

1.1 **Bureau of Mediation Services**

1.2 **Proposed Permanent Rules Relating to the Minnesota Labor Relations Act and the**
1.3 **Public Employment Labor Relations Act**

1.4 **5500.0100 DEFINITIONS.**

1.5 Unless the language or context clearly indicates that a different meaning is intended,
1.6 the ~~words, terms, and phrases~~ in parts 5500.0100 to ~~5500.0500~~ shall 5500.2100 have the
1.7 ~~same meaning and definition as is contained in the definitions used~~ meanings given in
1.8 Minnesota Statutes, chapters 179 and 179A.

1.9 **5500.0200 PURPOSE, CONSTRUCTION, AND WAIVER.**

1.10 A. Parts 5500.0100 to 5500.0500 govern the conduct of all proceedings before
1.11 the commissioner ~~of mediation services~~ involving mediation. ~~Parts 5500.0100 to 5500.0500~~
1.12 ~~shall~~ and are to be liberally construed to effectuate the purposes and provisions of the
1.13 Minnesota Labor Relations Act.

1.14 B. The commissioner ~~or the commissioner's agent~~ may waive any ~~requirements~~
1.15 requirement of parts 5500.0100 to 5500.0500 unless a party shows ~~prejudice thereby~~ that
1.16 the waived requirement prejudices the party.

1.17 **5500.0210 FILING.**

1.18 A document filed under parts 5500.0100 to 5500.1100 is effective according to part
1.19 5510.0320, subpart 2.

1.20 **5500.0300 PETITIONS.**

1.21 A petition for mediation ~~given~~ filed under the ~~Minnesota Labor Relations Act to the~~
1.22 ~~commissioner shall~~ Minnesota Statutes, section 179.06, subdivision 1, must be in writing
1.23 ~~and shall contain the following~~ include:

1.24 A. the petitioner's name, address, e-mail address, and telephone number ~~of the~~
1.25 ~~party filing the petition;~~

2.1 B. the name, address, e-mail address, and telephone number of the petitioner's
2.2 agent or attorney ~~representing petitioner~~;

2.3 C. the adverse party's name, address, e-mail address, and telephone number of
2.4 ~~adverse party in dispute~~;

2.5 D. the name, address, e-mail address, and telephone number of the adverse party's
2.6 attorney ~~for adverse party~~, if known;

2.7 E. if the petitioner or adverse party is an employers association, a list giving the
2.8 names, addresses, e-mail addresses, and telephone numbers of all association members of
2.9 ~~the association~~ directly interested ~~shall be attached to~~ in the petition;

2.10 *[For text of items F and G, see Minnesota Rules]*

2.11 H. a clear and concise statement of ~~the nature of~~ about the dispute and the
2.12 petitioner's demands of the party filing the petition.

2.13 ~~Forms for filing this information may be obtained from the office of the commissioner~~
2.14 ~~of mediation services.~~

2.15 **5500.0500 MEETINGS MEDIATION CONFERENCE.**

2.16 **Subpart 1. Conference.**

2.17 A. The commissioner, Upon receiving ~~such a~~ petition, ~~shall~~ under part 5500.0300,
2.18 the commissioner must:

2.19 (1) fix the time and place for ~~meetings of the parties to the dispute. Notice a~~
2.20 conference; and

2.21 (2) notify the parties to the dispute in writing of the conference's time and
2.22 ~~place so fixed shall be given by the commissioner to said parties.~~

3.1 B. Such meetings shall be A conference under this part is informal and limited
 3.2 by the commissioner to matters relative and material to ~~the settlement of~~ settling the dispute.
 3.3 ~~The meetings shall not be open~~ conference is closed to the public and ~~shall be~~ is limited to
 3.4 the parties and their representatives interested in the dispute. ~~Agreements reached shall only~~
 3.5 ~~be binding when~~

3.6 C. If all parties agree, the conference may take place virtually through an online
 3.7 conferencing or videoconferencing tool.

3.8 Subp. 2. Agreement binding. An agreement reached under subpart 1, item B, is
 3.9 binding if agreed to by both parties and put in writing.

3.10 **5500.0700 PURPOSE, CONSTRUCTION, AND WAIVER.**

3.11 A. Parts ~~5500.0600~~ 5500.0700 to 5500.1100 govern the conduct of all proceedings
 3.12 before ~~commissions~~ a commission appointed in labor disputes affecting public interests
 3.13 under Minnesota Statutes, sections 179.07 and 179.08. ~~Parts 5500.0600 to 5500.1100 shall,~~
 3.14 and are to be liberally construed to effectuate the purposes and provisions of the Minnesota
 3.15 Labor Relations Act, Minnesota Statutes, chapter 179.

3.16 B. The A commission may waive any requirement of parts ~~5500.0600~~ 5500.0700
 3.17 to 5500.1100 unless a party shows ~~prejudice thereby~~ that the waived requirement prejudices
 3.18 the party.

3.19 **5500.0800 APPEARANCES.**

3.20 Subpart 1. Party directly affected by dispute. ~~Any~~ A party to or ~~party~~ affected by
 3.21 ~~the~~ a dispute may appear before the commission in person or ~~by~~ through an attorney or ~~by~~
 3.22 ~~their~~ a representative, ~~and shall have the right.~~ A party is entitled to offer competent evidence
 3.23 and to be heard on the issues at any commission hearing.

4.1 Subp. 2. Party indirectly involved in dispute.

4.2 A. Any A party not directly involved in the a dispute desiring to appear and have
4.3 the same rights before the commission as parties directly involved ~~shall~~ must file a petition
4.4 in writing with the ~~commissioner or the~~ commission setting forth the grounds upon which
4.5 ~~such person~~ the party claims to be interested.

4.6 B. The commission ~~shall~~ must rule ~~upon~~ on all ~~such~~ petitions filed under item A,
4.7 ~~provided, however, that~~ and the parties to the dispute may present arguments and be heard
4.8 on the question of permitting ~~such appearances~~ an appearance under this subpart. The
4.9 commission ~~may~~ must permit ~~appearances~~ an appearance in person, by ~~counsel~~ attorney,
4.10 or by a representative, to ~~such~~ the extent and ~~upon such~~ under terms as it ~~may deem just~~ the
4.11 commission determines necessary to help resolve the dispute and issue its report under
4.12 Minnesota Statutes, section 179.07.

4.13 **5500.0900 ~~EXAMINATIONS OF~~ EXAMINING WITNESSES.**

4.14 ~~Witnesses shall be examined orally under oath, provided, however, that the testimony~~
4.15 ~~of all witnesses who reside outside of the state or who, through illness or other cause, are~~
4.16 ~~unable to testify in person before the commission may be taken by deposition in such manner~~
4.17 ~~and form as may be prescribed by the commission. A witness must be examined according~~
4.18 ~~to part 5505.0700.~~

4.19 **5500.1000 SUBPOENAS.**

4.20 ~~Subpoenas requiring the attendance and testimony of witnesses and the production of~~
4.21 ~~evidence, including books, records, correspondence, or documents relating to any matter~~
4.22 ~~pending before the commission, shall be issued in the name of the commission over the~~
4.23 ~~signature of one of the members thereof. Applications for the issuance of such subpoenas~~
4.24 ~~shall be filed with the commission by the party to the proceedings desiring the subpoena.~~
4.25 ~~Such application shall be timely and shall specify the names of the witnesses, the books,~~

5.1 ~~records, correspondence, or documents required to be produced by the witness. Witnesses~~
5.2 ~~summoned before the commission shall be paid fees and mileage in the same manner and~~
5.3 ~~amounts as are paid to witnesses in the district court of this state. Witnesses whose~~
5.4 ~~depositions are taken and persons taking the same shall be entitled to the same fees as~~
5.5 ~~provided by law for taking of depositions for use in the district court of this state. Witness~~
5.6 ~~fees and mileage shall be paid at the time of the service of the subpoena to the witness whose~~
5.7 ~~attendance is required by the subpoena by the parties at whose instance the subpoena is~~
5.8 ~~issued excepting witnesses subpoenaed by the commission who shall be paid as provided~~
5.9 ~~by law. A subpoena and associated fees and mileage are as provided under part 5505.0800.~~

5.10 **5500.1100 HEARINGS.**

5.11 Subpart 1. **Conduct.** ~~All hearings by the commission shall be open to the public. It~~
5.12 ~~shall be the duty of the commission conducting the hearing to inquire fully into the facts in~~
5.13 ~~dispute, to call, examine, and cross-examine witnesses, and to require the production of~~
5.14 ~~such documentary or other evidence as it may deem necessary to fully acquaint it with all~~
5.15 ~~the facts relating to the dispute.~~

5.16 A. A hearing under parts 5500.0700 to 5500.1100 must be conducted according
5.17 to part 5505.0600, subparts 2 to 8.

5.18 B. After conducting the hearing, the commission must meet and issue a report
5.19 according to Minnesota Statutes, section 179.07.

5.20 Subp. 2. [See repealer.]

5.21 Subp. 3. [See repealer.]

5.22 Subp. 4. [See repealer.]

5.23 Subp. 5. [See repealer.]

5.24 Subp. 6. [See repealer.]

6.1 Subp. 7. [See repealer.]

6.2 Subp. 8. [See repealer.]

6.3 Subp. 9. **Record.** The record in the proceedings ~~shall consist~~ consists of:

6.4 A. the order appointing the commission, under Minnesota Statutes, section 179.07;

6.5 B. the notice of ~~hearing,~~ to the parties under Minnesota Statutes, section 179.07;

6.6 C. proof of service of ~~such notice upon~~ on the parties to the proceedings;;

6.7 D. the objections of any person to the proceedings;;

6.8 E. the rulings ~~thereon,~~ on the objections;

6.9 F. all motions, stipulations ~~between the parties,~~ exhibits, documentary evidence,
6.10 and depositions;

6.11 G. the ~~stenographic notes or record~~ transcript, if kept;; and

6.12 H. the commission's report ~~of the commission.~~

6.13 **5500.1300 PURPOSE, CONSTRUCTION, AND WAIVER.**

6.14 A. Parts ~~5500.1200~~ 5500.1300 to 5500.2100 govern the conduct of all proceedings
6.15 before labor referees appointed according to Minnesota Statutes, section 179.083. ~~Parts~~
6.16 ~~5500.1200 to 5500.2100 shall,~~ and are to be liberally construed to effectuate the purposes
6.17 and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

6.18 B. ~~The~~ A labor referee may waive any ~~requirements~~ requirement of parts ~~5500.1200~~
6.19 5500.1300 to 5500.2100 unless a party shows ~~prejudice thereby~~ that the waived requirement
6.20 prejudices the party.

