

1 Bureau of Mediation Services

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3 Adopted Permanent Rules Relating to Negotiation, Mediation,  
4 Impasse Certification, Arbitration, and Intent to Strike Notice

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6 Rules as Adopted

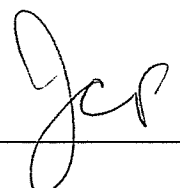
7 5510.2410 APPLICATION.

8 Parts 5510.2410 to 5510.3210 govern the conduct of  
9 negotiations between an exclusive representative and an  
10 employer, the conduct of mediation, the certification of  
11 unresolved ~~issues~~ items to the board, the arbitration of  
12 unresolved ~~issues~~ items, and the notification of intent to  
13 strike.

14 5510.2905 CONFIDENTIAL INFORMATION.

15 Subpart 1. Mediation information. Information disclosed  
16 to the commissioner or an authorized agent by any party during  
17 mediation, and all files, records, reports, documents, or other  
18 papers received or prepared by the commissioner during the  
19 performance of duties and responsibilities related to mediation  
20 of a dispute are classified as protected nonpublic data with  
21 regard to data not on individuals and as confidential data on  
22 individuals, except to the extent the commissioner determines to  
23 unclassify such data in the referral of a dispute to interest  
24 arbitration or to identify the general nature of or parties to a  
25 labor dispute.

26 Subp. 2. Final positions. Final positions submitted by a  
27 party in conjunction with a dispute that has been referred to  
28 interest arbitration ~~is~~ are regarded as protected nonpublic data  
29 with regard to data not on individuals and as confidential data  
30 on individuals until both parties have filed their final  
31 positions with the commissioner under part 5510.2930, subpart 4.  
32 The commissioner may release the information to the board, and  
33 the board may release the information to the arbitration panel,  
34 to fulfill procedural requirements of the act and parts  
35 5510.2410 to 5510.3210, but the information shall remain



1 nonpublic and confidential until the commissioner has affirmed  
 2 that final positions have been filed by both parties or until an  
 3 interest arbitration hearing is commenced by the arbitration  
 4 panel, at which time the final positions are classified as  
 5 public data.

6 5510.2915 MEDIATION PERIOD.

7 For all public employees except teachers, mediation periods  
 8 referred to in the act commence on the day after a request for  
 9 mediation is filed with the commissioner. For teachers,  
 10 mediation periods commence on the day the first mediation  
 11 conference is convened.

12 5510.2930 REFERRAL TO ARBITRATION.

13 Subpart 1. Referral. The commissioner may refer a matter  
 14 to the board for arbitration when ~~it~~ the commissioner has been  
 15 determined that further mediation efforts would serve no purpose  
 16 and:

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

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

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

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

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

35 B. if the case involves a unit of principals and

1 assistant principals, the panel must use final offer  
2 item-by-item arbitration.

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

9 Subp. 4. **Final positions.** When an agreement or  
10 requirement to arbitrate has been established, and the  
11 commissioner has determined the ~~issues~~ items to be submitted to  
12 arbitration, the commissioner shall certify the matters to the  
13 board and direct each party to submit their final position on  
14 the ~~issues~~ items certified by the commissioner. Final positions  
15 shall be presented in the form of the contract language desired  
16 by each party to resolve the matter in dispute. Final positions  
17 must be submitted to the commissioner within 15 days of the date  
18 when the commissioner certifies the matter to the board. The  
19 deadline for submitting final positions may be extended a  
20 reasonable period of time by the commissioner upon an adequate  
21 and timely showing of good cause by a party.

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

26 Subp. 5. **Forwarding to the board.** After the date for the  
27 filing of final positions has passed, the commissioner shall  
28 forward the matter and any final positions that have been  
29 received to the board. When final positions have been received  
30 from both parties, the commissioner shall provide each party  
31 with a copy of the opposing party's final positions. The board  
32 may provide copies of final positions to the arbitration panel,  
33 but part 5510.2905, subpart 2, shall govern the protected nature  
34 of the final positions.

35 Subp. 6. **Effect of untimely final positions.** The failure  
36 of a party to submit timely final positions on an ~~issue~~ item

1 that has been submitted to final-offer arbitration shall be  
2 noted by the arbitration panel and shall ~~prejudice-that-party's~~  
3 ~~interests-in-the-issue~~ result in a default award unless the  
4 delinquent party, in the sole discretion of the panel, can  
5 demonstrate good cause for the delinquency, in which case the  
6 panel may proceed as if the delinquency had not occurred. The  
7 failure of a party to submit timely final positions in a  
8 conventional arbitration matter shall be noted by the  
9 arbitration panel and may be considered by the panel in weighing  
10 the testimony, evidence, and overall good faith behavior of that  
11 party with respect to the ~~matters~~ items before the panel.

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

15 5510.3005 STRIKES.

16 Subpart 1. Notice. A notice of an intent to strike must  
17 be in writing and served upon the employer and the commissioner  
18 under parts 5510.2410 to 5510.3210. The notice is timely when  
19 the requirements of Minnesota Statutes, section 179A.18, have  
20 been fulfilled.

21 Subp. 2. Dates right to strike matures and terminates.  
22 The dates the right to strike matures and terminates shall be  
23 determined by the commissioner ~~pursuant-to-the-act~~ in accordance  
24 with Minnesota Statutes, section 179A.18, and the commissioner  
25 shall provide written notice of the dates to the parties. No  
26 strike shall commence during the first ten days after receipt of  
27 a notice of intent to strike.

28 Subp. 3. Renewal of intent to strike notice. Except for  
29 teachers, a notice of intent to strike may be renewed by serving  
30 a written notice on the employer and the commissioner not sooner  
31 than five days before the termination of a right to strike. In  
32 the event the renewal is served, a new ten-day waiting period  
33 shall apply and the commissioner shall reestablish the dates  
34 when the right to strike matures and terminates. Teachers are  
35 limited to one intent to strike notice per contract negotiation

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1 period.

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3 REPEALER. Minnesota Rules, parts 5510.2810, subpart 6;  
4 5510.2910; 5510.3010; and 5510.3110, are repealed.