
30 required 60-day notice, the party may be compelled to pay a
31 penalty of \$10 per day for each day the notice of intent is late.

32 Subp. 4. Late notice penalty. A \$10-per-day penalty shall
33 be the only penalty for late notice of a desire to negotiate a
34 subsequent labor contract and may be imposed by the director
35 upon request by a party adversely affected by the failure to
36 provide timely notice or the director's own motion. A request

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1 or motion to assess a penalty shall be made in writing and
2 served upon the director and the other party to the labor
3 contract within ten days of the requesting party's first
4 knowledge of the other party's desire to negotiate or, in the
5 case of the director's own motion, within 15 days of the receipt
6 of a request for mediation assistance involving the same parties
7 and contract. A request from a party or motion by the director
8 shall specify the date of first knowledge of the desire to
9 negotiate, the expiration date of the current labor contract,
10 and a brief statement of the adverse results or impact of the
11 late notice. Upon receipt of a written request or after the
12 director's own motion to assess a penalty for late notice, the
13 director shall investigate the matter pursuant to part
14 5510.1910. If the director finds that the late notice did not
15 prejudice the director or the other party, the director may
16 waive all or a part of the penalty. The penalty shall be
17 payable to the state of Minnesota general fund. The amount of
18 the penalty and its waiver is not subject to appeal to the board.

19 5510.2810 PETITION FOR MEDIATION.

20 Subpart 1. and 2. [Unchanged.]

21 Subp. 3. Notice. Upon receiving a petition for mediation
22 and concluding that mediation would be useful, the director
23 shall serve notice of the time and place for a mediation meeting
24 of the exclusive representative and the employer.

25 Subp. 4. [Unchanged.]

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

34 A mediation meeting may be closed to the public by the
35 director when, in the director's judgment, closing will
36 facilitate resolution of the dispute. In all cases a meeting

1 will be closed only after receipt by the bureau of a valid and
2 timely petition for mediation or after initiation of mediation
3 by the director. The director may close a meeting to the public
4 prior to its start or at any time during the meeting.

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

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

13 No closed meeting may be authorized when the director or a
14 representative of the director is not physically present at the
15 meeting unless the bureau has received a timely and valid notice
16 of intent to strike.

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

26 Subp. 6. [Unchanged.]

27 5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD,
28 IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES
29 EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND
30 PRINCIPALS AND ASSISTANT PRINCIPALS.

31 Subpart 1. **Mediation period.** Except for teachers, a
32 45-day mediation period commences on the day following receipt
33 by the bureau of a petition for mediation or the day following
34 issuance of notice that the director has initiated mediation.
35 For teachers, a 30-day mediation period commences on the first
36 day that a mediator first attends a mediation meeting with both

1 parties in an effort to resolve the dispute.

2 Subp. 2. [Unchanged.]

3 Subp. 3. Expiration of mediation period. Following the
4 expiration of the mediation period and expiration date of the
5 labor contract, negotiations are presumed to be at impasse and
6 either party may request to arbitrate the dispute.

7 Subp. 4. [Unchanged.]

8 Subp. 4a. Final positions. Upon notice of an agreement to
9 arbitrate, the director shall notify the parties and direct that
10 each party submit its final position on each item determined by
11 the director to remain in dispute. The final positions must be
12 in the form of the contract language desired by that party to
13 resolve each matter in dispute and must be received by the
14 director on or before the date specified in the director's
15 letter.

16 Subp. 5. Certification of impasse to board. Following
17 receipt of a joint request to arbitrate or receipt of an
18 acceptance of a single-party offer to arbitrate, the director
19 shall notify the board of the existence of an impasse. The
20 notice will include a list of the issues determined by the
21 director to be at impasse, and the final positions submitted by
22 the parties. The director shall advise the board whenever a
23 party does not submit final positions within the format or time
24 frames required by this chapter.

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

28 A. In the event of an agreement, the parties must
29 file a written copy of the agreement with the bureau prior to
30 the date upon which final positions are due, as set forth in the
31 director's determination of impasse. If the parties do not
32 agree to final offer arbitration, the impasse shall be decided
33 by conventional arbitration.

34 B. and C. [Unchanged.]

35 Subp. 7. Notice of intent to strike, other than teachers.

36 A. and B. [Unchanged.]

1 C. The 30-calendar-day strike notice period commences
2 the day following receipt by the director of the notice of
3 intent to strike, provided:

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

6 (2) The right to strike matures effective 12:01
7 a.m. of the 11th day and continues until 12:00 midnight of the
8 30th day of the strike notice period.

9 (3) If the bureau receives a notice of intent to
10 strike not more than five calendar days prior to the expiration
11 of the mediation period ~~or 45-day-teacher-impasse-period~~, the
12 strike notice period begins the day following the expiration of
13 the mediation period. Notices received prior to these periods
14 are void and of no effect.

15 D. [Unchanged.]

16 E. The director may notify the parties in writing of
17 the date of any strike notice, the date upon which the right to
18 strike matures, and the date upon which the right to strike
19 expires, but the notice by the director shall not alter rights
20 established under Minnesota Statutes, section 179A.18.