6.21 **5500.1400 NOTICE OF CONTROVERSY.**

6.22 A written notice that a jurisdictional controversy exists, ~~which is made the ground for~~
6.23 ~~picketing or declaring a strike or boycott,~~ may be filed with the commissioner of ~~mediation~~

7.1 ~~services~~ by a labor organization or organizations or by an employer or ~~group of~~ employers
7.2 ~~association. Such~~ The notice shall be addressed to the commissioner and shall contain the
7.3 ~~following information~~ must include:

7.4 A. the petitioner's name, address, e-mail address, and telephone number of person
7.5 ~~or organization filing such notice,~~ and the address of its the petitioner's principal office or
7.6 place of business;

7.7 B. if ~~the notice is~~ filed by an employer or ~~organization of~~ employers association,
7.8 the:

7.9 (1) names, addresses, e-mail addresses, and telephone numbers of all labor
7.10 organizations involved in such the jurisdictional controversy;

7.11 (2) the nature of the employer's business or industry; and

7.12 (3) the name, address, e-mail address, and telephone number, if known, of
7.13 any representative or attorney for such the employer or organization of employers association;

7.14 C. if ~~the notice is~~ filed by a labor organization, the:

7.15 (1) names, addresses, e-mail addresses, and telephone numbers of all
7.16 employers and all other labor organizations involved in such the jurisdictional controversy
7.17 and;

7.18 (2) the nature of the employer's business or industry; and

7.19 (3) the name, address, e-mail address, and telephone number, if known, of
7.20 any representative or attorney of such the employer or employer's organization employers
7.21 association;

7.22 D. the classification of employment, the approximate number of employees in
7.23 each classification, and the approximate ~~total~~ number of employees involved in the
7.24 jurisdictional controversy;

8.1 E. the names of all labor organizations with whom the employer or employers
8.2 ~~have~~ association has labor agreements and the expiration date of ~~such~~ the agreements;

8.3 F. a clear and concise statement of the nature of the jurisdictional controversy;²
8.4 the history of past collective bargaining experience between the parties involved;² the date
8.5 on which the jurisdictional controversy arose ~~which is made the ground for picketing or~~
8.6 ~~declaring a strike or boycott;~~² and whether ~~such~~ the jurisdictional controversy is made the
8.7 ~~ground~~ grounds for one or more of the following:

8.8 (1) picketing;²

8.9 (2) declaring a strike;² or

8.10 (3) declaring a boycott against ~~such~~ the employer or employers association;

8.11 and

8.12 G. if applicable, the name of the labor organization taking ~~such~~ an action under
8.13 item F, subitems (1) to (3).

8.14 ~~Forms for filing this information may be obtained from the office of the commissioner~~
8.15 ~~of mediation services.~~

8.16 **5500.1600 REFEREE APPOINTMENT AND DUTIES.**

8.17 Subpart 1. Definition. For purposes of this part, "serve" has the meaning given in part
8.18 5510.0310, subpart 19, and part 5510.0320 applies.

8.19 Subp. 2. Fixing hearing; notice.

8.20 A. If the ~~governor in the governor's discretion~~ commissioner appoints a labor
8.21 referee to hear and determine the jurisdictional controversy, ~~said~~ the labor referee ~~shall~~
8.22 must:

8.23 (1) immediately fix a time and place for the ~~first~~ hearing ~~before said referee~~;

8.24 and ~~shall~~

9.1 (2) ~~mail to~~ at least five calendar days before the hearing, serve on each of the
9.2 ~~parties to the controversy, at least five days before the date set for the first hearing, a notice~~
9.3 ~~thereof, together with~~ party:

9.4 (a) a notice of hearing;

9.5 (b) a copy of the notice under part 5500.1400; and

9.6 (c) a copy of parts 5500.1200 5500.1300 to 5500.2100; provided, that.

9.7 B. The notice under item A may be waived, or the time therefor to serve the notice
9.8 may be shortened by agreement of the parties.

9.9 C. The notice of such hearing shall must be given to all parties directly involved
9.10 in or affected by the controversy so far as named in the original notice under part 5500.1400
9.11 or known to the labor referee, and all such parties shall be deemed to be these parties are
9.12 parties to the proceedings. A copy of the original notice, relative to said jurisdictional
9.13 controversy, shall be sent by certified mail to each party with the first notice of hearing.

9.14 **5500.1700 HEARINGS.**

9.15 A. All hearings A hearing before the a labor referee shall must be conducted in
9.16 conformity with the following rules: according to part 5505.0600, subparts 2 to 8.

9.17 A. All hearings before the labor referee shall be open to the public. It shall be the
9.18 duty of the labor referee conducting the hearing to inquire fully into the facts in dispute, to
9.19 call, examine, and cross-examine witnesses, and to require the production of such
9.20 documentary or other evidence as the referee may deem necessary to fully acquaint him
9.21 with all the facts relating to the dispute.

9.22 B. Any party in interest to the proceeding shall have the right to appear at such
9.23 hearing in person, by counsel or representative and to call, examine, and cross-examine
9.24 witnesses and to introduce into evidence such documentary or other evidence as the labor

10.1 ~~referee may deem admissible. In such proceeding the parties thereto shall be permitted to~~
10.2 ~~introduce only competent evidence, as defined in Minnesota Statutes, section 179.01,~~
10.3 ~~subdivision 12.~~

10.4 C. ~~At any such hearing the parties to the dispute may enter into stipulation of facts~~
10.5 ~~which shall have the same weight as though evidence had been adduced to prove the same.~~

10.6 D. ~~Any objection with respect to the conduct of the hearing, including any objection~~
10.7 ~~to the introduction of evidence, shall be stated orally, together with a statement of the grounds~~
10.8 ~~of such objection, and included in the stenographic report of the hearing, if one is kept. No~~
10.9 ~~objection shall be deemed waived by further participation in the hearing.~~

10.10 E. ~~The labor referee may adjourn the hearing from day to day or from time to time~~
10.11 ~~and from place to place as the referee may deem proper upon appropriate notice thereof to~~
10.12 ~~the parties to said proceeding.~~

10.13 F. ~~At the close of the hearing the parties to the proceeding shall be entitled to~~
10.14 ~~submit the matter on either oral or written arguments as the labor referee may determine.~~
10.15 ~~When permission for oral argument is granted, the labor referee shall fix the length thereof,~~
10.16 ~~and such argument shall not be included in the stenographic record of the hearing unless it~~
10.17 ~~is so directed by the labor referee. If the matter is submitted on written argument, the labor~~
10.18 ~~referee shall fix the time for the filing thereof by the respective parties to the proceeding.~~

10.19 G. ~~All or any part of the testimony of any witness may be disregarded by the~~
10.20 ~~referee, if said witness shall refuse to answer any question which the referee has ruled to~~
10.21 ~~be a proper one.~~

10.22 H. B. ~~The record in the proceedings shall consist~~ consists of:

10.23 (1) ~~the order appointing the labor referee, under Minnesota Statutes, section~~
10.24 179.083;

10.25 (2) ~~the notice of hearing, under part 5500.1600, subpart 2;~~

11.1 (3) proof of service of ~~such~~ notice of ~~hearing upon~~ on the parties to the
11.2 proceeding;

11.3 (4) the objections of any person to the proceedings;

11.4 (5) the rulings ~~thereon~~, on the objections;

11.5 (6) all motions, stipulations ~~between the parties~~, exhibits, documentary
11.6 evidence, depositions, findings of fact, and conclusions, ~~if such are made~~;

11.7 (7) the ~~stenographic notes or record~~ transcript, if kept; and

11.8 (8) the labor referee's determination of the jurisdictional controversy ~~by the~~
11.9 labor referee.

11.10 **5500.1800 ~~EXAMINATION OF~~ EXAMINING WITNESSES.**

11.11 ~~Witnesses shall be examined orally, under oath, provided, however, that the testimony~~
11.12 ~~of all witnesses who reside outside of the state or who, through illness or other cause, are~~
11.13 ~~unable to testify in person before the labor referee may be taken by deposition in such~~
11.14 ~~manner and form as may be prescribed by the labor referee. A witness must be examined~~
11.15 ~~according to part 5505.0700.~~

11.16 **5500.1900 SUBPOENAS.**

11.17 ~~Subpoenas requiring the attendance and testimony of witnesses and the production of~~
11.18 ~~evidence, including books, records, correspondence, or documents relating to any matter~~
11.19 ~~pending before the labor referee, shall be issued in the name of the referee over the referee's~~
11.20 ~~signature. Applications for the issuance of such subpoenas shall be filed with the referee~~
11.21 ~~by the party to the proceedings desiring the subpoena. Such application shall be timely and~~
11.22 ~~shall specify the names of the witnesses, the books, records, correspondence, or documents~~
11.23 ~~required to be produced by the witness. Witnesses summoned before the labor referee shall~~
11.24 ~~be paid fees and mileage in the same manner and amounts as are paid to witnesses in the~~
11.25 ~~district court of this state. Witnesses whose depositions are taken and persons taking the~~

12.1 ~~same shall be entitled to the same fees as provided by law for taking of depositions for use~~
12.2 ~~in the district court of this state. Witness fees and mileage shall be paid at the time of the~~
12.3 ~~service of subpoena to the witness whose attendance is required by the subpoena by the~~
12.4 ~~parties at whose instance the subpoena is issued, excepting witnesses subpoenaed by the~~
12.5 ~~labor referee, who shall be paid as provided by law. A subpoena and associated fees and~~
12.6 ~~mileage are as provided under part 5505.0800.~~

12.7 **5500.2000 FINAL DETERMINATION OF REFEREE.**

12.8 ~~On concluding the hearings and investigations~~

12.9 A. After ending the hearing and investigation under parts 5500.1300 to 5500.1900,
12.10 the labor referee shall must make a final determination of on the jurisdictional controversy.
12.11 The determination shall labor referee must:

12.12 (1) be in writing and shall set forth in detail write the determination that
12.13 details the labor referee's findings of the labor referee upon on all the issues presented and
12.14 the referee's decision thereon. on all issues presented; and

12.15 (2) the labor referee shall file simultaneously with the commissioner and the
12.16 parties the record of the proceedings determination. In case, before a final determination is
12.17 made,

12.18 B. If all parties to the controversy execute a written agreement shall before the
12.19 labor referee's final determination:

12.20 (1) the agreement must be filed simultaneously with the labor referee and the
12.21 commissioner, duly executed by all the parties to the dispute, settling all questions at issue,;
12.22 and

12.23 (2) the labor referee shall cease his or her activities without making may not
12.24 make a final determination and shall must include in the record of the proceedings said the
12.25 parties' written agreement.

