

1 Bureau of Mediation Services

2

3 Adopted Permanent Rules Relating to Arbitration Roster

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5 Rules as Adopted

6 5530.0100 APPLICATION.

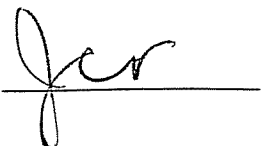
7 This chapter applies to the empanelment, referral, conduct,
8 and removal of persons on the arbitrator roster maintained by
9 the commissioner. This chapter applies to all persons on the
10 arbitrator roster, to all applicants for placement on the
11 roster, to all users of the roster, and to all arbitration
12 proceedings conducted as the result of a referral from the
13 roster. Nothing in this chapter is intended to limit the right
14 of the parties to jointly select any arbitrator or arbitration
15 procedure which is acceptable to them.

16 5530.0200 POLICY.

17 It is the policy of the state of Minnesota to promote
18 orderly and constructive relationships between labor and
19 management and to avoid unresolved disputes that can be
20 injurious to the public as well as the parties. The use of
21 collective bargaining procedures and binding arbitration to
22 resolve grievances and certain interest disputes between labor
23 and management are specifically encouraged. This chapter shall
24 be liberally construed to effectuate these policies and the
25 provisions of Minnesota Statutes, chapters 179 and 179A.

26 5530.0300 DEFINITIONS.

27 Subpart 1. **Advisory committee.** "Advisory committee" means
28 a committee consisting of three union representatives, three
29 employer representatives, and two roster members that-are
30 appointed by the commissioner under Minnesota Statutes, section
31 15.014, to advise the commissioner regarding the appointment and
32 removal of persons to the arbitrator roster. The committee
33 shall not expire as provided by Minnesota Statutes, section
34 15.059.



1 Subp. 2. **Applicant.** "Applicant" means an individual who
2 is seeking appointment to the roster.

3 Subp. 3. **Arbitrator roster or roster.** "Arbitrator roster"
4 or "roster" means a listing of persons determined by the
5 commissioner to be qualified and available for referral as an
6 arbitrator of labor disputes under this chapter.

7 Subp. 4. **Bureau.** "Bureau" means the Bureau of Mediation
8 Services.

9 Subp. 5. **Close of the record.** "Close of the record" means
10 the last date of hearing or the final date for post-hearing
11 submission of written material, if any, whichever is later.

12 Subp. 6. **Commissioner.** "Commissioner" means the
13 commissioner of the Bureau of Mediation Services.

14 Subp. 7. **Expedited panel.** "Expedited panel" means a list
15 established by the commissioner of roster members who are
16 willing and able to handle expedited cases under part 5530.1100.

17 Subp. 8. **Initial appointment.** "Initial appointment" means
18 a new appointment to the roster of a person who is not listed on
19 the roster at the time application for appointment is made.

20 Subp. 9. **Issuance of award.** "Issuance of award" means the
21 date an award is signed and issued by the arbitrator. If an
22 award is undated, the date of receipt by the commissioner is
23 considered the date of issuance for purposes of this chapter.

24 Subp. 10. **Panel.** "Panel" means a listing of roster
25 members compiled by the commissioner for referral to the
26 parties, from which they may subsequently select an arbitrator.

27 Subp. 11. **Party or parties.** "Party" or "parties" means an
28 employer or exclusive representative directly involved and
29 affected by a dispute for which a roster member has been
30 requested or referred, or a designated representative.

31 Subp. 12. **Probationary appointment.** "Probationary
32 appointment" means a temporary appointment not exceeding 24
33 months in duration for purposes of further evaluating the
34 performance, acceptability, or conduct of a roster member.

35 Subp. 13. **Renewal appointment.** "Renewal appointment"
36 means the appointment of an existing roster member to an

1 additional term as a roster member.

2 5530.0400 ROLE OF BUREAU.

3 The role of the bureau under this chapter is limited to
4 matters relating to the appointment of persons to and removal or
5 referral of names from the arbitrator roster. The bureau has no
6 role, responsibility, or authority under this chapter to:

7 A. compel parties to agree to arbitrate;

8 B. enforce an agreement to arbitrate;

9 C. compel parties to appear before an arbitrator;

10 D. influence, alter, enforce, or set aside the
11 decisions or awards of arbitrators; or

12 E. compel, deny, or modify the payment of fees and
13 expenses to an arbitrator, except as provided in part 5530.1000,
14 subpart 6.