21 Subp. 8. Notice of intent to strike, teachers.

22 A. A notice of intent to strike must be in writing
23 and signed by an authorized representative of the exclusive
24 representative. The notice must set forth the date upon which
25 the exclusive representative believes the right to strike will
26 mature. The date shall be subject to adjustment by the director
27 to conform to parts 5510.2410 to 5510.3210. The notice must be
28 served on the employer and the director by the exclusive
29 representative.

30 B. A notice of intent to strike is timely when the
31 requirements of Minnesota Statutes, section 179A.18,
32 subdivisions 2 and 3, have been fulfilled.

33 C. A 25-calendar-day strike notice period commences
34 the day following receipt by the director of a properly-served
35 notice of intent to strike, provided:

36 (1) a strike shall not begin during the first ten

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1 days of a strike notice period;

2 (2) the right to strike matures effective 12:01
3 a.m. of the 11th day and continues until 12:00 midnight of the
4 25th day of the strike notice period; and

5 (3) prior to the expiration of the 25-day period,
6 the exclusive representative and the employer may agree to
7 extend the period up to an additional five calendar days.

8 D. If the 25-day period, or any proper extension,
9 expires without a strike, the right to strike shall be
10 terminated with respect to the current contract negotiation,
11 except that the strike notice shall be renewed for an additional
12 ten days, the first five days of which shall be a notice period
13 during which no strike may occur, if all of the following
14 conditions are satisfied:

15 (1) an original notice of intent to strike was
16 provided pursuant to this part;

17 (2) a tentative agreement was reached during the
18 original strike notice period or extension thereof; and

19 (3) the tentative agreement was rejected by
20 either party during or after the original strike notice period.

21 Satisfaction of subitems (1) to (3) shall automatically
22 renew the strike notice period. The first day of the renewal
23 period shall be the day following expiration of the previous
24 strike notice period or the day following rejection of the
25 tentative agreement, whichever is later.

26 E. No notice of intent to strike will be accepted
27 prior to the expiration of the mediation period and the
28 expiration of the agreement in effect.

29 F. The director may notify the parties in writing of
30 the date of any strike notice, the date upon which the right to
31 strike matures, and the date upon which the right to strike
32 expires, but notice by the director shall not alter rights
33 established under Minnesota Statutes, section 179A.18.

34 5510.3010 MEDIATION, IMPASSE AND ARBITRATION FOR CONFIDENTIAL,
35 ESSENTIAL, SUPERVISORY EMPLOYEES, AND FOR PRINCIPALS AND
36 ASSISTANT PRINCIPALS.

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1 Subpart 1. Mediation. Upon concluding that it would be
2 useful, mediation shall be scheduled by the director.

3 Subp. 2. Impasse. During mediation of the dispute, the
4 parties, individually or jointly, may request the director to
5 declare the negotiations at impasse. If, as a result of the an
6 individual request or at the director's own initiative, the
7 director determines that further mediation efforts would not are
8 not likely to resolve the dispute, the director may declare the
9 negotiations to be at an impasse and notify the parties in
10 writing of that determination. The director shall regard a
11 joint request as evidence of the impasse. The notice by the
12 director shall include:

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

14 B. a list of the matters or impasse items determined
15 by the director to remain in dispute; and

16 C. the date upon which final positions of the parties
17 with respect to the matters at impasse are to be received by the
18 director.

19 Subp. 3. Final offer arbitration. Except for principals
20 and assistant principals, the parties may agree to limit the
21 arbitrator's authority to a final offer item-by-item or a final
22 offer total package award. If the parties do not agree to final
23 offer arbitration, the impasse shall be decided by conventional
24 arbitration. For principals and assistant principals, the panel
25 shall be restricted to selecting between the final offers of the
26 parties on each impasse item.

27 Subp. 4. Final positions. Final positions submitted by
28 each party shall be in the form of the contract language desired
29 by that party to resolve each matter in dispute. The director
30 shall review all final positions submitted by the parties and
31 may make additional efforts to resolve the dispute. If the
32 final offer arbitration option is agreed to, the parties may not
33 withdraw or amend the final positions filed with the director
34 unless otherwise agreed to in writing by the parties. The
35 agreement to amend may include, but is not limited to, an
36 agreement:

1 A. that an item certified to be at impasse has been
2 dropped as an item in dispute;

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

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

9 Subp. 5. Certification of impasse to board. Following the
10 date established for submission of final positions of both
11 parties, the director shall notify the board of the existence of
12 an impasse. The notice of impasse shall contain a statement
13 that the negotiations between the parties are at impasse, a list
14 of the issues or impasse items determined by the director to be
15 at impasse, and the final positions submitted by the parties.
16 The director shall advise the board whenever a party does not
17 submit final positions within the format or time frames required
18 by this chapter.

19 Subp. 6. Confidentiality of final positions. All final
20 positions submitted to the bureau are confidential, except as
21 otherwise provided by this chapter.

22 5510.3110 NEW OR DIFFERENT EXCLUSIVE REPRESENTATIVE; MEDIATION,
23 IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES.

24 Subpart 1. and 2. [Unchanged.]

25 Subp. 3. Mediation period. For all public employees
26 except essential employees and teachers, the 60-day or 45-day
27 mediation period provided under part 5510.2910 commences on the
28 day following receipt by the bureau of a petition for mediation
29 or the day following issuance of notice that the director has
30 initiated mediation. For teachers, the 30-day mediation period
31 commences on the first day that a mediator first attends a
32 mediation meeting with the parties in an effort to resolve the
33 dispute.