13.1 **5500.2100 RECONSIDERATION.**13.2 **Subpart 1. Requesting reconsideration.**

13.3 A. ~~Any~~ A party to a jurisdictional controversy ~~proceeding~~ may request a
 13.4 reconsideration or clarification of the labor referee's final determination ~~of the labor referee,~~
 13.5 on any or all of the following grounds:

13.6 (1) ~~that~~ there is material evidence newly discovered, ~~which,~~ that with
 13.7 reasonable diligence, could not be found or produced at the ~~prior hearings~~ hearing;

13.8 (2) ~~that~~ the determination is not justified by the evidence; or

13.9 (3) ~~that any~~ an adverse party has been guilty of misconduct ~~which~~ that
 13.10 materially affected the result. ~~Such~~

13.11 B. A request shall under item A must be in writing and ~~shall~~ set forth the facts
 13.12 upon which ~~it the request~~ is based. ~~Copies of such~~ Within ten calendar days after the labor
 13.13 referee's determination under part 5500.2000, item A, is filed, a copy of the request shall
 13.14 must be served on all other parties to the proceeding and ~~upon~~ the labor referee.

13.15 **Subp. 2. Determining reconsideration request; hearing.**

13.16 A. After receiving a reconsideration request under subpart 1, the labor referee
 13.17 ~~may then proceed to~~ must:

13.18 (1) consider the request if the referee deems the grounds stated sufficient;
 13.19 according to subpart 1, item A; or ~~may~~

13.20 (2) reject the ~~same on deeming~~ request if the referee deems the grounds
 13.21 insufficient according to subpart 1, item A. ~~On~~

13.22 B. When determining to consider the request, the labor referee ~~shall~~ must order
 13.23 a preliminary hearing ~~thereon, notice of which shall be given as provided for the first hearing~~

14.1 ~~upon such jurisdictional controversy~~ and give notice according to part 5500.1600, subpart
14.2 2.

14.3 C. After ~~such~~ the preliminary hearing, the labor referee ~~shall~~ must make an order
14.4 granting or denying the request. If granting the request is ~~granted~~, the labor referee ~~shall~~
14.5 ~~proceed to~~ must reconsider or clarify the determination ~~and shall~~, fix a time and place for
14.6 a hearing thereon, of which, and give notice shall be given as for the first hearing according
14.7 to part 5500.1600, subpart 2. The labor referee may by order limit the matters upon which
14.8 the referee will receive new or additional evidence and must include in the order why the
14.9 referee limited matters. Thereupon,

14.10 D. Further proceedings ~~shall be had as upon the original notice or jurisdictional~~
14.11 ~~controversy~~ must be held according to parts 5500.1700 to 5500.1900. ~~At the conclusion~~
14.12 ~~thereof~~ When the proceedings end, the labor referee shall must:

14.13 (1) affirm the original determination under part 5500.2000, item A; or ~~shall~~

14.14 (2) make and file simultaneously with the commissioner and the parties an
14.15 amended determination which shall supersede that supersedes the original determination.

14.16 **5500.2200 APPLICABILITY.**

14.17 A. Parts 5500.2200 to ~~5500.2800~~ shall 5500.2850 apply to all arbitration
14.18 proceedings under bureau rules as provided under Minnesota Statutes, chapter 179A, subject
14.19 to all applicable provisions of the law.

14.20 B. Unless the context indicates otherwise, a panel of arbitrators includes a panel
14.21 consisting of only a single arbitrator.

14.22 **5500.2210 DEFINITIONS.**

14.23 Subpart 1. Scope. For purposes of parts 5500.2200 to 5500.2850, the terms defined
14.24 in this part have the meanings given them.

15.1 Subp. 2. **Arbitrator.** "Arbitrator" means an arbitrator from the arbitration roster under:

15.2 A. chapter 5530;

15.3 B. Minnesota Statutes, section 179A.04, subdivision 3, paragraph (b); and

15.4 C. Minnesota Statutes, section 626.892, subdivision 4.

15.5 Subp. 3. **Award.** "Award" has the meaning given in part 5530.0300, subpart 3a.

15.6 Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Bureau of
15.7 Mediation Services.

15.8 Subp. 5. **Party.** "Party" means a person subject to arbitration under bureau rules as
15.9 provided under Minnesota Statutes.

15.10 Subp. 6. **Serve.** "Serve" has the meaning given in part 5510.0310, subpart 19, and
15.11 part 5510.0320 applies.

15.12 **5500.2220 ARBITRATOR'S RESPONSIBILITY.**

15.13 Subpart 1. **Ensuring fair hearing.** An arbitrator must ensure that a fair and timely
15.14 hearing is conducted in a manner that minimizes cost and expense to the parties and complies
15.15 with:

15.16 A. parts 5500.2200 to 5500.2850; and

15.17 B. chapter 5530.

15.18 Subp. 2. **Recording hearing.** An arbitrator may record a hearing, and the recording
15.19 is the arbitrator's personal property.

15.20 **5500.2300 ARRANGEMENTS FOR ARRANGING HEARING.**

15.21 Subpart 1. **Fixing hearing time and place.**

15.22 A. When a ~~board~~ panel of arbitrators has been appointed, ~~it shall~~ the panel must
15.23 immediately fix a time and place for the ~~first hearing before said board.~~ At least five calendar

16.1 days before the hearing, the panel chair shall mail to must serve on each of the parties to
16.2 the dispute, at least five days before the date set for the first hearing, party a notice thereof,
16.3 together with a copy of parts 5500.2200 to 5500.2800; provided that of hearing.

16.4 B. The hearing notice may be waived, or the time therefor for the notice may be
16.5 shortened by agreement of the parties.

16.6 Subp. 2. Virtual hearing. If all parties agree, the hearing may take place virtually
16.7 through an online conferencing or videoconferencing tool.

16.8 Subp. 3. Adjourning hearing. Any An arbitrator may adjourn the hearing may be
16.9 adjourned to a certain time, which shall be announced at the close of the hearing, later time
16.10 without further notice, but. If no time be is fixed for further to continue the hearing upon
16.11 adjournment, the arbitrator must give notice shall be given as for the first hearing according
16.12 to subpart 1 of the time the hearing is to be continued.

16.13 Subp. 4. Requesting transcript or recording. If a party requests a transcript be made
16.14 and a transcript request is not addressed in the contract or grievance procedure, the arbitrator
16.15 must allow a transcript to be made if the party requesting the transcript:

16.16 A. arranges for the transcript;

16.17 B. pays for all transcript-related costs; and

16.18 C. provides:

16.19 (1) a free copy to the arbitrator; and

16.20 (2) a copy to the other party upon request, with the other party paying the
16.21 full cost of the copy.

17.1 **5500.2400 PROCEEDINGS DURING THE HEARING.**17.2 Subpart 1. Representation.

17.3 A. Any A party to the dispute may be represented by a representative or an attorney
17.4 at law. The first party requesting any action shall be called the moving party. The other
17.5 party shall be called the defending party. Each party shall have the right to cross-examine
17.6 the witnesses of the other party.

17.7 B. A panel may not conduct a hearing unless all parties or their designated
17.8 representatives are present in person or virtually. This item does not apply if:

17.9 (1) an absent party consents; or

17.10 (2) a party fails to appear after due notice of the hearing or leaves the hearing
17.11 without the panel's permission.

17.12 Subp. 2. Order of proceedings.

17.13 A. The order of the proceedings shall be is as follows:

17.14 (1) the moving party shall outline that with the burden of proof outlines the
17.15 party's case, call calls witnesses, and present presents evidence; and

17.16 (2) upon the completion of the case of after the moving party under subitem
17.17 (1) presents its case, the defending responding party shall outline that outlines the party's
17.18 case, call calls witnesses, and present presents evidence. The opportunity to call witnesses
17.19 in rebuttal shall be accorded to each party.

17.20 B. Each party may cross-examine the other party's witnesses, and each party may
17.21 call witnesses in rebuttal.

17.22 C. Any party may offer exhibits may be offered by either party and when received
17.23 in evidence by the board shall be made a, and offered exhibits accepted as evidence are part
17.24 of the record.

18.1 D. After the parties have concluded the presentation of presented their evidence,
18.2 they may make arguments in the same order as hereinbefore provided described under item
18.3 A for submission of submitting evidence, and thereupon the hearings shall be closed. The
18.4 hearing closes after arguments end.

18.5 E. The panel may not present the case nor examine any party's witnesses except
18.6 as needed to amplify the testimony disclosed under this subpart.

18.7 Subp. 3. **Hearing record.** All proceedings and the hearing record thereof shall be are
18.8 confidential unless both parties agree in writing to the release thereof by the board the
18.9 hearing record. No member of the board shall present the case or examine the witnesses of
18.10 any party to the dispute except so far as such examination may be necessary to amplify the
18.11 testimony disclosed by the examination by the parties to the dispute.

18.12 **5500.2500 EVIDENCE.**

18.13 A. The board shall A panel must hear all evidence which that is competent,
18.14 relevant, and material to the issue. The board shall not conduct any hearing hereunder unless
18.15 all parties to the dispute are present in person or by their designated representatives; provided,
18.16 however, that a hearing may proceed in the absence of any party who consents thereto, or
18.17 who fails to appear after due notice of the hearing, or who leaves without being excused by
18.18 the board dispute.

18.19 B. The board may, however, make any independent inspection of the subject
18.20 matter of panel may independently investigate the dispute; or make such inquiries or obtain
18.21 such information outside of the hearings not presented at the hearing as it may deem the
18.22 panel deems necessary and proper; provided, however, that the parties to the dispute shall
18.23 for adjudicating the dispute. Unless waived by the party in writing, a party must be afforded
18.24 an opportunity to examine any panel evidence so secured, and to introduce evidence in
18.25 opposition thereto, unless the right to such examination and introduction of evidence is
18.26 waived in writing. The parties shall furnish such rebutting panel evidence.

19.1 C. A party must provide evidence as the board may require, as far as possible and
19.2 the failure to produce such evidence when required may be considered by the board in
19.3 making requested under item B if the evidence is available to the party. A party's failure to
19.4 produce evidence under item B is a factor when the panel makes its award. The board may,
19.5 at its discretion, receive written briefs, and shall fix at the close of the hearings the time
19.6 within which the same shall be served upon the opposing parties and filed with proof of
19.7 such service.

19.8 **5500.2510 BRIEFS.**

19.9 A. The parties may submit briefs to the panel after the hearing closes. Before
19.10 briefs are submitted, the parties must agree on:

19.11 (1) the filing deadlines; and

19.12 (2) how to file the briefs with the panel and serve them on each party.