15 5530.0500 STATUS OF ARBITRATORS.

16 Persons listed on the roster, whether or not selected or
17 appointed to hear matters under this chapter, do not become
18 employees or agents of the state of Minnesota or the bureau by
19 virtue of their placement on the roster or their subsequent
20 selection or appointment as an arbitrator. Except for the
21 reporting and performance requirements of this chapter, the
22 arbitrator's relationship is solely with the parties to a
23 dispute.

24 5530.0600 ARBITRATOR QUALIFICATIONS.

25 Subpart 1. **General labor relations background.** Persons
26 seeking appointment to the arbitrator roster must have
27 substantial knowledge of collective bargaining and labor
28 relations matters in the public or private sectors, be well
29 versed in applicable state and federal law, and be experienced
30 and knowledgeable in the field of labor arbitration.

31 Subp. 2. **General abilities.** Potential applicants for
32 placement on the roster must be willing and able to travel
33 throughout Minnesota, conduct hearings in a fair and impartial
34 manner, analyze and evaluate testimony and exhibits, write clear

1 and concise awards in a timely manner, and be available for
2 hearings within a reasonable time after the request of the
3 parties.

4 Subp. 3. **Advocacy disqualification.** No applicant or
5 roster member may currently, or within the preceding 12 months,
6 have functioned as an advocate for any public or private sector
7 employer, employee, or employee organization in any phase of
8 labor management relations. This prohibition applies to
9 employee discharge or disciplinary appeal proceedings, whether
10 or not the employee is represented by an exclusive
11 representative. The commissioner shall disqualify individuals
12 who are closely associated with firms or organizations that
13 function as advocates from appointment to particular panels,
14 when the appointment would present the appearance of a conflict
15 of interest.

16 Subp. 4. **Demonstrating qualifications.** The burden for
17 establishing qualifications for appointment on the roster is on
18 the person seeking appointment. The commissioner will examine
19 the evidence to determine the complexity of issues the applicant
20 claims experience in, and the technical, theoretical
21 understanding the applicant has demonstrated in handling such
22 matters, and shall make appointments to the roster pursuant to
23 part 5530.0700, subpart 6. Evidence of an applicant's
24 qualification may be advanced in one or a combination of the
25 following ways:

26 A. submission of six or more arbitration awards or
27 contested case decisions that were authored and signed by the
28 applicant in the 24-month period preceding application;

29 B. a minimum of six years' experience as a full-time
30 labor relations advocate and submission of six arbitration
31 awards in which the applicant acted as the principal
32 representative for either labor or management;

33 C. a minimum of six years' experience as a full-time
34 labor mediator, including substantial grievance mediation
35 experience;

36 D. a minimum of six years' experience as a

1 practitioner or full-time instructor of labor law or industrial
2 relations, including substantial content in the area of
3 collective bargaining, labor agreements, and contract
4 administration;

5 E. membership in the National Academy of Arbitrators;
6 and

7 F. satisfactory completion of a formalized course of
8 instruction and internship in a program that has been approved
9 by the commissioner in advance of participation or enrollment by
10 the applicant. The program must include the writing of not less
11 than two mock awards under the supervision and guidance of an
12 arbitrator already admitted to the roster or otherwise approved
13 in advance by the commissioner.

14 Subp. 5. Domicile. To be eligible for appointment or
15 continuation on the roster, individuals must maintain a
16 principal place of residence in Minnesota or one of its
17 contiguous states. The maintenance of a mail box or mail
18 delivery point is not sufficient to satisfy the requirement of
19 this subpart.

20 5530.0700 APPOINTMENT TO ROSTER.

21 Subpart 1. Size of roster. The size of the arbitrator
22 roster shall be not fewer than 25 nor more than 50 members.
23 Annually, the commissioner shall determine whether or not to add
24 members to the roster based on the number of referrals over the
25 preceding 12 months and projected referrals from the roster over
26 the next 12 months.

