

1 Public Employment Relations Board

2

3 Adopted Permanent Rules and Amendments Relating to Arbitration

4 Policies, Issues and Appeals, Meeting Procedures, Code of

5 Ethics, and Independent Review

6

7 Rules as Adopted

8 7300.0100 DEFINITIONS.

9 Subpart 1. **Appeal.** "Appeal" means issues relating to the
10 meaning of the terms "supervisory employee," "confidential
11 employee," "essential employee," or "professional employee";
12 appeals from determinations of the commissioner relating to the
13 appropriateness of a unit; and appeals from determinations of
14 the commissioner relating to a fair share fee challenge.

15 [For text of subps 3 and 4, see M.R.]

16 Subp. 6. **Commissioner.** "Commissioner" means the
17 commissioner of the Bureau of Mediation Services.

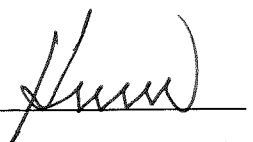
18 Subp. 7a. **Executive director.** "Executive director" means
19 the executive director of the Public Employment Relations Board.

20 Subp. 7b. **Holiday or legal holiday.** "Holiday" or "legal
21 holiday" means those dates designated by Minnesota Statutes,
22 section 645.44, subdivision 5, as holidays for the executive
23 branch of the state of Minnesota.

24 Subp. 8. **Party.** "Party" means any public employer,
25 exclusive representative of public employees, public employee
26 organization, or public employer organization whose legal
27 rights, duties, or privileges will be directly determined in an
28 appeal; or any public employee who has filed a fair share fee
29 challenge.

30 [For text of subp 9, see M.R.]

31 Subp. 11. **Service; serve.** "Service" or "serve" means
32 delivery by personal service, United States certified or regular
33 mail, or other delivery. Electronic mail (fax machine) is not
34 an effective method of service. Service is effective upon
35 receipt by the recipient.



1 7300.0110 COMPUTATION OF TIME.

2 In computing any period of time prescribed or allowed by
3 parts 7300.0100 to 7300.3300, the day of an act or event on
4 which the designated period of time begins to run is not
5 included. The last day of the time period is included unless it
6 is a Saturday, Sunday, or legal holiday, in which event the
7 period runs until the end of the next day which is not a
8 Saturday, Sunday, or legal holiday. When the period of time
9 prescribed or allowed is less than seven days, Saturday, Sunday,
10 and legal holidays are not included in the computation. See
11 part 7300.0100, subpart 7b, for the definition of legal holiday.

12 7300.0300 SCOPE.

13 This chapter shall apply to:

14 [For text of item A, see M.R.]

15 B. appeals from determinations of the commissioner
16 relating to the appropriateness of a unit; and

17 C. appeals from determinations of the commissioner
18 relating to a fair share fee challenge.

19 7300.0350 BARGAINING UNIT ACCRETION.

20 In review of a unit accretion pursuant to Minnesota
21 Statutes, section 179A.09 and under part 7300.0300, item B, the
22 board must consider as a relevant factor whether the employee or
23 employees in question have indicated a showing of interest to be
24 accreted so long as the confidentiality of the individual cards
25 is protected in accordance with Minnesota Statutes, section
26 179A.12, subdivision 6.

27 7300.0500 PRESIDING OFFICER; BOARD OR PANEL.

28 The board, as a full body or as a panel of three of its
29 members, may hear and decide an appeal. A panel shall consist
30 of an equal number of representatives of public employees and
31 public employers and the member who represents the public at
32 large.

33 7300.0600 PRESIDING OFFICER; ADMINISTRATIVE LAW JUDGE.

1 The board may appoint an administrative law judge to hear
2 an appeal. The administrative law judge shall have such
3 authority as the board deems necessary and appropriate to hear
4 the appeal. The administrative law judge must submit to the
5 board recommended findings, conclusion, and order as requested
6 by the board. The final decision must in all cases be made by
7 the board.

8 7300.0700 INITIATING AN APPEAL.

9 Subpart 1. **Time limits.**

10 A. Within 15 calendar days of the date of a final
11 determination by the commissioner, any party, or parties, may
12 initiate an appeal by serving a copy of a notice of appeal upon
13 all other parties with a copy to the commissioner and filing the
14 original with the board. Service is effective upon receipt by
15 the board, bureau, and all other parties.

16 B. If a party or parties files a request for
17 reconsideration of a decision by the commissioner, the appeal to
18 the board must be initiated within 15 calendar days of the date
19 of the reconsideration decision by the commissioner. A copy of
20 the notice of appeal must be served upon all other parties with
21 a copy to the commissioner and the original filed with the board.
22 Service is effective upon receipt by the board, bureau, and all
23 other parties.

24 Subp. 2. **Notice of appeal.** A notice of appeal shall
25 include:

26 [For text of item A, see M.R.]

27 B. the names and addresses of all individuals and
28 organizations who were parties to the appeal;

29 C. a copy of the commissioner's determination from
30 which the appeal is being taken, and, if applicable, a copy of
31 the reconsideration decision by the commissioner;

32 [For text of item D, see M.R.]