19.13 B. The panel must resolve any disputes or disagreements on filing deadlines or
19.14 service.

19.15 **5500.2600 AMENDMENTS.**

19.16 The original statement of the dispute may be amended by a supplemental written
19.17 agreement signed by all parties and filed with the ~~board~~ panel at any time before the ~~final~~
19.18 ~~decision. No issues shall be considered by the board except~~ record closes. The panel may
19.19 only consider a dispute as specified in the original agreement statement or a supplemental
19.20 agreement executed and filed as herein provided under this part.

19.21 **5500.2700 AWARD.**

19.22 Subpart 1. Making award. When the board shall have concluded its hearings and
19.23 investigations, it shall After concluding the hearing and investigation, the panel must make
19.24 an award. The award shall be that is in writing, is signed by a majority of the arbitrators

20.1 ~~panel, and shall set forth in detail~~ details the panel's findings of the board upon all the issues
 20.2 ~~before it and its decision thereon~~ on the dispute and the panel's decision.

20.3 Subp. 2. **Filing award.** ~~The board shall~~ panel must simultaneously file with the
 20.4 commissioner ~~the stenographic record of its proceedings, if kept, together with all exhibits~~
 20.5 ~~and records and the parties~~ the original findings, opinion, and award made by it. In case
 20.6 ~~before a final award is made a written agreement shall~~ The findings, opinion, and award
 20.7 must be filed according to part 5530.0800, subpart 9.

20.8 Subp. 3. **Resolving dispute before award is filed.** If the parties make a written
 20.9 agreement resolving the dispute before the panel files an award, the written agreement must
 20.10 be simultaneously filed with the board, duly executed by all of the parties to the dispute,
 20.11 settling all questions at issue, the board shall cease its activities without making an award
 20.12 ~~and shall~~ panel and the commissioner. The panel must then file its records, without its
 20.13 findings or an award, with the commissioner as hereinbefore provided.

20.14 **5500.2800 RECONSIDERATION OF THE RECONSIDERING AWARD.**

20.15 Subpart 1. **Requesting reconsideration.**

20.16 A. Any A party to an arbitration proceeding may request a reconsideration of the
 20.17 ~~award made by the board therein upon~~ the panel to reconsider the award on any or all of
 20.18 the following grounds:

20.19 (1) that there is newly discovered material evidence, ~~newly discovered, which~~
 20.20 that with reasonable diligence could not have been found and produced at the ~~prior hearings~~
 20.21 hearing;

20.22 (2) that the award is not justified by the evidence or is contrary to law; or

20.23 (3) that ~~any~~ an adverse party has been guilty of misconduct ~~which~~ that
 20.24 materially affected the result. Such

21.1 B. A request shall under item A must be in writing and shall set forth the facts
21.2 constituting grounds upon which it the request is based. Copies Within ten calendar days
21.3 after the award is filed under part 5500.2700, subpart 2, a copy of such the request shall
21.4 must be served upon on all other parties to the proceedings, upon the panel chair of the
21.5 board, and upon the commissioner.

21.6 Subp. 2. Determining request.

21.7 A. The board may then proceed to panel must:

21.8 (1) consider the request, under subpart 1 if it the panel deems the grounds
21.9 stated sufficient, according to subpart 1, item A; or may

21.10 (2) reject the same request if it the panel deems the grounds insufficient
21.11 according to subpart 1, item A. If the board determines to consider the request, it shall order
21.12 a preliminary hearing thereon, notice of which shall be given as provided for the first hearing
21.13 upon an arbitration agreement.

21.14 B. After such hearing considering a request according to item A, the board shall
21.15 panel must make its order granting or denying the request. If granting the request is granted,
21.16 the board shall proceed to panel must reconsider the award and shall:

21.17 (1) if the parties agree, receive briefs according to part 5500.2510; or

21.18 (2) fix a time and place for the a hearing thereon, of which and give notice
21.19 shall be given as for the first hearing according to part 5500.2300, subpart 1, item A.

21.20 C. The board panel may by order limit the matters upon which it will receive new
21.21 or additional evidence. Thereupon further proceedings shall be had as upon the original
21.22 arbitration agreement and must conduct the hearing, if held, according to parts 5500.2400
21.23 to 5500.2510.

22.1 D. At the conclusion thereof the board shall After briefs are submitted under item
22.2 B or C, the panel must:

22.3 (1) affirm the original award filed under part 5500.2700, subpart 2; or shall

22.4 (2) make and simultaneously file with the parties and the commissioner an
22.5 amended award which shall supersede according to part 5500.2700, subpart 2, that supersedes
22.6 the original award.

22.7 **5500.2850 ARBITRATOR FEES AND COSTS.**

22.8 **Subpart 1. Paying arbitrator fees and costs.**

22.9 A. Except as otherwise provided by the express terms of the arbitration agreement,
22.10 the parties must equally pay the arbitrator's fees and costs.

22.11 B. If there is a dispute between one or both parties and the arbitrator over the
22.12 arbitrator's fees or costs, the party or parties contesting the fee may request arbitration of
22.13 the fee dispute according to subpart 2.

22.14 **Subp. 2. Resolving dispute over fees or costs.**

22.15 A. If a party believes that the arbitrator's fees or expenses are inappropriate or
22.16 incorrect and cannot resolve the issue with the arbitrator, the party may submit a written
22.17 statement of protest to the commissioner within 30 calendar days of receiving the arbitrator's
22.18 invoice of fees and expenses. The statement of protest must provide the basis for the
22.19 objection, and the party must provide a copy of the statement to the arbitrator and the other
22.20 party.

22.21 B. The commissioner must investigate and respond to the statement of protest. If
22.22 the commissioner determines that the disputed fee or expense is inappropriate or incorrect,
22.23 the commissioner must refer the statement of protest to a panel of the advisory committee
22.24 under chapter 5530. The panel must:

- 23.1 (1) investigate the statement of protest;
23.2 (2) provide all interested parties an opportunity to be fairly heard; and
23.3 (3) issue a written decision that is final and binding on the parties and the
23.4 arbitrator.

23.5 **5505.0100 DEFINITIONS.**

23.6 Subpart 1. **Scope.** Unless the language or context clearly indicates that a different
23.7 meaning is intended, the words, terms, and phrases in parts 5505.0100 to 5505.1500 shall
23.8 have the same meaning and definition as is contained in the definitions used in Minnesota
23.9 Statutes, chapters 179 and 179A. For purposes of this chapter, the terms defined in this part
23.10 have the meanings given them.

23.11 Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Bureau of
23.12 Mediation Services.

23.13 Subp. 3. **Competent evidence.** "Competent evidence" has the meaning given in
23.14 Minnesota Statutes, section 179.01, subdivision 12.

23.15 Subp. 4. **Dispute.** "Dispute" means a controversy regarding the representation of
23.16 employees under Minnesota Statutes, section 179.16.

23.17 Subp. 5. **Employee.** "Employee" has the meaning given in Minnesota Statutes, section
23.18 179.01, subdivision 4.

23.19 Subp. 6. **Employer.** "Employer" has the meaning given in Minnesota Statutes, section
23.20 179.01, subdivision 3.

23.21 Subp. 7. **Labor organization.** "Labor organization" has the meaning given in
23.22 Minnesota Statutes, section 179.01, subdivision 6.

23.23 Subp. 8. **Party.** "Party" means an employee, group of employees, labor organization,
23.24 employer, or employers association affected by a dispute.

24.1 Subp. 9. **Representative of employees.** "Representative of employees" has the meaning
24.2 given in Minnesota Statutes, section 179.01, subdivision 5.

24.3 Subp. 10. **Serve.** "Serve" has the meaning given in part 5510.0310, subpart 19.

24.4 Subp. 11. **Unit.** "Unit" means a unit of employees determined under Minnesota Statutes,
24.5 section 179.16.

24.6 **5505.0200 PURPOSE, CONSTRUCTION, AND WAIVER.**

24.7 A. ~~Parts 5505.0100 to 5505.1500 govern~~ This chapter governs the conduct of all
24.8 proceedings before the commissioner of mediation services involving investigation and
24.9 certification of ~~for investigating and certifying~~ representatives for collective bargaining
24.10 under Minnesota Statutes, section 179.16. ~~Parts 5505.0100 to 5505.1500 shall, and is to be~~
24.11 liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations
24.12 Act, Minnesota Statutes, chapter 179.

24.13 B. The commissioner may waive any requirement of ~~parts 5505.0100 to 5505.1500~~
24.14 under this chapter unless a party shows ~~prejudice thereby~~ that the waived requirement
24.15 prejudices the party.

24.16 **5505.0210 FILING AND SERVICE.**

24.17 Part 5510.0320 applies to a document filed or served under this chapter.

24.18 **5505.0300 REQUEST FOR INVESTIGATION.**

24.19 As provided under Minnesota Statutes, section 179.16, subdivision 2, a party may file
24.20 a request for investigation by ~~with~~ the commissioner of mediation services of a question
24.21 concerning the representation of employees for collective bargaining may be filed with the
24.22 commissioner by any employee, group of employees, labor organization, employer, or group
24.23 of employers. Such request shall be in writing in the form hereinafter prescribed. Forms for
24.24 filing this information may be obtained from the office of the commissioner of mediation
24.25 services.

25.1 **5505.0400 REQUIRED INFORMATION.**

25.2 ~~The A request shall be addressed to the commissioner of mediation services and shall~~
25.3 ~~contain the following information~~ under part 5505.0300 must include:

25.4 A. the type of organization making the request, ~~be it labor organization, employer,~~
25.5 ~~employee, or unorganized group of employees,~~ and the petitioning organization's name,
25.6 address, e-mail address, and telephone number of the ~~petitioner or petitioners~~;

25.7 B. the name, address, e-mail address, and telephone number of the organization's
25.8 agent or attorney ~~who represents the petitioner or petitioners~~;

25.9 C. the adverse party's name, address, e-mail address, and telephone number of
25.10 ~~the opposing party in the dispute~~;

25.11 D. if known, the name, address, e-mail address, and telephone number of the
25.12 adverse party's agent or attorney ~~for the opposing party, if known~~;

25.13 E. the names, addresses, e-mail addresses, and telephone numbers of all other
25.14 individuals or labor organizations known to have an interest in or claiming to represent any
25.15 of the employees involved;

25.16 F. the nature of the employer's business ~~of the employer~~;

25.17 G. the approximate ~~total~~ number of employees in the unit the ~~petitioner~~ petitioning
25.18 organization claims is appropriate, and a statement as to the ~~bargaining~~ unit or units claiming
25.19 the right of representation, ~~whether employer unit, craft unit, plant unit, or other unit as~~
25.20 ~~proposed by the petitioner~~; and

25.21 H. a detailed list of the classifications in the proposed ~~appropriate bargaining~~ unit,
25.22 indicating the number of employees in each classification.