27 Subp. 2. Procedure; initial appointments. When, pursuant
28 to subpart 1, the commissioner determines that it is appropriate
29 to make additional appointments to the roster, the commissioner
30 shall:

31 A. publish notice in the State Register for not less
32 than 30 days, indicating that applications for appointment are
33 being accepted and establishing a deadline for the applications;

34 B. in conjunction with the advisory committee,
35 conduct interviews of applicants selected for further

1 consideration, to further assess the applicant's qualifications
2 and suitability for appointment to the roster;

3 C. advise all applicants in writing regarding the
4 commissioner's final determination with respect to their
5 application;

6 D. actively solicit qualified applicants who will
7 help provide balance in the racial and gender composition of the
8 roster; and

9 E. conduct an initial review of applications received
10 and, based on the information provided in the application,
11 reference checks, and the arbitrator qualification requirements
12 of this chapter, select or reject applications for further
13 consideration. The commissioner may conduct additional
14 investigations regarding the application if necessary to obtain
15 a full understanding of the applicant's qualifications.

16 Subp. 3. **Procedure; renewal appointments.** The
17 commissioner shall notify all roster members not less than 120
18 days before the expiration of their appointment of the
19 procedures necessary for reappointment to the roster. The
20 appointment of one-third of the members on the roster at the
21 time this chapter is adopted shall expire on July 30, 1991; an
22 additional one-third shall expire on July 30, 1992; and the
23 final one-third shall expire on July 30, 1993. The names of
24 roster members falling into each one-third shall be determined
25 by lot. Persons desiring to renew their appointment on the
26 roster shall submit a written application and fee to the
27 commissioner not less than 60 days before the expiration of
28 their appointment. Following receipt of a renewal application,
29 the commissioner shall review available referral, performance,
30 and activity records of the applicant and proceed according to
31 subpart 6.

32 Subp. 4. **Application forms.** Individuals who wish to be
33 considered for initial or renewal appointment to the roster must
34 complete an application on forms available from the bureau.
35 Writing samples must accompany the application.

36 Subp. 5. **Application fee.** A nonrefundable application fee

1 of \$50 for initial appointments and \$25 for renewals must
2 accompany each application for appointment or renewal. The fee
3 must be in the form of a check or money order made payable to
4 "State of Minnesota, Bureau of Mediation Services."

5 Subp. 6. **Standards for appointment.** In determining
6 whether or not to appoint a member to the roster, the
7 commissioner shall evaluate each application for evidence of the
8 applicant's competence, proficiency, and qualifications in the
9 following areas:

10 A. knowledge and understanding of labor relations
11 systems and collective bargaining processes and dynamics;

12 B. knowledge and understanding of applicable
13 contract, employment, and labor relations law and rules;

14 C. ability to hear and decide complex labor relations
15 issues in a fair and objective manner;

16 D. ability to communicate, both orally and in
17 writing, in a clear and concise manner;

18 E. ability to conduct orderly and effective
19 arbitration hearings in a variety of settings and locations
20 throughout Minnesota; and

21 F. high moral character and integrity.

22 In addition to meeting these standards for appointment,
23 roster members seeking reappointment must satisfy the
24 requirements of part 5530.1200.

25 Subp. 7. **Disposition of applications.** If an applicant has
26 satisfied the requirements of subpart 6, the commissioner shall
27 appoint or reappoint the applicant to the roster. If the
28 applicant has failed to satisfy the requirements of subpart 6,
29 the commissioner shall reject the application in writing,
30 including the reasons for the rejection. In the event that
31 there are more qualified applicants than vacancies on the
32 roster, the commissioner shall appoint applicants in rank order
33 of their qualifications or by lottery where qualifications are
34 relatively equal.

35 Subp. 8. **Term of appointment.** Initial appointments to the
36 roster shall be for a term of five years. Renewal appointments

1 to the roster shall be for a term of three years. The
2 commissioner shall establish a common July 30 expiration date
3 for all appointments for purposes of administrative convenience.

4 5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

5 Subpart 1. **Scope.** The criteria and standards in subparts
6 2 to 10 apply to all persons on the roster. Failure to comply
7 with these provisions constitutes grounds for disciplinary
8 action or removal from the roster under part 5530.1300.

9 Subp. 2. **Professional and ethical responsibilities.**

10 Except as otherwise provided in this chapter, the Code of
11 Professional Responsibility for Arbitrators of Labor-Management
12 Disputes approved and published by the National Academy of
13 Arbitrators is incorporated by reference and is applicable to
14 and shall govern the professional behavior of persons appointed
15 to the roster. The code was adopted in 1975 and amended in 1985
16 and is not subject to frequent change. Single copies of the
17 code are available without charge from the commissioner, and are
18 available through the Minitex interlibrary loan system.