33 E. a statement that the appellant understands the
34 commissioner's rules governing the preparation of and payment
35 for the record and transcript on appeal and agrees to abide by

1 those rules; and

2 [For text of item F, see M.R.]

3 7300.0800 ANSWER.

4 Within 15 calendar days after service of a notice of
5 appeal, all other parties may submit an answer to the notice of
6 appeal. A copy of the answer shall be served on all parties to
7 the appeal and filed with the board. Failure to submit an
8 answer shall not be deemed an admission of any statement
9 contained in the notice of appeal or a waiver of any rights
10 afforded the respondent by any statute or rule.

11 7300.0810 BRIEFS.

12 Subpart 1. **Establishment of briefing schedule.** Upon
13 transmission of the record from the commissioner, the board must
14 provide written notice to the parties establishing specific
15 dates for each party to submit its brief. The appellant must
16 serve and file the appellants's brief within 14 calendar days
17 after the board's written notice establishing the briefing
18 schedule. The respondent must serve and file the respondent's
19 brief within 14 calendar days after service of the appellant's
20 brief. Parties must notify the board by the established dates
21 if they do not intend to file a brief.

22 Subp. 2. **Extension of the briefing schedule.**

23 A. Either party may request an extension of the
24 briefing schedule. Request for an extension must be received by
25 the board before the deadline and in writing. If it is a first
26 request and the extension does not exceed 14 calendar days, the
27 request will be granted by the executive director. Written
28 notice must be provided to all the parties of the revised
29 briefing schedule.

30 B. Either party may request an extension that exceeds
31 14 calendar days or the same party who made the first request
32 for an extension may request a second extension. These requests
33 must be in writing and received by the board before the deadline
34 established in the initial briefing schedule. The board must
35 consider the request at its next meeting and may grant the

1 extensions only for good cause shown and if it causes no
2 prejudice to the other party. If the board is not scheduled to
3 meet within 14 calendar days from the date of the written
4 request, the board chair has authority to decide the request.

5 7300.0850 AMICUS CURIAE STATUS.

6 An individual, association, or organization may seek
7 permission in an appeal to file a brief as amicus curiae. The
8 board will grant amicus curiae status if the requester
9 establishes that its brief will be relevant to the appeal and
10 that it will contribute to the board's understanding of the case
11 and the board's decision. Any request of the commissioner for
12 amicus curiae status must be granted. Any brief which is filed
13 under this part must be submitted to the board within the time
14 established for the respondent's brief under part 7300.0810.

15 7300.0900 NOTICE OF HEARING.

16 Subpart 1. **Contents of notice.** At least 15 calendar days
17 before the hearing date, the board must provide to all parties
18 by certified mail a notice of hearing stating:

19 [For text of items A to C, see M.R.]

20 Subp. 2. **Copy of rules included.** A copy of this chapter
21 must be included with the notice of hearing.

22 7300.1000 CONTINUANCE OF HEARING.

23 A request for continuance of a hearing, if mutually
24 consented to by all of the parties, will be granted by the
25 board's executive director. If there is no mutual consent, the
26 board must consider the request for continuance at its next
27 meeting and grant the request upon good cause shown. If a board
28 meeting is not scheduled that provides the opportunity for the
29 board to consider the request and provide a timely response, the
30 board chair has the authority to consider and decide the request.

31 7300.1200 INFORMAL AND SUMMARY DISPOSITION.

32 [For text of subpart 1, see M.R.]

33 Subp. 2. **Summary disposition.** The board, on its own
34 motion or on motion of any party, may:

1 [For text of item A, see M.R.]

2 B. summarily affirm the commissioner's determination
3 if the appeal presents no question of substantial merit;

4 [For text of items C to E, see M.R.]

5 7300.1500 SUBSTITUTION OF PARTY'S REPRESENTATIVE.

6 Substitution of a party's representative may be allowed
7 only if notice of the substitution is served on all other
8 parties and the board at least seven calendar days before the
9 hearing date.

10 7300.1700 REMAND.

11 Subpart 1. Remand to commissioner. A party may make a
12 motion to remand the appeal to the commissioner. The board may
13 remand to the commissioner all or part of the appeal for
14 rehearing, the taking of specified additional evidence, or other
15 appropriate action.

16 Subp. 2. Circumstances for remand. The board must grant a
17 remand under the following circumstances:

18 A. additional evidence, newly discovered, that with
19 reasonable diligence could not have been found and produced at
20 the hearing;

21 B. a change in existing law material to the appeal;
22 or

23 C. irregularities or errors of law occurring during
24 the bureau's proceedings.

25 Subp. 3. Appeals on remand. When the board remands an
26 appeal under subparts 1 and 2, the appeal remains before the
27 board, until the board decides the appeal or dismisses the
28 appeal. If the commissioner, upon remand, issues a decision
29 that differs from its initial decision, the board must dismiss
30 the appeal unless either party seeks continuance of the appeal
31 by providing written notice in the same manner as provided in
32 part 7300.0700. If the commissioner, upon remand under subparts
33 1 and 2, issues a decision that affirms its initial decision,
34 the board must notify the parties that it will proceed with the
35 appeal under the terms of the appellant's initiation of appeal

1 filed with the board before the remand. The party who initiated
2 the appeal may provide written notice to the board of its
3 request to withdraw the appeal.

