

1 **Bureau of Mediation Services**

RECEIVED

2 **Adopted Permanent Rules Governing Arbitration Rosters**

96 OCT -3 PM 2:40

3 **5530.0100 APPLICATION.**

ADMINISTRATIVE  
HEARINGS

4 This chapter applies to the empanelment, referral, conduct, and removal of persons  
5 on the arbitrator roster maintained by the commissioner, excluding the list of arbitrators  
6 maintained under Minnesota Statutes, section 179A.04, subdivision 3, paragraph (c), for  
7 teacher discharge or termination hearings. This chapter applies to all persons on the  
8 arbitrator roster, to all applicants for placement on the roster, to all users of the roster,  
9 and to all arbitration proceedings conducted as the result of a referral from the roster.  
10 Nothing in this chapter is intended to limit the right of the parties to jointly select any  
11 arbitrator or arbitration procedure which is acceptable to them.

12 **5530.0200 POLICY.**

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

20 **5530.0300 DEFINITIONS.**

21 Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in  
22 this part.

23 Subp. 1a. **Advisory committee.** "Advisory committee" means a committee consisting  
24 of three union representatives, three employer representatives, and two roster members  
25 appointed by the commissioner under Minnesota Statutes, section 15.014, to advise the  
26 commissioner regarding the appointment and removal of persons to the arbitrator  
27 roster. The committee shall not expire as provided by Minnesota Statutes, section 15.059.

1 [For text of subps 2 to 6, see M.R.]

2 Subp. 7. [See repealer.]

3 [For text of subps 8 to 13, see M.R.]

4 **5530.0600 ARBITRATOR QUALIFICATIONS.**

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

6 Subp. 3. **Advocacy disqualification.** No applicant or roster member may currently, or  
7 within the preceding 12 months, have functioned as an advocate for any public or  
8 private sector employer, employee, or employee organization in any phase of labor  
9 management relations. This prohibition applies to employee discharge or disciplinary  
10 appeal proceedings, whether or not the employee is represented by an exclusive  
11 representative.

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

13 **5530.0700 APPOINTMENT TO ROSTER.**

14 Subpart 1. **Size of roster.** The size of the arbitrator roster shall be not fewer than 25  
15 nor more than 60 members. Annually, the commissioner shall determine whether or not  
16 to add members to the roster based on the number of referrals over the preceding 12  
17 months and projected referrals from the roster over the next 12 months.

18 [For text of subp 2, see M.R.]

19 Subp. 3. **Procedure; renewal appointments.** The commissioner shall notify all roster  
20 members not less than 120 days before the expiration of their appointment of the  
21 procedures necessary for reappointment to the roster. Persons desiring to renew their  
22 appointment on the roster shall submit a written application and fee to the  
23 commissioner not less than 60 days before the expiration of their appointment.  
24 Following receipt of a renewal application, the commissioner shall review available  
25 referral, performance, and activity records of the applicant and proceed according to  
26 subpart 6.

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

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

1 [For text of items A to E, see M.R.]

2 F. reputation in the labor-management community for high professional standards  
3 of competence, ethics, and integrity.

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

6 Subp. 7. **Disposition of applications.** If the commissioner has determined that the  
7 applicant has satisfied the requirements of subpart 6, the commissioner shall appoint or  
8 reappoint an the applicant to the roster based upon the commissioner's judgment that  
9 ~~the applicant has satisfied the requirements of subpart 6.~~ If the applicant has failed to  
10 satisfy the requirements of subpart 6, the commissioner shall reject the application in  
11 writing, including the reasons for the rejection. In the event that there are more qualified  
12 applicants than vacancies on the roster, the commissioner shall appoint applicants in  
13 rank order of their qualifications or by lottery where qualifications are relatively equal.

14 Subp. 8. **Term of appointment.** Appointments to the roster shall be for a term of three  
15 years.

#### 16 5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

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

18 Subp. 2. **Professional and ethical responsibilities.** Except as otherwise provided in  
19 this chapter, the Code of Professional Responsibility for Arbitrators of  
20 Labor-Management Disputes approved and published by the National Academy of  
21 Arbitrators is incorporated by reference and is applicable to and shall govern the  
22 professional behavior of persons appointed to the roster. The code is not subject to  
23 frequent change. The code is available through the Minitex interlibrary loan system.