19 Subp. 3. **Conflicts of interest.** The arbitrator must
20 disclose any personal or professional relationships, including
21 direct or indirect past employment, consultative relationships,
22 or affiliation with one of the parties, which may give an
23 appearance of partiality. The burden of disclosure is on the
24 arbitrator.

25 Subp. 4. **Communication with parties.** Arbitrators shall
26 not solicit parties for selection to cases. All matters
27 involving a case or contact with the parties must be handled in
28 a manner that fosters the impartiality of the arbitrator. The
29 arbitrator shall not communicate, directly or indirectly, in
30 connection with any issue of fact or law with any person or
31 party, except upon notice and opportunity for all parties to
32 participate. When this chapter authorizes communications
33 contrary to this part, the communications shall be limited to
34 only those matters permitted by this chapter. The arbitrator
35 may communicate regarding dates or procedures for the hearing

1 without violating this part.

2 Subp. 5. Use of assistants or associates. An arbitrator
3 may, without prior consent of the parties, delegate research,
4 clerical, and preliminary drafting responsibilities to an
5 assistant. However, the assistant may not be delegated
6 decision-making functions or authority, and the arbitrator
7 retains responsibility and accountability for all aspects of the
8 award and its handling.

9 Subp. 6. Timeliness. It is the responsibility of the
10 arbitrator to schedule time commitments in a manner consistent
11 with the needs of the parties and the expeditious handling of
12 disputes. The arbitrator must adhere to the time limits of the
13 parties' arbitration procedure. When initially accepting and
14 scheduling a case, or at the first reasonable opportunity to
15 become aware of the time limits, the arbitrator must indicate
16 whether or not the time limits specified in the arbitration
17 procedure will present a problem in the timely handling of the
18 case. Although the time limits specified in an arbitration
19 procedure may be waived or extended by the parties, it is
20 improper for an arbitrator to routinely request or suggest
21 extensions. If, after accepting and hearing a case, the
22 arbitrator discovers that he or she will be unable to render an
23 award within the time limits specified in the arbitration
24 procedure, the arbitrator shall notify each party in writing of
25 the reason for the delay and shall seek approval for
26 establishing an alternate date for completion of the award.

27 Subp. 7. Administrative or cancellation fees. Arbitrators
28 may charge an administrative fee for establishing a case file
29 and cancellation fees for hearings that are canceled or
30 rescheduled by one or both parties with less than 21 calendar
31 days' notice, provided the fees and policies are clearly noted
32 on the biographic sketch for that arbitrator that is on file
33 with the bureau.

34 Subp. 8. Arbitration fees. All fees charged by an
35 arbitrator selected under this chapter shall be based on the per
36 diem fee schedule in the biographic sketch on file with the

1 commissioner. The arbitrator shall maintain reasonable time and
 2 expense records related to each case and, in the event of a
 3 dispute over the reasonableness of fees and expenses in a case,
 4 shall make the records available to the parties or the
 5 commissioner, upon written demand. Disputes over the
 6 reasonableness of fees may be resolved under part 5530.1000,
 7 subpart 6.

8 Subp. 9. Filing copies of awards. Unless one or both
 9 private sector parties have specifically requested that an award
 10 not be provided to the commissioner, arbitrators shall submit
 11 copies of all awards involving Minnesota work sites to the
 12 commissioner, regardless of the source of appointment or
 13 selection. ~~Roster-members-shall-also-provide-the-commissioner~~
 14 ~~with-a-copy-of-all-Minnesota-public-sector-awards-and-all~~
 15 ~~hearing-officer-reports-filed-as-a-result-of-selection-under~~
 16 ~~Minnesota-Statutes, section 125.12.~~ Awards filed with the
 17 commissioner are public documents.