4 7300.1910 THE BOARD RECORD.

5 Before the hearing, the board must prepare an official
6 record in each appeal that contains:

7 A. the record of the proceedings before the
8 commissioner;

9 B. the determination of the commissioner, and if
10 applicable, the reconsideration decision of the commissioner;

11 [For text of items C to G, see M.R.]

12 Additional evidence admitted pursuant to part 7300.2050
13 shall become part of the board record.

14 7300.2100 TRANSCRIPT OF BOARD HEARING.

15 A verbatim record must be taken by a hearing reporter or
16 recording equipment of any hearing conducted pursuant to part
17 7300.2000 or 7300.2050.

18 7300.2600 BOARD DECISIONS AND ORDERS.

19 All decisions and orders issued by the board must be in
20 writing and must be accompanied by a statement of the reasons
21 therefor.

22 All decisions and orders shall be served on all parties and
23 filed with the commissioner.

24 7300.2800 REQUEST FOR REHEARING.

25 The board, on its own motion or on petition of any party
26 and for good cause shown, may reopen, rehear, and redetermine an
27 appeal. The petition for rehearing by the parties must be
28 served on all other parties and the board within 15 calendar
29 days of the date of the board's written decision.

30 7300.2900 PETITION FOR REHEARING.

31 A petition for rehearing must contain:

32 [For text of items A to D, see M.R.]

33 7300.3100 NOTICE OF REHEARING.

1 A notice of rehearing must be provided in the same manner
2 prescribed for a hearing by part 7300.0900.

3 7300.3200 REHEARING PROCEDURE.

4 A rehearing of an appeal must be conducted in the same
5 manner prescribed for a hearing by parts 7300.1910 to 7300.2400.

6 7300.3300 DECISION AFTER REHEARING.

7 The decision after rehearing must be issued in the same
8 manner prescribed for the decision after a hearing by parts
9 7300.1200, 7300.1300, and 7300.2600.

10 7306.0100 PURPOSE AND CONSTRUCTION.

11 The purpose of parts 7306.0100 to 7306.0400 is to preserve
12 the integrity and independence of board decision making and to
13 promote public confidence in the objectivity of board
14 decisions. Board members and staff must maintain high standards
15 of conduct to prevent a conflict or the appearance of a conflict
16 between private interests and official duties. Parts 7306.0100
17 to 7306.0400 must be construed to secure these objectives in
18 keeping with the quasi-judicial function of the board.

19 7306.0150 DEFINITIONS.

20 Except as otherwise provided, the words, terms, and phrases
21 in this chapter have the same meaning and definition as the
22 meaning and definition they are given in part 7300.0100.

23 7306.0200 CONFLICT OF INTEREST; IMPROPRIETY.

24 Subpart 1. **General behavior.** A board member or employee
25 shall respect and comply with law and take action that promotes
26 public confidence in the integrity and impartiality of the
27 board's decision-making process.

28 Subp. 2. **Actions prohibited.** Board members and staff
29 shall avoid any action that might result in or create a conflict
30 of interest or the appearance of impropriety, including:

31 A. using public office for private gain;

32 B. giving preferential treatment to an interested
33 person or entity;

1 C. impeding the efficiency or economy of board
2 decision making;

3 D. loss of independence or impartiality of action;

4 E. making a board decision not based on the evidence
5 in the record;

6 F. noncompliance with applicable statutes such as the
7 open meeting law; and

8 G. affecting adversely the confidence of the public
9 in the integrity of the board.

10 7306.0300 QUASI-JUDICIAL RESPONSIBILITIES.

11 Subpart 1. **Inappropriate influences.** Board members shall
12 not be swayed by partisan or pecuniary interests, public clamor,
13 or fear of criticism.

14 Subp. 2. **Orderly proceedings, behavior.** Board members
15 shall maintain order and decorum in proceedings before the
16 board. In their official capacity, board members must be
17 patient, dignified, and courteous to litigants, witnesses,
18 lawyers, and others appearing before them. Board members shall
19 require similar conduct from persons appearing before them.

20 7306.0400 DISQUALIFICATION.

21 Board members shall disqualify themselves from
22 participating in decisions on issues and appeals before the
23 board if they:

24 A. have a personal bias or prejudice concerning a
25 party; or

26 B. have a direct interest, pecuniary or otherwise,
27 that could be substantially affected by the outcome of the
28 proceeding.

29 BOARD ADMINISTRATIVE PROCEDURES

30 7306.0500 OFFICERS AND DUTIES.

31 Subpart 1. **Officers.** The officers of the board are the
32 chair and vice-chair.

33 Subp. 2. **Electing the chair and vice-chair.** The chair and
34 vice-chair shall be elected annually by the majority vote of all

1 the board members. The vote shall be taken at the board's April
2 meeting and the chair and vice-chair shall serve a one-year term
3 beginning May 1 of each year.