26.1 **5505.0500 NOTICE OF HEARING AND INVESTIGATION.**

26.2 Subpart 1. Investigating request; hearing. Upon ~~receipt of~~ receiving a completed
26.3 request in proper form under part 5505.0300, the commissioner ~~shall:~~

26.4 A. must investigate the controversy by any suitable means. The commissioner
26.5 may investigate such controversy personally or through an agent appointed by the
26.6 commissioner. ~~dispute; and~~

26.7 B. The commissioner may provide for an appropriate a hearing before the
26.8 commissioner ~~or agent.~~

26.9 Subp. 2. Giving notice.

26.10 A. The commissioner must serve notice of such an investigation or hearing ~~shall~~
26.11 ~~be given~~ to all parties directly involved in or directly affected by the ~~controversy, so far as~~
26.12 ~~named in the request or known to the commissioner.~~ All such dispute, and the parties shall
26.13 be ~~are~~ deemed parties to the proceedings. A copy of the notice shall ~~must~~ be posted in a
26.14 conspicuous place at the place of employment of the ~~employees therein referred to~~ petitioning
26.15 organization at least two days ~~prior to~~ before the scheduled date of investigation or hearing.

26.16 B. Together with the notice under item A, a copy of the request filed by the
26.17 petitioner shall under part 5505.0300 must be given to a representative of each party,
26.18 excepting individual employees, with the first notice, and shall be posted in a like manner
26.19 according to item A.

26.20 Subp. 3. Hearing recording. If a hearing is ordered, the commissioner ~~shall cause a~~
26.21 ~~stenographic report~~ must maintain a recording of the hearing to be kept for 90 days.

26.22 **5505.0600 HEARINGS.**

26.23 Subpart 1. Conformity. All hearings ~~before the commissioner shall~~ under this chapter
26.24 must be conducted ~~in conformity with~~ according to subparts 2 to 9.

27.1 Subp. 2. **Conduct.** All hearings before the commissioner ~~shall be~~ are open to the
27.2 public. ~~It shall be the duty of~~ The commissioner ~~conducting the hearing to inquire fully into~~
27.3 ~~the facts in dispute, to call, examine, and cross-examine witnesses, and to require the~~
27.4 ~~production of such documentary or other evidence as the commissioner may deem necessary~~
27.5 ~~to be fully acquainted with all the facts relating to the dispute~~ has the powers under Minnesota
27.6 Statutes, section 179.16, subdivision 3.

27.7 Subp. 2a. **Virtual hearing.** If all parties agree, the hearing may take place virtually
27.8 through an online conferencing or videoconferencing tool.

27.9 Subp. 3. **Testimony and evidence.** ~~Any~~ A party ~~in interest to the proceeding shall~~
27.10 ~~have the right~~ proceedings is entitled to:

27.11 A. ~~appear at such hearing in person, or by counsel attorney or representative and~~
27.12 ~~to;~~

27.13 B. call, examine, and cross-examine witnesses; and ~~to~~

27.14 C. ~~introduce into evidence such~~ only competent evidence, either documentary or
27.15 other evidence as the commissioner may deem deems admissible. In such proceeding the
27.16 parties thereto shall be permitted to introduce only competent evidence, as defined in
27.17 Minnesota Statutes, section 179.01, subdivision 12.

27.18 Subp. 4. **Stipulation.** ~~At any such hearing~~ The parties to the dispute may ~~enter into~~
27.19 ~~stipulation of facts which shall have the same weight as though evidence had been adduced~~
27.20 ~~to prove the same~~ stipulate to agreed-upon facts and evidence.

27.21 Subp. 5. **Objections.**

27.22 A. ~~Any~~ An objection ~~with respect to~~ on the conduct of the hearing, including ~~any~~
27.23 an objection to the introduction of evidence, ~~shall~~ must be stated orally, together with a
27.24 statement of the grounds ~~of such~~ for the objection, and be included in the ~~stenographic report~~

28.1 ~~of the hearing if one is kept. No objection shall be deemed waived by further participation~~
28.2 ~~in the hearing~~ recording.

28.3 B. A party does not waive its objection if the party continues to participate in the
28.4 hearing.

28.5 Subp. 6. **Adjournment.** The commissioner may adjourn the hearing ~~from day to day~~
28.6 ~~or from time to time and from place to place as he may deem proper as the commissioner~~
28.7 deems necessary upon appropriate notice thereof to the parties to said proceeding.

28.8 Subp. 7. **At close of hearing.**

28.9 A. At the close of the hearing, the parties to the proceeding shall be are entitled
28.10 to submit ~~the matter on~~ either oral or written arguments as determined by the commissioner
28.11 may determine under this subpart. ~~When permission for~~

28.12 B. If the commissioner permits oral argument is granted, the commissioner shall
28.13 fix the length thereof, and such argument shall not be included in the stenographic record
28.14 of the hearing unless it is so directed by the commissioner must determine its length. Unless
28.15 ordered by the commissioner, oral arguments are not part of the recording.

28.16 C. ~~If the matter is submitted on~~ there are written ~~argument~~ arguments, the
28.17 commissioner ~~shall fix the time for the filing thereof by the respective parties to the~~
28.18 ~~proceeding~~ must determine the deadline for filing.

28.19 Subp. 8. **Disregarding testimony.** All or any part of the a witness's testimony ~~of any~~
28.20 ~~witness~~ may be disregarded by the commissioner; if ~~said~~ the witness ~~shall refuse~~ refuses to
28.21 answer any question ~~which~~ that the commissioner has ruled ~~to be a proper one.~~

28.22 Subp. 9. **Record.**

28.23 A. The record in the proceedings ~~shall consist~~ consists of:

28.24 (1) the request for investigation; under part 5505.0300;

- 29.1 (2) the notice of hearing, under part 5505.0500, subpart 2, item A;
- 29.2 (3) proof of service of such notice upon on the parties to the proceedings;
- 29.3 (4) the objections of any person to the proceedings;
- 29.4 (5) the rulings thereon, on the objections;
- 29.5 (6) all motions, stipulations between the parties, exhibits, documentary
- 29.6 evidence, depositions, and findings of fact and conclusions, if such are made;
- 29.7 (7) the stenographic notes or record if kept, hearing recording; and
- 29.8 (8) the commissioner's final order of the commissioner.

29.9 B. The record must be kept for 90 days.

29.10 **5505.0700 EXAMINATION OF EXAMINING WITNESSES.**

29.11 Witnesses ~~shall~~ must be examined orally under oath; ~~provided, however, that the~~

29.12 ~~Testimony of all witnesses who reside outside of the state or who, through illness or other~~

29.13 ~~cause, are unable to testify in person before the commissioner may be taken by deposition~~

29.14 ~~in such manner and form~~ deposed as may be prescribed by the commissioner.

29.15 **5505.0800 SUBPOENAS.**

29.16 Subpart 1. Issuing subpoenas. Subpoenas requiring the attendance and testimony of

29.17 witnesses and the production of evidence, including books, records, correspondence, or

29.18 other documents relating to ~~any matter pending before the commissioner, shall a dispute~~

29.19 under this chapter must be issued ~~in the name of~~ by the commissioner ~~over his or her~~

29.20 signature.

29.21 Subp. 2. Applying for subpoenas. Applications

29.22 A. An application for the issuance of ~~such~~ subpoenas ~~shall~~ must be filed with the

29.23 commissioner by the party to the proceedings ~~desiring~~ requesting the subpoena. ~~Such~~

30.1 B. The application shall must be timely and shall specify the names of the witnesses
 30.2 and the books, records, correspondence, or other documents required to be produced by
 30.3 relating to a dispute under this chapter that the witness must produce.

30.4 Subp. 3. Witnesses; fees and mileage.

30.5 A. Witnesses summoned before the commissioner shall must be paid fees and
 30.6 mileage in the same manner and amounts as are paid to witnesses in the district court of
 30.7 this state. Witnesses whose depositions are taken and persons individuals taking the same
 30.8 shall be depositions are entitled to the same fees as provided by law for taking of depositions
 30.9 for use in the district court of this state.

30.10 B. Witness fees and mileage shall must be paid at the time of the service of the
 30.11 subpoena to by the party requesting the subpoena when the subpoena is served on the witness
 30.12 whose attendance is required by the subpoena, by the parties at whose instance the subpoena
 30.13 is issued, excepting.

30.14 C. Witnesses subpoenaed by the commissioner who shall must be paid as provided
 30.15 by law.

30.16 **5505.0900 ~~DETERMINATION OF~~ DETERMINING REPRESENTATIVE.**

30.17 After the hearing, the commissioner, upon the completion of the hearing, shall forthwith
 30.18 must determine:

30.19 A. who are the representatives of the employees for collective bargaining; or

30.20 B. the method to be used to ascertain for determining who shall be such will be
 30.21 the representatives as provided under Minnesota Statutes, section 179.16, subdivision 2.

31.1 **5505.1000 ELECTION PROCEDURE; SECRET BALLOT.**

31.2 Subpart 1. Taking secret ballot.

31.3 A. On determining to take a secret ballot of the employees, The commissioner
 31.4 may ~~direct that such election~~ take a secret ballot of employees, as provided under Minnesota
 31.5 Statutes, section 179.16, subdivision 2, to be conducted by a designated
 31.6 commissioner-designated agent in such manner as he or she may prescribe. Upon conclusion
 31.7 of such

31.8 B. After the secret-ballot election, the agent conducting the same shall must prepare
 31.9 a report containing a tally of the ballots and the ~~result of such election~~ results.

31.10 Subp. 2. Designating challenger. The employer and each person or organization
 31.11 claiming the right to act as representative of the employees may designate one ~~person~~
 31.12 individual as a challenger, ~~who shall be permitted to be present at the place of election~~
 31.13 during. Each designated challenger may observe the casting and counting of the ballots and
 31.14 counting thereof by the commissioner or designated agent.

31.15 Subp. 3. Sealing ballots. Immediately ~~upon the completion of the~~ after tallying of the
 31.16 ballots ~~so cast,~~ the ~~person~~ agent conducting the election shall must place all ballots east and
 31.17 a copy of the tally sheet in an envelope, which shall must be:

31.18 A. immediately sealed;

31.19 B. endorsed across the seal by a challenger for each party, if such there be, any;
 31.20 and retained in the files of

31.21 C. kept by the commissioner for a period of not less than 30 days, subject to
 31.22 inspection as hereinafter provided.

31.23 Subp. 4. Furnishing tally and election results. The parties to the proceedings shall
 31.24 must be furnished with a tabulation tally of the ballots east in the election and the result
 31.25 thereof election results.