18 Subp. 10. Arbitrator fee and summary report. For each
 19 award filed with the commissioner, whether originating from a
 20 bureau referral or other source, the arbitrator shall provide a
 21 summary report that discloses the following:

- 22 A. case identification information, including:
- 23 (1) arbitrator's name;
 - 24 (2) case file number or bureau case number, if
 - 25 any;
 - 26 (3) name and location of employer and name of
 - 27 employer's representative; and
 - 28 (4) name of exclusive representative and agent of
 - 29 the exclusive representative;
- 30 B. case processing date information, including:
- 31 (1) date the grievance was filed or first made
 - 32 known to the employer;
 - 33 (2) date arbitrator was notified of selection by
 - 34 parties;
 - 35 (3) date of hearing;
 - 36 (4) final date for submission of briefs or other

1 written material, if any; and

2 (5) date award was issued; and

3 C. arbitrator fee and expense information for all

4 awards resulting from a referral by the commissioner, including:

5 (1) number of days of hearing billed;

6 (2) number of days of study and preparation of

7 award billed;

8 (3) number of days billed for travel;

9 (4) per diem rate for billing;

10 (5) travel expenses billed;

11 (6) other expenses billed;

12 (7) total fees and expenses charged; and

13 (8) amount of the total costs to be paid by each

14 party.

15 Forms for reporting this information must be furnished by

16 the bureau.

17 5530.0900 PANEL SELECTIONS AND REFERRALS.

18 Subpart 1. Request for panels. Individuals or

19 organizations desiring a panel of arbitrators drawn from the

20 roster shall submit individual or joint written requests that

21 include the following:

22 A. the name and location of the employer and the

23 name, address, and telephone number of the employer's

24 representative;

25 B. the name of the employee organization and the

26 name, address, and telephone number of the employee

27 organization's representative;

28 C. a brief statement of the nature of the dispute

29 being submitted to arbitration, for example, discharge or

30 overtime pay;

31 D. the nature or type of business of the employer;

32 E. a description of the type of bargaining unit

33 involved, for example, clerical, maintenance, dietary, or

34 teacher; and

35 F. the date the grievance or dispute was first made

1 known to the employer.

2 Subp. 2. Size and selection of panels. Unless a single
3 arbitrator is to be appointed under subpart 3, all panels
4 submitted by the commissioner shall contain seven names. When
5 the parties' arbitration agreement provides for panels of fewer
6 than seven names, the parties may use the striking procedures in
7 subpart 5 to reduce the size of a seven-member panel. In
8 assembling panels, the commissioner shall use a random selection
9 system that results in a reasonably equal number of
10 opportunities for referral among roster members who have been on
11 the roster for three or more years. When possible, no more than
12 three arbitrators who have been on the roster for less than
13 three years shall be included on a single panel, but the
14 commissioner shall provide greater referral opportunities for
15 those individuals. In assembling panels, the commissioner shall
16 seek to avoid potential conflicts of interest and shall include
17 or exclude roster members pursuant to mutual requests of the
18 parties. Geographic location or unique and special
19 circumstances and technical expertise must be considered by the
20 commissioner when the parties request that those factors be
21 considered. At least five members of the panel must be
22 residents of Minnesota.

23 Subp. 3. Direct appointment by commissioner. The
24 commissioner shall appoint one person from the roster to serve
25 as the arbitrator whenever the agreement to arbitrate or other
26 joint agreement of the parties provides for direct appointments.

27 Subp. 4. Replacement panels or names. Upon the joint
28 request of the parties, the commissioner shall issue a new panel
29 of seven names to replace a prior panel. No more than one
30 replacement panel will be provided in any one case.
31 Single-party requests for replacement panels will not be honored
32 unless the commissioner determines that a bona fide conflict of
33 interest exists regarding the matter in dispute between one or
34 more parties and two or more members of the panel. If a
35 conflict is found by the commissioner, a single replacement
36 panel will be issued.

1 Subp. 5. **Selection from panels.** The parties shall select
2 an arbitrator or arbitrators from the panel under the terms of
3 their agreement or grievance procedure. In the absence of an
4 agreement, the selection shall be made by alternately deleting
5 names from the panel until the required number of names remain.
6 Determining which party shall delete the first name shall be
7 accomplished by a toss of a coin.

8 Subp. 6. **Scheduling.** Notifying the arbitrators of their
9 selection and the scheduling of the arbitration hearing is the
10 responsibility of the parties. Once the initial arbitration
11 hearing has been established, the party who requested the panel
12 shall notify the commissioner of the arbitrators selected, the
13 date the selection was made, and the date of the initial
14 arbitration hearing.