4 Subp. 3. **Vacancies.** Upon a vacancy in the office of the
5 chair, the vice-chair shall serve as chair until a new chair is
6 elected at the next regular meeting of the board. Upon a
7 vacancy in the office of vice-chair, a new vice-chair shall be
8 elected at the next regular meeting of the board.

9 Subp. 4. **Removal.** The chair and vice-chair may be removed
10 from office by the majority vote of all the members of the
11 board. This vote must be taken at the next regular meeting
12 following the motion for removal.

13 Subp. 5. **Duties of chair.** The chair is the chief
14 administrative officer of the board and shall preside at
15 meetings of the board. The chair shall sign letters and other
16 documents approved by the board pursuant to law on behalf of the
17 board, and may authorize the executive director to sign letters
18 and documents on the chair's behalf. The chair shall represent
19 and speak for the board to the public, members of the branches
20 of state government, and other organizations.

21 Subp. 6. **Duties of vice-chair.** The vice-chair shall
22 discharge the duties of the chair during the absence or
23 disability of the chair and perform other duties as the chair
24 desires.

25 7306.0600 MEETING.

26 Subpart 1. **Meeting time.** The board shall meet on the
27 second Thursday of each month at a time and place set by the
28 board if a quorum is present. If a quorum is not possible for
29 that date, the board must reschedule the meeting according to
30 the open meeting law under Minnesota Statutes, section 471.705.

31 Subp. 2. **Quorum.** Three members are a quorum. To conduct
32 official business at a meeting, the quorum must consist of one
33 member who represents the public at large, one member who
34 represents public employees, and one member who represents
35 public employers.

1 Subp. 3. **Agenda notice.** The meeting agenda must be posted
2 according to the open meeting law, Minnesota Statutes, section
3 471.705, at least three days before the meeting on the principal
4 bulletin board at the board's office. The agenda must include
5 the date, time, place, and purpose of the meeting.

6 Subp. 4. **Distribution of agenda.** At least three days
7 before its meeting, the board must mail the agenda according to
8 the open meeting law to each individual or association who has
9 filed a written request or otherwise notified the board
10 requesting notice of the board meeting.

11 Subp. 5. **Presiding officer.** The chair or vice-chair, in
12 absence of the chair, shall preside at board meetings and shall
13 determine the limits of time and the relevancy of discussion or
14 debate on any matter before the board.

15 Subp. 6. **Voting.** A majority vote of the members present
16 at the meeting is necessary to make any decision, except as
17 provided in part 7306.0500, subparts 2 and 4.

18 Subp. 7. **Meeting minutes and open meeting law.** Full and
19 accurate minutes of the meeting must be kept. Minutes must be
20 approved at the next board meeting. Approved minutes must be
21 available to the public. The meeting must be conducted in
22 compliance with the open meeting law.

23 Subp. 8. **Reconsideration of a decision.** Any decision of
24 the board may be reconsidered, if a board member who voted on
25 the prevailing side makes a motion for reconsideration.

26 Subp. 9. **Parliamentary procedure.** Except as specifically
27 provided in this chapter, Scott Foresmans' Robert's Rules of
28 Order, Newly Revised, Henry M. Robert, author, and Scott
29 Foresman, Glenview, Illinois, publisher, 1981 publication date
30 is incorporated by reference and is applicable and shall govern
31 any question of parliamentary procedure that may arise at any
32 meeting of the board. The rule is not subject to frequent
33 change and is available for inspection and copying at the
34 Minnesota State Law Library, 117 University Avenue, Saint Paul,
35 Minnesota 55155.

1 7315.0210 SCOPE.

2 This chapter applies to procedures governing independent
3 review pursuant to Minnesota Statutes, section 179A.25.

4 7315.0400 DEFINITIONS.

5 [For text of subpart 1, see M.R.]

6 Subp. 2. **Party.** "Party" means any public employee, public
7 employer, exclusive representative of public employees, public
8 employee organization, or public employer organization whose
9 legal rights, duties, or privileges will be directly determined
10 in an independent review.

11 7315.0500 PETITION.

12 Subpart 1. **Authority to petition.** An employee may
13 petition the board in writing for independent review of a
14 grievance arising out of the interpretation of or adherence to
15 terms and conditions of employment when no other such procedure
16 exists to hear that grievance. The petitioner must provide all
17 parties a copy of the petition at the time of filing with the
18 board.

19 Subp. 2. **Petition contents.** The petition must contain:

20 [For text of items A to C, see M.R.]

21 7315.0650 ANSWER.

22 Within 15 calendar days after receipt of a petition, all
23 other parties shall file with the board and provide to the other
24 parties an answer to the petition. The answer must contain a
25 concise statement specifying whether:

26 [For text of items A to D, see M.R.]

27 7315.0900 PRESIDING OFFICER; BOARD OR PANEL.

28 The board, as a full body or as a panel of three of its
29 members, may hear and decide an independent review. Whenever
30 possible, a panel must consist of an equal number of
31 representatives of public employees and public employers, and
32 the member who represents the public at large.

33 7315.1000 PRESIDING OFFICER; ADMINISTRATIVE LAW JUDGE.