32.1 **5505.1100 ~~CHALLENGE OF~~ VOTER CHALLENGE.**

32.2 **Subpart 1. Challenging right to vote.**

32.3 A. The right of any employee to vote at an election ~~held for the purpose of~~
 32.4 ~~determining the representative of employees~~ under part 5505.1000 may be challenged by:

32.5 (1) any authorized challenger ~~designated as provided by~~ under part 5505.1000,
 32.6 subpart 2; or by any

32.7 (2) an employee entitled to vote at the election.

32.8 B. The ~~person~~ individual making the challenge ~~shall~~ must state fully the grounds
 32.9 ~~thereof~~ for the challenge, and a record ~~thereof shall~~ of the challenge must be made by the
 32.10 agent conducting the election.

32.11 C. After making a record, the agent ~~shall then~~ must:

32.12 (1) examine the challenged employee as to the employee's qualifications for
 32.13 voting; and ~~shall~~

32.14 (2) make a record ~~thereof~~ of the examination.

32.15 **Subp. 2. Challenge not withdrawn.**

32.16 A. If the challenge ~~be not then~~ is not withdrawn, and the challenged employee
 32.17 ~~shall insist~~ insists on voting, the employee ~~shall~~ must be permitted to vote upon filing with
 32.18 the agent a statement in writing, signed by the employee and witnessed by the agent, alleging
 32.19 ~~that he or she is eligible~~ eligibility to vote and ~~setting forth~~ describing the employee's
 32.20 qualifications.

32.21 B. Ballots ~~so~~ received ~~shall~~ under this subpart must not be marked or otherwise
 32.22 distinguished from ~~the other ballots cast~~ nonchallenged ballots.

33.1 Subp. 3. Sending record of challenges to commissioner. The agent conducting the
 33.2 election ~~shall transmit~~ must send the record of ~~the proceedings upon~~ all challenges to the
 33.3 commissioner with the ~~returns of the~~ tally sheet and election results.

33.4 Subp. 4. Holding hearing on challenges. If it ~~appears therefrom~~ the commissioner
 33.5 determines that the number of challenged votes is sufficient to have affected ~~the result of~~
 33.6 the election results, the commissioner ~~shall~~ must hold a hearing ~~on the question~~ under this
 33.7 chapter after notice to ~~the~~:

33.8 A. all challenged voters, ~~to the~~;

33.9 B. persons or organizations voted upon as representatives; ~~and to~~

33.10 C. other parties, if any, to whom notice of the election was given.

33.11 Subp. 5. Declaring election void.

33.12 A. At the hearing under subpart 4, the commissioner ~~shall thereupon~~ must
 33.13 determine whether or not:

33.14 (1) the respective challenged voters were eligible to vote; ~~and whether or not~~
 33.15 ~~the result of~~

33.16 (2) the election results might have been affected by votes cast by ineligible
 33.17 ~~persons voters.~~ On finding

33.18 B. If the commissioner determines that the ~~result of the~~ election results might
 33.19 have been ~~so~~ affected by votes cast by ineligible voters, the commissioner ~~may~~ must declare
 33.20 the election void ~~and proceed further, as though no election had been held.~~

34.1 **5505.1200 CONSENT ELECTION.**34.2 Subpart 1. **Agreement to hold consent election.**

34.3 A. Whenever a ~~question or controversy has arisen~~ dispute arises concerning the
34.4 representation of the employees of an employer within the meaning of Minnesota Statutes,
34.5 ~~section 179.16 under part 5505.0300~~, the parties to ~~such controversy~~ the dispute may agree
34.6 in writing, subject to ~~the commissioner~~ approval of the commissioner, that an election may
34.7 be held by ~~said commissioner~~ for the selection of a representative for the purposes of
34.8 collective bargaining who may be certified by the commissioner as such representative
34.9 without ~~the necessity of a hearing concerning the controversy~~ under this chapter.

34.10 B. ~~Such~~ An agreement to hold a consent election must be in the form prescribed
34.11 by the commissioner. ~~The approval of such agreement by the commissioner shall be subject~~
34.12 ~~to the following conditions:~~

34.13 Subp. 2. **Notice of consent election.** A notice of the consent election ~~in the form~~
34.14 ~~prescribed by the commissioner shall~~ must:

34.15 A. be posted in a conspicuous place at the place of employment of the employees
34.16 ~~therein referred to;~~ and

34.17 B. state the election date and that an objection may be filed with the commissioner
34.18 according to subpart 4.

34.19 Subp. 3. **Objections to election.**

34.20 A. ~~Upon~~ When an objection ~~being~~ is filed with the commissioner ~~as provided in~~
34.21 ~~the notice under subpart 4~~, the commissioner ~~may~~ must, on deeming it proper, revoke ~~the~~
34.22 ~~acceptance and approval of the agreement under subpart 1~~ for a consent election.

34.23 B. With the consent of the parties to ~~said~~ the agreement and upon notice to the
34.24 person ~~or persons~~ filing ~~such objections~~ the objection, the commissioner ~~may~~ must, on

35.1 deeming it proper, amend, ~~in such manner as the commissioner may determine,~~ the provisions
35.2 ~~contained in said~~ the agreement for a consent election.

35.3 Subp. 4. **Filing objections.** ~~All persons having any objections to such consent election~~
35.4 ~~must file their objections thereto~~ An objection to the consent election must be filed in writing
35.5 ~~with the commissioner at the commissioner's office in St. Paul, Minnesota, either in person~~
35.6 ~~or by registered or certified mail, not~~ no later than the date prescribed in the posted notice
35.7 ~~of such consent election. Any person or persons failing to file their objections to such consent~~
35.8 ~~election within the time hereinabove prescribed shall not thereafter be permitted to question~~
35.9 ~~the holding of such election Unless permitted to do so by the commissioner~~ under subpart
35.10 2. An objection filed after the prescribed date in the notice is void.

35.11 **5505.1300 CERTIFICATION ORDER.**

35.12 ~~The commissioner shall, upon the completion of the proceedings hereinbefore described,~~
35.13 ~~forthwith~~ After a completed election under part 5505.1000 or 5505.1200, the commissioner
35.14 must:

35.15 A. certify to the parties in writing the name or names of the representatives that
35.16 have been designated or selected; and

35.17 B. serve the certification order ~~upon~~ to the parties to ~~these~~ the proceedings.

35.18 **5505.1400 OBJECTIONS TO CERTIFICATION.**

35.19 Subpart 1. Filing objection to certification. ~~Any~~ A party to the proceedings may,
35.20 within seven calendar days ~~from the deposit of said certification order in the United States~~
35.21 ~~mail~~ of receiving the certification order under part 5505.1300, file with the commissioner
35.22 ~~objections~~ an objection to the certification.

35.23 Subp. 2. Fixing hearing on objection.

35.24 A. If ~~it appears to~~ the commissioner determines that ~~such~~ the objection under
35.25 subpart 1 may raise a substantial and material issue ~~with respect to the correctness of said~~

36.1 on the certification, the commissioner shall must issue and cause to be served upon on the
36.2 parties to the proceeding a notice fixing a time and place of hearing upon said objections
36.3 for the objection.

36.4 B. The notice and the hearing are as provided under parts 5505.0500, subpart 2,
36.5 and 5505.0600, respectively.

36.6 Subp. 3. Declaring certification void. On determining, after the close of ~~such the~~
36.7 ~~hearing, upon and on the record made therein of the hearing that such objections are the~~
36.8 objection is well taken, the commissioner shall forthwith must declare the certification void
36.9 and shall proceed in the same manner as though no certification had been made.

36.10 Subp. 4. Staying certification. Upon application by any party to the dispute, the
36.11 commissioner ~~may must~~ stay the ~~operation of the order of certification order under part~~
36.12 5505.1300 until the hearing and determination of the objections to the order of certification
36.13 under subpart 3.

36.14 **5505.1500 RECONSIDERATION WITHIN ONE YEAR.**

36.15 Subpart 1. Requesting new certification. ~~If the commissioner has certified the~~
36.16 ~~representatives as provided in Minnesota Statutes, section 179.16, and if a question should~~
36.17 ~~arise within the period of one year from the date of such certification concerning the~~
36.18 ~~representatives so certified, then any employee, group of employees, labor organization, or~~
36.19 ~~employer may file a petition in like form as provided in part 5505.0400, and in addition~~
36.20 ~~thereto a statement which shall set forth in detail the reasons upon which are based the~~
36.21 ~~request for a new certification of representatives of employees. Within one year after a~~
36.22 certification under part 5505.1300, any party may request a new certification according to
36.23 part 5505.0300. The request must state the reasons for requesting a new certification.

36.24 Subp. 2. Investigating request for new certification. Upon receiving ~~such a~~ request
36.25 under subpart 1, the commissioner, after such investigation as the commissioner may deem

37.1 ~~necessary, shall notify all parties to the proceedings of his or her decision upon the request.~~
37.2 ~~On determining that further proceedings shall be had thereon~~ must investigate whether
37.3 sufficient reason exists, as required under Minnesota Statutes, section 179.16, subdivision
37.4 2, that requires the commissioner to approve a new certification.

37.5 Subp. 3. Approving new certification. If the commissioner approves a request for a
37.6 new certification, the commissioner shall proceed as hereinbefore provided for action on
37.7 an original request for investigation of the question of representation for collective bargaining
37.8 purposes must notify all parties to the proceedings according to part 5505.0500, subpart 2,
37.9 of the commissioner's decision to approve a new certification by completing an investigation
37.10 without a hearing.

37.11 **5510.0110 APPLICATION.**

37.12 Parts 5510.0110 to 5510.2310 apply to proceedings before the commissioner involving
37.13 matters of representation and fair share fee challenges under the Public Employment Labor
37.14 Relations act.

37.15 **5510.0210 POLICY AND WAIVER.**

37.16 A. Parts 5510.0110 to 5510.2310 ~~shall~~ are to be liberally construed to accomplish
37.17 the purposes and provisions of the act. Any requirements of ~~these parts~~ 5510.0110 to
37.18 5510.2310 may be waived by agreement of all parties and ~~the~~ commissioner approval of
37.19 ~~the commissioner.~~

37.20 B. The commissioner ~~shall grant approval~~ must approve a waiver request under
37.21 item A unless the commissioner determines that waiving the ~~particular requirements in~~
37.22 ~~question is~~ requirement would likely ~~to~~ result in significant harm to the general public or
37.23 to specific nonparties or is likely to ~~result in substantial impairment or frustration of~~
37.24 substantially impair or frustrate the act's intent or purposes ~~of the act.~~

38.1 C. The ~~joint waiver request for waiver shall~~ must be made in writing to the
38.2 commissioner in a timely fashion. The commissioner ~~shall~~ must set forth in writing the
38.3 reasons for granting or denying the waiver.