15 Subp. 7. **Biographic data.** The bureau shall review and
16 prepare a biographic sketch of each member on the roster
17 annually, based on information provided by that member and other
18 information available to the commissioner. The sketches must
19 include information about the arbitrator's background,
20 education, and experience, as well as data regarding the
21 arbitrator's fee schedule and acceptance of hearing officer
22 duties under Minnesota Statutes, section 125.12. The mean
23 number of calendar days required by each arbitrator to issue an
24 award during the preceding year, as well as the upper and lower
25 limits and number of cases used to determine that mean, based on
26 records on file with the bureau, shall be included on the
27 biographic sketch for that arbitrator beginning July 30, 1991.
28 Arbitrators are responsible for ensuring the accuracy of all
29 other biographic and fee data on the sketch. Single copies of
30 the sketches will be made available to parties with the referral
31 of panels.

32 Subp. 8. **Jurisdiction of bureau.** Submission of a panel or
33 appointment of an arbitrator under this chapter signifies
34 nothing more than compliance with a request and is not a
35 determination as to the legitimacy of the dispute or the
36 competency of the arbitrators to resolve it. The bureau does

1 not have jurisdiction or responsibility for enforcement,
2 resolution, or compliance with any aspect of the arbitration
3 process other than providing the services specifically
4 established by this chapter.

5 5530.1000 ARBITRATION PROCEEDINGS.

6 Subpart 1. **Responsibility of arbitrators.** Arbitrators
7 selected as a result of referral on a bureau panel must ensure
8 that a fair, adequate, and timely hearing is conducted in a
9 manner that reasonably minimizes cost and expense to the parties.

10 Subp. 2. **Transcripts or recordings.** Official verbatim
11 recordings or transcripts of an arbitration proceeding shall not
12 be encouraged by the arbitrator. If a single party requests a
13 transcript be made, and the matter is not addressed in the
14 contract or grievance procedure, the arbitrator shall permit the
15 record to be made if the party requesting the transcript makes
16 the necessary arrangements, pays for all costs associated with
17 the transcript, and provides copies to the other party and the
18 arbitrator.

19 Subp. 3. **Tape recordings.** An arbitrator may use a tape
20 recording of a hearing as a supplement to his or her notes. The
21 tape of the hearing shall be regarded as the personal property
22 of the arbitrator, but must be maintained by the arbitrator for
23 not less than 90 days following issuance of the award.

24 Subp. 4. **Briefs.** Arbitrators should not encourage the
25 submission of post-hearing briefs unless the arbitrator
26 determines that the case is of a sufficiently complex nature and
27 warrants the need for a written summation of evidence and
28 argument. If one or both parties desire to submit briefs, the
29 arbitrator shall establish a prompt schedule.

30 Subp. 5. **Payment of fees and costs.** Parties requesting
31 panels under this chapter must pay the reasonable fees and costs
32 of the arbitrator promptly. Each party to the dispute is
33 responsible for their pro rata share of the arbitrator's fees
34 and costs, except as otherwise provided by the express terms of
35 the agreement to arbitrate. In the event of a dispute between

1 one or both parties and the arbitrator over the arbitrator's
2 fees or costs, the party contesting the fee may request
3 arbitration of the fee dispute under subpart 6.

4 Subp. 6. **Dispute over fees.** If a party believes that the
5 fees or expenses charged by an arbitrator are inappropriate or
6 incorrect and is unable to resolve the matter through discussion
7 with the arbitrator, that party may submit a written statement
8 of protest to the commissioner within 30 calendar days of
9 receipt of the arbitrator's invoice. The protest shall provide
10 the specific basis for the objection and a copy shall be
11 provided to the arbitrator and the other party. The
12 commissioner shall investigate and respond to the complaint
13 promptly and if the commissioner believes further examination is
14 necessary, the matter will be referred to a panel of the
15 advisory committee consisting of one union representative, one
16 employer representative, and one roster member, all of whom
17 shall be selected by the commissioner. The panel shall
18 investigate the matter, provide all parties at interest an
19 opportunity to be fairly heard, and issue a written decision
20 that is final and binding upon the parties and the arbitrator.

21 5530.1100 EXPEDITED ARBITRATION.