1 The board may appoint an administrative law judge to hear
2 the grievance. The administrative law judge shall have
3 authority as the board deems necessary and appropriate to hear
4 the grievance. The administrative law judge must submit to the
5 board recommended findings, conclusions, and order as requested
6 by the board. The final decision on the grievance shall in all
7 cases be made by the board.

8 7315.1100 BRIEFS.

9 ~~Upon completion of the hearing,~~ The board may request the
10 parties to submit a ~~post-hearing~~ brief if the written brief will
11 assist the board in making its determination. If briefs are
12 necessary, the board must establish a briefing schedule and
13 notify the parties of the dates for submission of the briefs.

14 7315.1200 NOTICE OF HEARING.

15 At least 15 calendar days before the hearing date, the
16 board must provide to all parties by certified mail a notice of
17 hearing providing:

18 [For text of items A to D, see M.R.]

19 A copy of this chapter must be included with the notice of
20 hearing.

21 7315.1300 CONTINUANCE OF HEARING.

22 A request for continuance of hearing, if mutually consented
23 to by all of the parties, must be granted by the board's
24 executive director. If there is no mutual consent, the board
25 must consider the request for continuance at its next meeting
26 and may grant the request upon good cause shown. If a board
27 meeting is not scheduled that provides the opportunity for the
28 board to consider the request and provide a timely response, the
29 board chair has the authority to consider and decide the request.

30 7315.1800 SUBSTITUTION OF PARTY'S REPRESENTATIVE.

31 Substitution of a party's representative may be allowed
32 only if notice of the substitution is served on all other
33 parties and the board at least seven calendar days before the
34 hearing date.

1 7315.1900 CONSOLIDATION.

2 [For text of subps 1 and 2, see M.R.]

3 Subp. 3. **Order.** The board must serve on all parties the
4 order of consolidation.

5 Subp. 4. **Severance from consolidation.** Within seven
6 calendar days of receipt of the order of consolidation, a party
7 may file with the board a petition for severance from
8 consolidation which must include the reasons why the
9 requirements of subpart 1 are not met.

10 7315.2100 THE HEARING.

11 Subpart 1. **How conducted.** The hearing must be conducted
12 as follows:

13 [For text of item A, see M.R.]

14 B. Any objection with respect to the conduct of the
15 hearing, including any objection to the introduction of
16 evidence, must be stated orally, together with a statement of
17 the grounds of the objection and included in the record of the
18 hearing. No objection shall be deemed waived by further
19 participation in the hearing.

20 [For text of item C, see M.R.]

21 D. Witnesses must testify under oath and shall be
22 subject to cross-examination by all parties.

23 [For text of item E, see M.R.]

24 Subp. 2. **Transcript of board hearing.** A verbatim record
25 must be taken by a hearing reporter or recording equipment of
26 any hearing conducted pursuant to subpart 1.

27 [For text of subp 3, see M.R.]

28 7315.2200 BOARD DECISIONS AND ORDERS.

29 All decisions and orders issued by the board must be in
30 writing and must be accompanied by a statement of the reasons
31 therefor. All decisions and orders shall be binding on all
32 parties and served on all parties to the case.

33 7315.2300 REQUEST FOR REHEARING.

34 The board on its own motion or on petition of any party and

1 for good cause shown, may reopen, rehear, and redetermine an
2 independent review decision. The petition for rehearing by the
3 parties must be served on all parties and the board within 15
4 calendar days of the date of the board's written decision.

5 7315.2400 PETITION FOR REHEARING.

6 A petition for rehearing must contain:

- 7 A. the name and address of the petitioner;
8 B. the board designation of the case;
9 C. a statement as to the issues on which rehearing is
10 sought; and
11 D. the reason why the issue should be reheard.

12 7315.2500 CONSIDERATION.

13 The board may consider evidence and argument in written or
14 oral form with respect to granting or denying the petition to
15 rehear.

16 7315.2600 DETERMINATION.

17 A petition for rehearing may be granted only if the
18 petition or the board record reveals:

- 19 A. irregularities in board proceeding;
20 B. errors of law occurring during board proceedings;
21 C. newly discovered material evidence;
22 D. a change in existing law material to the
23 independent review; or
24 E. good cause for failure to appear.

25 7315.2700 NOTICE OF REHEARING.

26 A notice of rehearing must be provided in the same manner
27 prescribed for a hearing by part 7315.1200.

28 7315.2800 REHEARING PROCEDURE.

29 A rehearing of an independent review must be conducted in
30 the same manner prescribed for a hearing by part 7315.2100.

31 7315.2900 DECISION AFTER REHEARING.

32 The decision after rehearing must be issued in the same
33 manner prescribed for the decision after a hearing by part

1 7315.2200.

2 7320.0030 DEFINITIONS.

3 [For text of subpart 1, see M.R.]

4 Subp. 1a. **Arbitration panel.** "Arbitration panel" means
5 three arbitrators who have been selected from a referral
6 arbitration panel that contains seven arbitrators for an
7 interest arbitration case. The panel of three arbitrators
8 function as a single arbitrator to hear and decide the issues
9 certified at impasse by the commissioner.