38.4 **5510.0310 DEFINITIONS.**

38.5 Subpart 1. **General Scope.** For the purpose of parts 5510.0110 to 5510.2310, the
38.6 ~~words~~ terms defined in this part have the meanings given them.

38.7 Subp. 1a. **Act.** "Act" means the Public Employment Labor Relations Act under
38.8 Minnesota Statutes, sections 179A.01 to 179A.25.

38.9 Subp. 2. **Amendment of certification or amendment of exclusive**
38.10 **representative.** "Amendment of certification" or "amendment of exclusive representative"
38.11 means a change in the certification by the commissioner ~~of a nature which~~ that the
38.12 commissioner deems does not raise a question of representation.

38.13 *[For text of subpart 3, see Minnesota Rules]*

38.14 Subp. 3a. **Appropriate unit or unit.** "Appropriate unit" or "unit" has the meaning
38.15 given in Minnesota Statutes, section 179A.03, subdivision 2.

38.16 Subp. 4. [See repealer.]

38.17 *[For text of subparts 5 and 6, see Minnesota Rules]*

38.18 Subp. 7. **Certification of exclusive representative or certification.** "Certification
38.19 of exclusive representative" or "certification" means ~~the granting of~~ the status of exclusive
38.20 representative to an employee organization by a written order of the commissioner.

38.21 Subp. 8. **Certification petition.** "Certification petition" means a petition filed by an
38.22 employee organization stating that at least 30 percent of the employees of a proposed
38.23 appropriate unit, ~~which is presently unrepresented,~~ wish to be represented by the petitioner.

39.1 Subp. 8a. **Commissioner.** "Commissioner" means the commissioner of the bureau of
39.2 ~~Mediation Services~~ or an authorized agent.

39.3 Subp. 9. **Decertification petition.** "Decertification petition" means a petition filed by
39.4 an individual employee or group of employees stating that:

39.5 A. the current exclusive representative no longer represents the majority of the
39.6 employees in an appropriate unit; and ~~that~~

39.7 B. at least 30 percent of the employees no longer wish to be represented by the
39.8 exclusive representative.

39.9 Subp. 10. **Determination of affiliation or affiliation.** "Determination of affiliation"
39.10 or "affiliation" means ~~the determination of~~ determining the affiliation of a supervisory or
39.11 confidential employee organization under Minnesota Statutes, section 179A.06, subdivision
39.12 2.

39.13 Subp. 11. [Repealed by amendment, L 1987 c 186 s 15]

39.14 Subp. 12. **Effective date of orders.** "Effective date of orders" means, for any
39.15 commissioner-issued order issued by the commissioner, the day following after issuance
39.16 unless otherwise provided.

39.17 Subp. 12a. **Employee.** "Employee" has the meaning given in Minnesota Statutes,
39.18 section 179A.03, subdivision 14.

39.19 Subp. 12b. **Employee organization.** "Employee organization" has the meaning given
39.20 in Minnesota Statutes, section 179A.03, subdivision 6.

39.21 Subp. 12c. **Employer.** "Employer" has the meaning given in Minnesota Statutes,
39.22 section 179A.03, subdivision 15.

39.23 Subp. 12d. **Exclusive representative.** "Exclusive representative" has the meaning
39.24 given in Minnesota Statutes, section 179A.03, subdivision 8.

40.1 [For text of subpart 13, see Minnesota Rules]

40.2 Subp. 14. **Holiday or legal holiday.** "Holiday" or "legal holiday" means ~~those the~~
40.3 dates designated ~~by~~ under Minnesota Statutes, section 645.44, subdivision 5, as holidays
40.4 for the state of Minnesota.

40.5 Subp. 15. **Open-window period.** "Open-window period" means the following period
40.6 ~~of time prior to the expiration of~~ before a labor contract expires:

40.7 [For text of items A to C, see Minnesota Rules]

40.8 Subp. 16. **Party.** "Party" means ~~any~~:

40.9 A. an exclusive representative, employee organization, or public employer
40.10 recognized by the commissioner whose legal rights, duties, and privileges ~~will be~~ are directly
40.11 determined in ~~the~~ proceedings under this chapter; or

40.12 B. ~~any~~ a public employee who has filed a ~~fair share fee challenge or~~ decertification
40.13 petition.

40.14 [For text of subpart 17, see Minnesota Rules]

40.15 Subp. 18. **Representation petition.** "Representation petition" means a petition filed
40.16 by an employee organization stating that:

40.17 A. the exclusive representative no longer represents the majority of employees in
40.18 an appropriate unit; and

40.19 B. at least 30 percent of the employees in the appropriate unit wish to be
40.20 represented by the petitioner.

40.21 Subp. 19. **Service or serve.** "Service" or "serve" means ~~delivery of,~~ unless another
40.22 manner of service is required by law, delivering a document required by parts 5510.0110
40.23 ~~to 5510.2310~~ electronically, in person, by facsimile, or by ~~the United States Postal Service~~
40.24 United States mail, postage prepaid and, addressed to the bureau or a party at its last known

41.1 address, unless some other manner of service is required by law. Unless otherwise provided
 41.2 by these parts, service upon the commissioner or a party is effective upon receipt.

41.3 Subp. 20. **Showing of interest or interest.** "Showing of interest" or "interest" means
 41.4 ~~the submission of~~ submitting authorization signatures in the form of individual authorization
 41.5 cards to show support for a petition filed with the commissioner.

41.6 Subp. 21. [See repealer.]

41.7 Subp. 22. **Transfer of exclusive representative status.** "Transfer of exclusive
 41.8 representative status" means ~~the transfer of~~ transferring the rights and obligations of an
 41.9 exclusive representative to another employee organization.

41.10 Subp. 23. **Unfair election practice.** "Unfair election practice" means a practice or
 41.11 action that affects the result of a certification, representation, or decertification election,
 41.12 specifically:

41.13 A. any prohibition defined in part 5510.2110; or a violation of ~~an~~ a
 41.14 commissioner-issued election order issued by the commissioner; and

41.15 B. any unfair practice as defined ~~by~~ under Minnesota Statutes, section 179A.13,
 41.16 committed by an:

41.17 (1) employer or its agents ~~or an~~;

41.18 (2) employee organization or its agents; ~~or an~~

41.19 (3) employee, ~~which affects the result of a certification, representation, or~~
 41.20 ~~decertification election.~~

41.21 Subp. 24. **Unit clarification or clarification petition.** "Unit clarification" or
 41.22 "clarification petition" means ~~a determination of the commissioner~~ the commissioner's
 41.23 determination regarding an appropriate unit involving:

41.24 [For text of items A to D, see Minnesota Rules]

42.1 **5510.0320 FILING AND SERVICE.**

42.2 Subpart 1. **Effecting service.** Unless otherwise provided under parts 5510.0110 to
42.3 5510.2310, service on the commissioner or a party is effective according to subpart 2.

42.4 Subp. 2. **Filing; when effective.**

42.5 A. Unless otherwise provided by law, a document filed under parts 5510.0110 to
42.6 5510.2310 is effective:

42.7 (1) upon receipt; and

42.8 (2) if it is received Monday through Friday before 4:30 p.m.

42.9 B. A document received Monday through Friday after 4:30 p.m. is effective the
42.10 next working day that is not a legal holiday.

42.11 C. A document received on a Saturday, Sunday, or legal holiday is deemed to be
42.12 filed on the next working day that is not a legal holiday.

42.13 Subp. 3. **Filing method.** Unless another manner of filing is required by law, a document
42.14 may be filed:

42.15 A. in person, between only 8:00 a.m. and 4:30 p.m.;

42.16 B. by facsimile;

42.17 C. by United States mail, postage prepaid, and addressed to the bureau or a party
42.18 at its last known address; or

42.19 D. electronically, with the express, prior written consent of the recipient that has
42.20 provided an e-mail address for the filing purpose.

42.21 Subp. 4. **Electronic filing.**

42.22 A. Unless otherwise provided by law, a document filed electronically must contain
42.23 an electronic signature.

43.1 B. For purposes of this subpart, "electronic signature" has the meaning given in
43.2 Minnesota Statutes, section 325L.02, paragraph (h).

43.3 **5510.0330 COMPUTING TIME.**

43.4 When computing a period prescribed or allowed under parts 5510.0110 to 5510.2310,
43.5 the day, act, or event on which the designated period begins to run is not included. The last
43.6 day of the period is included unless it is a Saturday, Sunday, or holiday.

43.7 **5510.0410 FILING PETITION.**

43.8 Subpart 1. **Conditions.**

43.9 A. To file a petition, an employee organization or exclusive representative must
43.10 have:

43.11 A. (1) have a written constitution or bylaws that provides provide for:

43.12 (1) (a) election of officers;

43.13 (2) (b) filling of vacancies in elected offices; and

43.14 (3) (c) a purpose which, in whole or in part, must be to deal of dealing with
43.15 public employers concerning grievances and terms and conditions of employment; and

43.16 B. (2) have the petition signed by an authorized representative of the employee
43.17 organization.

43.18 B. To file a petition, an employer must have the petition signed by an the
43.19 employer's authorized representative of the employer.

43.20 C. To file a petition, a public employee must be included in an appropriate unit
43.21 for which there is an exclusive representative, or be subject to a fair share fee assessment
43.22 by the exclusive representative.

44.1 Subp. 2. **Eligibility; single-party petition.**

44.2 A. An employee organization may file ~~petitions~~ a petition for:

44.3 [For text of subitems (1) to (3), see Minnesota Rules]

44.4 B. An employer may file ~~petitions~~ a petition for:

44.5 [For text of subitems (1) to (4), see Minnesota Rules]

44.6 C. An exclusive representative may file ~~petitions~~ a petition for:

44.7 [For text of subitems (1) to (4), see Minnesota Rules]

44.8 D. A public employee may file ~~petitions~~ a petition for:

44.9 (1) decertification of exclusive representative; and

44.10 ~~(2) challenge of fair share fee assessment; and~~

44.11 ~~(3)~~ (2) challenge of affiliation.

44.12 Subp. 3. **Eligibility; joint-party petition.**

44.13 A. As provided under Minnesota Statutes, section 179A.12, subdivision 2, one
44.14 or more employee organizations and an employer may file a joint petition for certification
44.15 of exclusive representative.

44.16 [For text of item B, see Minnesota Rules]

44.17 C. Two or more employee organizations may jointly file ~~any~~ a petition which that
44.18 a single employee organization has the right is entitled to file.