22 Subpart 1. **Request for expedited arbitration.** Parties may
23 use expedited procedures for arbitrating a dispute by filing a
24 joint written request with the commissioner. The request must
25 be signed by authorized representatives from both parties and
26 contain the following information:

27 A. name, address, and telephone number of the
28 employer and the employer's representative;

29 B. name, address, and telephone number of the
30 exclusive representative and the agent of the exclusive
31 representative; and

32 C. a brief statement of the nature of the dispute,
33 for example, discharge, discipline, or holiday pay.

34 Subp. 2. **Appointment of arbitrator.** The commissioner
35 shall appoint a single arbitrator from the expedited panel of

1 roster members maintained for this purpose. The arbitrator
2 appointed by the commissioner shall hear and decide the case
3 according to this part.

4 Subp. 3. **Disclosures.** If, after appointment to a case,
5 the arbitrator discovers any circumstance likely to prevent a
6 prompt hearing or which presents a potential conflict of
7 interest or other circumstance detrimental to the intent of this
8 part, the arbitrator shall promptly notify the parties and the
9 commissioner. Under such circumstances, the commissioner shall
10 immediately appoint a new arbitrator from the expedited panel,
11 unless the parties otherwise mutually agree.

12 Subp. 4. **Scheduling of hearing.** The commissioner shall
13 fix the time and date for a hearing on the matter in dispute.
14 The hearing will be held in the offices of the bureau, or at a
15 location mutually agreed upon by the parties and the arbitrator,
16 within 15 working days of receipt of the joint request. The
17 commissioner shall provide at least 48 hours' advance notice,
18 written or oral, before any hearing under this part.

19 Subp. 5. **Conduct of hearing.** All hearings under this part
20 shall be closed to the public, pursuant to Minnesota Statutes,
21 section 179A.14, subdivision 3, and no verbatim transcripts or
22 audio-magnetic recordings shall be permitted. Each party may be
23 represented by counsel or other representative, but each party
24 shall be limited to a total of 90 minutes for presentation of
25 its case and arguments. The arbitrator shall determine all
26 procedural questions not addressed by this part, including order
27 of presentation, framing of the issue, and sequestering of
28 witnesses, if any. Under unusual circumstances and for
29 demonstrated good cause, as determined by the arbitrator, the
30 arbitrator may schedule an additional hearing on the matter,
31 provided the hearing is conducted within five working days. The
32 arbitrator may proceed in the absence of a party who, after due
33 notice, fails to appear, but the arbitrator must rely on the
34 evidence actually presented when reaching an award.

35 Subp. 6. **Evidence.** Parties shall limit the number and
36 extent of exhibits to those that are essential and relevant to

1 the contentions of that party. The arbitrator shall be the sole
2 judge of the relevance, materiality, and weight of the evidence
3 offered. The arbitrator may receive and consider evidence in
4 the form of affidavit, but shall give appropriate weight to any
5 objections raised by the other party. All written material to
6 be considered by the arbitrator must be presented during the
7 hearing. There shall be no pre-hearing or post-hearing
8 submissions.

9 Subp. 7. **Written briefs.** There shall be no post-hearing
10 briefs.

11 Subp. 8. **Issuance of award.** The arbitrator shall issue a
12 brief written award within five working days from the close of
13 the hearing. The award shall be simultaneously mailed to both
14 parties and the commissioner. The arbitrator may orally notify
15 the parties of the decision at the time that the award is
16 mailed, provided both parties are notified in a timely fashion.

17 Subp. 9. **Precedential value.** Awards issued under this
18 expedited procedure shall have no precedential value.

19 Subp. 10. **Fees and expenses.** The arbitrator shall receive
20 a total fee of \$450 per award issued under this part, plus
21 reasonable and actual expenses. Unless otherwise specifically
22 provided by the parties' contract or agreement to arbitrate,
23 each party is responsible for one-half of the total fee and
24 expenses.

25 Subp. 11. **Cancellation fee.** If the parties withdraw a
26 request for expedited arbitration under this part within seven
27 calendar days of a scheduled hearing, the parties are
28 responsible for a cancellation fee of \$100 each, payable to the
29 arbitrator.

30 5530.1200 PERFORMANCE MEASURES.

31 Subpart 1. **Renewal criteria.** When reviewing an
32 application for renewal appointment to the roster, the
33 commissioner shall use the criteria in subparts 2 to 7 in
34 determining whether or not to reappoint.