10 [For text of subps 2 and 3, see M.R.]

11 Subp. 3a. **Bureau.** "Bureau" means the Bureau of Mediation
12 Services.

13 [For text of subps 4 and 5, see M.R.]

14 Subp. 5a. **Commissioner.** "Commissioner" means the
15 commissioner of the Bureau of Mediation Services.

16 [For text of subp 6, see M.R.]

17 Subp. 6a. **Holiday or legal holiday.** "Holiday" or "legal
18 holiday" means those dates designated by Minnesota Statutes,
19 section 645.44, subdivision 5, as holidays for the executive
20 branch of the state of Minnesota.

21 [For text of subps 7 and 8, see M.R.]

22 Subp. 9. [See Repealer.]

23 Subp. 10. **Party or parties.** "Party" or "parties" means,
24 in the case of interest arbitration, any exclusive
25 representative and any employer or employer organization engaged
26 in the arbitration of terms and conditions of employment. In
27 the case of grievance arbitration, "party" means any person
28 authorized by contract or law to select the arbitrator of a
29 grievance.

30 Subp. 11. **Referral arbitration panel or referral panel.**
31 "Referral arbitration panel" or "referral panel" means a listing
32 of roster members compiled by the board for either interest or
33 grievance arbitration cases. Referral panels are submitted to
34 the parties of a grievance arbitration case for the selection of
35 a single arbitrator. In the case of interest arbitration, the

1 parties may select either a single arbitrator or an arbitration
2 panel composed of three arbitrators.

3 Subp. 12. **Service or serve.** "Service" or "serve" means
4 delivery by personal service, United States certified or regular
5 mail, or other delivery. Electronic mail (fax machine) is not
6 an effective method of service. Service is effective upon
7 receipt by the recipient.

8 7320.0040 COMPUTATION OF TIME.

9 In computing any period of time prescribed or allowed by
10 parts 7320.0010 to 7320.0220, the day of an act or event on
11 which the designated period of time begins to run is not
12 included. The last day of the time period is included unless it
13 is a Saturday, Sunday, or legal holiday, in which event the
14 period runs until the end of the next day which is not a
15 Saturday, Sunday, or legal holiday. When the period of time
16 prescribed or allowed is less than seven days, Saturdays,
17 Sundays, and legal holidays are not included in the
18 computation. See part 7320.0030, subpart 6a, for the definition
19 of a legal holiday.

20 7320.0090 ARBITRATOR CONDUCT, STANDARDS, AND RESPONSIBILITIES.

21 [For text of subps 1 to 6, see M.R.]

22 Subp. 7. **Prehearing conduct.** An arbitrator or arbitration
23 panel, upon notification by the board of appointment to an
24 arbitration case, must communicate with the parties as soon as
25 possible to arrange for the date, time, and location of the
26 hearing and any other necessary procedural matters. All
27 prehearing communications between the arbitrator and the parties
28 must be done in a manner that promotes complete impartiality by
29 the arbitrator. It is the arbitrator's responsibility to ensure
30 that copies of any prehearing correspondence between the
31 arbitrator and either party are made available to the other
32 party.

33 Subp. 8. **Hearing conduct.** The parties are entitled to a
34 hearing that is conducted in a fair and impartial manner,
35 allowing the parties adequate opportunity to present their

1 respective evidence and argument. The arbitrator is responsible
2 for conducting an orderly proceeding and may:

3 [For text of items A to D, see M.R.]

4 An accurate record must be developed by the arbitrator.
5 The arbitrator may, with notice to the parties, use a tape
6 recorder to supplement notetaking. Notes, recorded tapes, and
7 other records of the hearing developed by the arbitrator shall
8 remain the property of the arbitrator and must be retained by
9 the arbitrator for 90 days after delivery of a copy of the award
10 to the parties. The provision of an official transcript may be
11 arranged for by either party before the hearing. The transcript
12 must be paid for by the party or parties requesting it. A copy
13 of the official transcript must be submitted at no cost to the
14 arbitrator and made available to the parties, at copying costs.

15 [For text of subps 9 and 10, see M.R.]

16 Subp. 11. **Jurisdiction.** In ruling on a grievance, an
17 arbitrator must comply with the limitations of authority found
18 in a labor agreement. In interest arbitration cases, the
19 arbitrator or arbitration panel has jurisdiction to rule on the
20 issues items or the arbitrability of the issues items certified
21 to impasse by the commissioner of the bureau of mediation
22 services. At any stage of interest or grievance arbitration
23 proceedings, the parties may settle some or all of the issues
24 items in dispute. In those circumstances where some but not all
25 of the issues items have been settled, the arbitrator must state
26 in the award those certified issues items which were settled by
27 the parties. The jurisdiction of the arbitrator continues until
28 all issues items certified to impasse have been resolved.

29 [For text of subps 12 and 13, see M.R.]

30 7320.0110 SELECTION RATE OF ARBITRATORS.