24 Subp. 3. **Conflicts of interest.** The arbitrator must disclose to the parties and the  
25 commissioner any personal or professional relationships, including direct or indirect  
26 past employment, consultative relationships, or affiliations with one of the parties,  
27 which may give an appearance of partiality. The burden of disclosure is on the  
28 arbitrator.

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

30 Subp. 6. **Timeliness.** It is the responsibility of the arbitrator to schedule time

1 commitments in a manner consistent with the needs of the parties and the expeditious  
2 handling of disputes. The arbitrator must adhere to the time limits of Minnesota  
3 Statutes, section 179A.16, and the parties' arbitration procedure. When initially  
4 accepting and scheduling a case, or at the first reasonable opportunity to become aware  
5 of the time limits, the arbitrator must indicate whether or not the applicable time limits  
6 will present a problem in the timely handling of the case. Although the time limits  
7 specified in a grievance arbitration procedure may be waived or extended by the  
8 parties, it is improper for an arbitrator to routinely request or suggest extensions. If,  
9 after accepting and hearing a case, the arbitrator is unable to render an award within the  
10 time limits specified in the grievance arbitration procedure, the arbitrator shall notify  
11 each party in writing of the reason for the delay and shall seek approval for establishing  
12 an alternate date for completion of the award. A request for an extension of the timeline  
13 for an interest arbitration award must be submitted directly to the commissioner.

14 [For text of subps 7 to 9, see M.R.]

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

18 A. case identification information, including:

19 (1) arbitrator's name;

20 (2) case file number or bureau case number, if any;

21 (3) name and location of employer and employer's representative; and

22 (4) name and location of exclusive representative and agent of the exclusive  
23 representative;

24 B. case processing date information, including:

25 (1) date arbitrator was notified of selection by parties;

26 (2) date of hearing;

27 (3) final date for submission of briefs or other written material, if any; and

28 (4) date award was issued; and

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

2 **5530.0900 PANEL SELECTIONS AND REFERRALS.**

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

4 Subp. 4. **Replacement panels or names.** Upon the joint request of the parties, the  
5 commissioner shall issue a new panel of seven names to replace a prior panel.  
6 Single-party requests for replacement names or panels will not be honored unless the  
7 commissioner determines that a bona fide conflict of interest exists regarding the matter  
8 in dispute between one or more parties and one or more members of the panel. If a  
9 conflict is found by the commissioner, a replacement panel will be issued.

10 If the appointment of individuals to particular panels would present the appearance  
11 of a conflict of interest because the individuals are closely associated with firms or  
12 organizations that function as advocates, the commissioner shall disqualify those  
13 individuals.

14 Subp. 5. **Selection from panels.** The parties shall select an arbitrator or arbitrators  
15 from the panel under the terms of Minnesota Statutes, section 179A.16, or of their  
16 grievance procedure. In the absence of an agreement, the selection shall be made by  
17 alternately deleting names from the panel until the required number of names remain.  
18 Determining which party shall delete the first name shall be accomplished by a toss of a  
19 coin.

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

21 Subp. 7. **Biographic data.** The bureau shall review and prepare a biographic sketch of  
22 each member on the roster annually, based on information provided by that member  
23 and other information available to the commissioner. The sketches must include  
24 information about the arbitrator's background, education, and experience, as well as  
25 data regarding the arbitrator's fee schedule. Arbitrators are responsible for ensuring the  
26 accuracy of all biographic and fee data on the sketch. Single copies of the sketches will  
27 be made available to parties with the referral of panels.

28 The mean number of calendar days required by each arbitrator to issue an award  
29 during the preceding year, as well as the upper and lower limits and number of cases

1 used to determine that mean, based on records on file with the bureau, shall be  
2 maintained by the bureau.

3 [For text of subp 8, see M.R.]

4 **5530.1200 PERFORMANCE MEASURES.**

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

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

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

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

23 [For text of subps 5 to 7, see M.R.]

24 **REPEALER.** Minnesota Rules, parts 5530.0300, subpart 7; and 5530.1100, are repealed.