35 Subp. 2. **Selection rate.** The commissioner shall develop

1 and maintain reliable data concerning the frequency with which
2 individuals are selected by parties from panels referred by the
3 bureau. A selection frequency that falls in the upper three
4 quartiles of the frequencies of all arbitrators on the roster is
5 evidence that an arbitrator has established acceptability among
6 the parties who use the roster. Appointments under part
7 5530.1100 shall not be considered in determining selection
8 frequency. A selection rate in the lowest quartile shall not be
9 the sole basis for failure to reappoint unless the arbitrator
10 has been in the lowest quartile for two consecutive years and
11 was selected for fewer than three cases in the most recent
12 12-month period.

13 Subp. 3. **Scheduling.** A lack of substantiated written
14 complaints from parties that an arbitrator has failed to offer a
15 reasonable number of dates on which the arbitrator is available
16 to hear a case within 60 days of the arbitrator's notification
17 of selection is evidence that an arbitrator is meeting the
18 availability standards of this chapter.

19 Subp. 4. **Timeliness.** The commissioner shall consider the
20 mean number of calendar days between the close of the record in
21 a case and the issuance of an award during the preceding 12
22 months to determine whether or not roster members are meeting
23 timeliness requirements. In evaluating the data, the
24 commissioner shall rely on information provided by the
25 arbitrator under part 5530.0800, subpart 9, and data available
26 from awards on file with the commissioner, but shall not
27 consider awards issued under part 5530.1100. A mean that
28 exceeds 60 days is evidence that an arbitrator is not timely in
29 the handling of cases, but shall not be the sole basis for a
30 determination not to reappoint.

31 Subp. 5. **Evaluation by parties.** The commissioner shall
32 encourage evaluations of the performance of roster members by
33 the parties. Both individual and summary evaluation information
34 shall be considered by the commissioner.

35 Subp. 6. **Availability.** Arbitrators who have been
36 available to accept cases for at least 18 of the preceding 36

1 months, including at least six of the preceding 12 months, meet
2 the availability requirements for reappointment.

3 Subp. 7. General professional criteria. All roster
4 members are required to maintain proficiency and competency in
5 the areas in part 5530.0700, subpart 2. Failure of an
6 arbitrator to comply with this chapter, including the submission
7 of information or reports, shall be grounds for removing or not
8 reappointing a roster member.

9 5530.1300 DISCIPLINARY OR REMOVAL PROCEDURES.

10 Subpart 1. General. Membership on the roster is a
11 privilege and no arbitrator has a right to placement on the
12 roster. The commissioner has authority to investigate all
13 complaints and allegations regarding the professional
14 performance and compliance with this chapter by members of the
15 roster. The commissioner shall advise, counsel, suspend, or
16 remove roster members when the results of an investigation
17 demonstrate violation by the arbitrator of the performance,
18 professional, or ethical standards established by this chapter.

19 Subp. 2. Preliminary investigation. When the commissioner
20 receives a complaint regarding violation of this chapter by a
21 member of the roster, the commissioner shall conduct an informal
22 investigation of the matter to determine if there is probable
23 cause to believe that a roster member has violated any
24 requirements of this chapter. In the absence of a violation,
25 the commissioner shall take no further action. If further
26 action on the matter is warranted, the commissioner shall
27 suspend the roster member from further referrals pending the
28 conclusion of proceedings under this chapter.

29 Subp. 3. Notice. When the commissioner finds probable
30 cause to believe that a violation of this chapter has occurred
31 and that removal or disciplinary suspension of a roster member
32 should be considered, the commissioner shall provide written
33 notice to the roster member and the advisory committee. The
34 written notice must contain the nature of the action being
35 considered and the reasons for it. The notice shall provide an

1 opportunity for the roster member to respond in writing and
2 shall fix a date for a hearing on the matter before the
3 commissioner or a designated representative, if the roster
4 member wishes to contest the proposed action.

5 Subp. 4. **Hearing.** If a hearing on a disciplinary matter
6 is requested by the affected roster member, the commissioner or
7 the commissioner's representative shall convene and conduct a
8 hearing pursuant to part 5510.1910, subparts 6, 8, 9, 10, 12,
9 13, and 14. Advisory committee members may attend the hearing
10 or review the audio-magnetic recording from the proceedings.

11 Subp. 5. **Determination.** The commissioner shall determine
12 the action to be taken with respect to the member's status on
13 the roster, based on the record of the hearing, the
14 recommendations of the advisory committee, and this chapter.
15 The determination is a final decision.