31 Subpart 1. Maintenance of statistical information. The
32 executive director shall maintain reliable data concerning the
33 frequency with which individuals are selected by the parties
34 from panels referred by the board. On an annual basis, the
35 board must review statistics showing the selection rates of its

1 arbitrators, and rank the arbitrators according to their usage
2 by the number of times proposed and the number of times selected.

3 Subp. 2. Selection rates of arbitrators in lowest quartile.

4 An arbitrator may be removed from the roster if the arbitrator
5 has been in the lowest quartile of the selection rate for the
6 past two consecutive years and was selected for fewer than two
7 cases in the most recent 12-month period.

8 Subp. 3. Selection rate of newly enpaneled arbitrators. A

9 newly enpaneled arbitrator is not subject to subpart 2 until
10 after the arbitrator has completed four years of service on the
11 arbitrator roster.

12 7320.0120 REFERRAL ARBITRATION PANELS.

13 Subpart 1. **Random selection.** Referral arbitration panels
14 shall be created by a random selection process. Each referral
15 arbitration panel shall contain a mix of frequently-used,
16 moderately-used, and infrequently-used arbitrators, pursuant to
17 the ranking list determined in the board's review.

18 Subp. 2. to 4. [See Repealer.]

19 Subp. 5. **Replacements of referral arbitration panels.** The
20 board must replace referral arbitration panels under the
21 following circumstances.

22 A. In proposing a referral arbitration panel, if the
23 panel which has been selected for a particular case includes the
24 name of an arbitrator who has on file a written notice of a
25 conflict of interest in that case, that panel shall not be used
26 for that case and another panel shall be selected.

27 B. The board will consider any objections raised by
28 either party, as to whether an arbitrator on the proposed
29 referral panel has a conflict of interest in that particular
30 case. The party raising the objection must submit a written
31 request for a replacement panel and the rationale for which the
32 objection is being raised. A copy of the request for a
33 replacement panel be forwarded to the other party of the
34 dispute. Any response by the other party must be in writing and
35 submitted to the board within ten calendar days from the date of

1 the request for the replacement panel. The board at its next
2 scheduled meeting will determine if pursuant to part 7320.0070,
3 subpart 2, a conflict of interest exists. If it is found that a
4 conflict exists, a replacement panel must be provided to the
5 parties. If it is determined that a conflict of interest does
6 not exist, the parties shall proceed to select an arbitrator
7 from the initial referral panel of arbitrators submitted to the
8 parties. The decision is final.

9 C. All joint written requests to substitute a
10 proposed list of arbitrators with a second list shall be honored.

11 D. A replacement panel must be provided to the
12 parties if the arbitrator selected is unable to render an award.

13 E. A replacement panel must be provided to the
14 parties when one of the proposed arbitrators on the referral
15 arbitration panel has voluntarily removed their name from the
16 arbitrator roster and one of the parties requests a replacement
17 panel.

18 Subp. 6. **Selection of referral arbitration panels.**

19 Approximately once a week, pursuant to a schedule established at
20 a regular board meeting, the chair and executive director will
21 meet to select the referral arbitration panels to be proposed in
22 pending cases.

23 The board may designate any of its members, other than the
24 chair, or the executive director to select the referral
25 arbitration panels for pending cases.

26 Subp. 7. **Arbitrator requests for inactive status.** An
27 arbitrator may request in writing not to be proposed on referral
28 arbitration panels for up to six months without being subject to
29 removal from the arbitrator list.

30 An arbitrator who requests to be withheld from proposal on
31 referral arbitration panels for more than six months shall be
32 removed from the arbitrator list. That arbitrator may reapply
33 for placement on the list according to the board's qualification
34 procedures.

35 7320.0130 INTEREST ARBITRATION.

1 Parts 7320.0130 to 7320.0180 apply to the procedures
2 governing the arbitration of disputes concerning the resolution
3 of new terms and conditions of employment.

4 7320.0140 CERTIFICATION OF IMPASSE.

5 Subpart 1. **Contents.** A certification of impasse by the
6 commissioner according to Minnesota Statutes, chapter 179A, must
7 contain the following:

8 A. a petition or petitions requesting arbitration;

9 B. a concise statement by the commissioner indicating
10 that an impasse has been reached and that the requirements of
11 Minnesota Statutes, chapter 179A, have been met;

12 C. a determination by the commissioner of the ~~matters~~
13 items in dispute;

14 D. any final positions submitted by the parties; and

15 E. any notice of a mutual selection of an arbitrator
16 or arbitration panel by parties pursuant to part 7320.0140,
17 subpart 4.

18 Subp. 2. **Filing.** The certification must be filed with the
19 board.

20 Subp. 3. **Final positions.**

21 A. The board must assign a referral panel of
22 arbitrators to cases which have been certified by the
23 commissioner unless the parties have mutually selected an
24 arbitrator or arbitration panel pursuant to part 7320.0140,
25 subpart 4. Upon notification of the selection of the arbitrator
26 by the parties, the board must forward final positions of the
27 parties which have been received from both parties. The board
28 shall proceed with forwarding those final positions which are on
29 hand, but must instruct the arbitrator that final positions are
30 nonpublic and confidential data until receipt of the final
31 positions of the other party or until commencement of the
32 arbitration hearing.

33 B. When either party has submitted a final position
34 for an issue which has not been certified to impasse by the
35 commissioner, the board must notify the parties and the selected

1 arbitrator or arbitration panel that the arbitrator has
2 jurisdiction to rule only on the issue or the arbitrability of
3 the issues cited by the commissioner as issues which remain in
4 dispute between the parties in the certification of matters for
5 arbitration.

6 Subp. 4. **Mutual selection of an arbitrator.** If the
7 parties mutually agree to select an arbitrator or arbitration
8 panel from the arbitrator roster maintained by the board, the
9 commissioner must advise the board that the arbitrator or panel
10 of arbitrators has been mutually agreed to by the parties. The
11 written notification of selection of an arbitrator must be
12 included with the certification of impasse when it is forwarded
13 by the commissioner to the board.

14 7320.0150 SELECTION OF ARBITRATOR.

15 Subpart 1. **Submission of panel.** When the commissioner has
16 certified an impasse to the board under Minnesota Statutes,
17 chapter 179A, and part 7320.0140, and mutual selection of an
18 arbitrator has not occurred, the board must submit to the
19 parties a list of seven names for the selection of a single
20 arbitrator or a panel of three arbitrators. The parties must
21 agree and provide a written request to the board if selection of
22 a panel of three arbitrators is preferred. In selecting a
23 single arbitrator or a panel of three arbitrators, the parties
24 shall alternately strike names from the list until the
25 appropriate number of names remain.

26 Subp. 2. **Striking of names.** If the parties are unable to
27 agree on who shall strike the first name, the question shall be
28 decided by the flip of a coin. When a panel of three
29 arbitrators has been selected, the parties shall designate a
30 convenor. If the parties fail to agree upon a convenor, each
31 party shall strike, in the continued order of striking, one name
32 from the panel. The remaining arbitrator shall act as the
33 convenor for the purpose of commencing the proceedings. After
34 selection, the parties must immediately notify the board in
35 writing of the name of the single arbitrator or the names of the

1 three arbitrators and the designated convenor.

2 7320.0160 SELECTION OF CHAIR.

3 At its initial session, the panel of three arbitrators must
4 select one of its members as the chair. If the arbitrators
5 cannot agree, the convenor must serve as the chair.

6 7320.0170 SUBMISSION TO THE ARBITRATOR.

7 The board must submit to the arbitrator or an arbitration
8 panel selected by the parties, the certification of the impasse
9 of the commissioner.

10 7320.0180 ARBITRATION PROCEDURES.

11 The arbitration proceeding shall be conducted and the award
12 must be rendered pursuant to Minnesota Statutes, chapter 179A,
13 and part 7320.0090. The procedures and authority of the Uniform
14 Arbitration Act in Minnesota Statutes, sections 572.08 to
15 572.30, shall apply to arbitration proceedings except as they
16 are inconsistent with the Public Employment Labor Relations Act.

17 7320.0190 GRIEVANCE ARBITRATION.

18 Parts 7320.0190 to 7320.0220 apply to the procedures
19 governing arbitration of disputes concerning the resolution of
20 existing terms and conditions of employment.

21 7320.0200 PETITION FOR GRIEVANCE ARBITRATION.

22 Subpart 1. Authority to petition. A party may petition
23 the board in writing for a list of five arbitrators. The
24 petitioner must provide all parties a copy of the petition at
25 the time of filing with the board.

26 Subp. 2. Contents of petition. The petition must include:

27 A. the name and address of the petitioner;

28 B. the name and address of the adverse party;

29 C. the name and address of the adverse party's
30 representative; and

31 D. a concise statement of the nature of the grievance
32 and the relief requested.

33 7320.0210 SELECTION OF THE ARBITRATOR.

1 Upon receipt of a petition, the board must submit to the
2 parties a list of five names for the selection of an
3 arbitrator. The parties shall alternately strike names from the
4 list until one name remains. If parties are unable to agree on
5 who shall strike the first name, the question shall be decided
6 by the flip of a coin. After selection, the parties shall
7 immediately notify the board in writing of the name of the
8 arbitrator.

9 7320.0220 ARBITRATION PROCEDURES.

10 The arbitration proceedings shall be conducted and the
11 award must be rendered according to Minnesota Statutes, chapter
12 179A, and part 7320.0090. The procedures and authority of the
13 Uniform Arbitration Act in Minnesota Statutes, sections 572.08
14 to 572.30, apply to arbitration proceedings except as they are
15 inconsistent with the Public Employment Labor Relations Act.

16

17 REPEALER. Minnesota Rules, parts 7300.0400; 7300.1800;
18 7300.2050; 7305.0100; 7305.0200; 7305.0300; 7305.0500;
19 7305.0610; 7305.0700; 7305.0800; 7305.0910; 7305.1100;
20 7305.1200; 7310.0100; 7310.0200; 7310.0300; 7310.0400;
21 7310.0500; 7310.0550; 7310.0600; 7315.2000; 7320.0030, subpart
22 9; and 7320.0120, subparts 2, 3 and 4, are repealed.