44.19 Subp. 4. **Petition requirements.** A petition must ~~be in writing and shall contain~~
44.20 include the name, address, e-mail address, and telephone number of:

44.21 [For text of items A to D, see Minnesota Rules]

45.1 **5510.0510 LIMITATION ON FILING PETITION.**

45.2 Subpart 1. **Contract bar.** If there is an exclusive representative and ~~a~~ an effective
45.3 labor contract ~~in effect~~, the commissioner ~~shall~~ must only consider a petition for clarification,
45.4 decertification, representation, or certification ~~only~~ when the:

45.5 A. ~~when it~~ petition is submitted during the open-window period or after the
45.6 contract's expiration date ~~in the contract~~;

45.7 B. ~~when it~~ petition is submitted jointly by the employer and the exclusive
45.8 representative; or

45.9 C. ~~when the~~ commissioner determines that the interests of good labor relations
45.10 policy warrant consideration of the commissioner to consider the petition during the life of
45.11 the existing contract.

45.12 Subp. 2. **One-year election bar.** Unless otherwise provided under Minnesota Statutes,
45.13 section 179A.12, subdivision 12, when a certification election, representation election, or
45.14 decertification election has been held, ~~no~~ a petition seeking an election ~~shall~~ must not be
45.15 entertained for a one-year period from the date the commissioner has issued the order
45.16 certifying the election results ~~of the election~~.

45.17 Subp. 3. **Transfer bar.** The commissioner ~~shall~~ may not entertain a petition for transfer
45.18 of exclusive representative status for a one-year period from the date of certification or from
45.19 the date of transfer of exclusive representative status.

45.20 Subp. 4. **Arbitration bar.**

45.21 A. A petition raising a question of certification, representation, or decertification
45.22 must not be considered after an impasse has been certified if:

45.23 (1) there is an exclusive representative and ~~a~~ an effective labor contract_; and

46.1 (2) ~~an impasse in the negotiation of negotiating~~ a successor contract has been
46.2 certified for arbitration under Minnesota Statutes, section 179A.16, subdivision 1 or 2, ~~a~~
46.3 ~~petition raising a question of certification, representation, or decertification shall not be~~
46.4 ~~considered following certification of impasse. This~~

46.5 B. A bar shall continue in effect under item A continues until the arbitration award
46.6 is issued and a contract is executed ~~pursuant~~ according to Minnesota Statutes, section
46.7 179A.20, subdivision 1.

46.8 Subp. 5. [See repealer.]

46.9 Subp. 6. **Constitution and bylaws.** Unless on file with the commissioner, a ~~current~~
46.10 copy of the employee organization's constitution or bylaws, ~~unless on file with the~~
46.11 ~~commissioner,~~ in effect at the time of petition must accompany the following petitions:

46.12 *[For text of items A to D, see Minnesota Rules]*

46.13 Subp. 7. **Petitions filed with served on commissioner.** All petitions concerning
46.14 representation matters ~~or fair share fee challenges shall~~ under parts 5510.0110 to 5510.2310
46.15 must be filed with served on the commissioner ~~in person, by mail, or by facsimile.~~

46.16 **5510.0610 WITHDRAWAL.**

46.17 Subpart 1. **Generally.**

46.18 A. A certification, representation, or decertification petition or a showing of interest
46.19 may be withdrawn by a party at any point ~~prior to~~ before the fifth day ~~following issuance~~
46.20 ~~of~~ after the commissioner issues an appropriate unit determination ~~by the commissioner.~~

46.21 B. A clarification, transfer of exclusive representative status, ~~fair share challenge,~~
46.22 amendment of certification, or affiliation petition may be withdrawn at any time ~~prior to~~
46.23 ~~the close of~~ before the hearing on the petition closes.

47.1 C. A withdrawal must either be stated on the record at the hearing or be in writing
47.2 and served as provided ~~by~~ under parts 5510.0110 to 5510.2310.

47.3 **Subp. 2. Certification election.**

47.4 A. For a certification election, if ~~the~~ an employee organization withdraws, and no
47.5 other employee ~~organizations have~~ organization has petitioned or intervened, the petition
47.6 ~~shall~~ must be dismissed.

47.7 B. If another employee organization has also petitioned or has intervened, the
47.8 matter ~~shall~~ must proceed under parts 5510.0110 to 5510.2310, but the withdrawing
47.9 organization ~~shall~~ must not be listed on the ballot.

47.10 **Subp. 3. Representation election.**

47.11 A. For a representation election, if ~~the~~ an incumbent exclusive representative
47.12 withdraws, the matter ~~will~~ must be processed as though a certification petition had been
47.13 filed by the challenging employee organization.

47.14 B. A challenging employee organization ~~which that~~ withdraws ~~in accordance with~~
47.15 ~~this chapter shall~~ according to parts 5510.0110 to 5510.2310 must not be listed on the ballot.
47.16 If all challengers have withdrawn, the petition ~~shall~~ must be dismissed.

47.17 **Subp. 4. Decertification election.**

47.18 A. For a decertification election, if ~~the~~ a petitioner withdraws and no other
47.19 employee organization has petitioned or intervened, the petition ~~shall~~ must be dismissed.

47.20 B. If the petitioner withdraws, but another employee organization ~~which that~~ has
47.21 petitioned or intervened does not withdraw, the matter ~~shall~~ must be processed as a
47.22 representation petition.

48.1 **5510.0710 CERTIFICATION, REPRESENTATION, AND DECERTIFICATION**
48.2 **PETITIONS.**

48.3 Subpart 1. **Filing of petition.** A petition for certification, representation, or
48.4 decertification must include:

48.5 A. the name, address, e-mail address, and ~~phone~~ telephone number of all other
48.6 employee organizations or exclusive representatives known to have an interest in or claiming
48.7 to represent any of the employees involved;

48.8 B. a statement ~~regarding on~~ whether there is a an effective labor contract ~~in effect~~
48.9 ~~and its~~ the contract's expiration date;

48.10 *[For text of items C to H, see Minnesota Rules]*

48.11 Subp. 2. **Showing of interest.**

48.12 A. Evidence of a showing of interest in the form of authorization signatures must
48.13 accompany all petitions. An adequate showing of interest ~~for the~~ necessary to conduct of
48.14 an investigation or hearing ~~shall be~~ is constituted by authorization signatures from 30 percent
48.15 or more of the estimated number of employees in the established or proposed appropriate
48.16 unit.

48.17 B. Evidence of a showing of interest may continue to be submitted ~~up to the close~~
48.18 ~~of~~ until the hearing closes.

48.19 Subp. 3. **Employer-provided information.**

48.20 A. An employer must provide to the exclusive representative the name, home
48.21 mailing address, and telephone number for all employees in the established appropriate unit
48.22 if:

48.23 (1) the information is requested by the exclusive representative; or

48.24 (2) the commissioner orders the employer to release the information.

49.1 B. A request or order under this subpart must be consistent with Minnesota Statutes,
49.2 section 13.43, subdivision 6.

49.3 **5510.0810 AUTHORIZATION SIGNATURES.**

49.4 Subpart 1. **Confidentiality.** Authorization signatures submitted in support of a petition
49.5 ~~shall be~~ are privileged and confidential information pursuant to Minnesota Statutes, section
49.6 ~~179A.12, subdivision 6,~~ and may only be withdrawn by the petitioner.

49.7 Subp. 2. **Valid authorization signatures.**

49.8 A. Authorization signatures ~~submitted in accordance with Minnesota Statutes,~~
49.9 ~~section 179A.12,~~ must be in the form of individual authorization cards ~~which~~ and include:

49.10 ~~A. (1)~~ (1) a statement ~~clearly~~ reflecting the employee's support for the petition's
49.11 ~~purpose of the petition;~~

49.12 ~~B. (2)~~ (2) the ~~clearly~~ legibly printed name of the employee making the authorization;

49.13 ~~C. (3)~~ (3) the employee's signature ~~of the employee;~~ and

49.14 ~~D. (4)~~ (4) the date the employee signed the card.

49.15 B. Authorization cards may contain the employee organization's name, address,
49.16 e-mail address, and ~~phone~~ telephone number ~~of an employee organization.~~

49.17 Subp. 3. **Invalid authorization card.** ~~The commissioner shall consider~~ An
49.18 authorization card is invalid ~~any authorization card which~~ if it:

49.19 A. does not include the information and statements required by ~~parts 5510.0110~~
49.20 ~~to 5510.2310~~ under subpart 2;

49.21 *[For text of items B and C, see Minnesota Rules]*

49.22 D. is dated more than six months ~~prior to the receipt of~~ before the commissioner
49.23 receives the petition ~~by the commissioner.~~

50.1 Subp. 4. **Effect of invalid authorization card.**

50.2 A. The commissioner ~~shall~~ may not include invalid authorization cards ~~in~~ when
50.3 determining whether a petition has the necessary showing of interest.

50.4 B. If there is evidence that authorization cards submitted to establish a showing
50.5 of interest were fraudulently obtained or submitted ~~in a fraudulent manner;~~

50.6 (1) the petition or intervention ~~will~~ must be denied; and

50.7 (2) a one-year election bar for that unit ~~shall~~ must be applied to the party
50.8 submitting fraudulent cards.

50.9 **5510.0910 UNIT CLARIFICATION PETITION.**

50.10 A petition for unit clarification must include:

50.11 A. a statement ~~regarding on~~ whether there is a an effective labor contract ~~in effect~~
50.12 and its the contract's expiration date;

50.13 *[For text of items B to F, see Minnesota Rules]*

50.14 **5510.1110 CHALLENGE TO AFFILIATION PETITION.**

50.15 *[For text of subpart 1, see Minnesota Rules]*

50.16 Subp. 2. **Status of certification.**

50.17 A. If the commissioner determines that the affiliation of an employee organization
50.18 is ~~determined to be~~ improper according to Minnesota Statutes, section 179A.06, subdivision
50.19 2, the commissioner ~~shall~~ must:

50.20 (1) withdraw the certification of the involved employee organization as the
50.21 exclusive representative for the unit for which the challenge was raised; and

50.22 (2) dismiss any matters pending before the ~~bureau~~ commissioner involving
50.23 questions of representation or mediation.

51.1 B. If the commissioner determines that the affiliation of an employee organization
 51.2 is determined to be proper according to Minnesota Statutes, section 179A.06, subdivision
 51.3 2, the commissioner shall must affirm its standing as a proper employee organization and
 51.4 dismiss the challenge petition.

51.5 Subp. 3. **Status of contract.** Upon the withdrawal of the status of exclusive
 51.6 representative ~~pursuant to~~ after a commissioner determination of improper affiliation, any
 51.7 a labor contract is void on the date of the determination if:

51.8 A. the contract is within the meaning of Minnesota Statutes, section 179A.20;
 51.9 which;

51.10 B. the contract covers employees of the unit for which withdrawal was ordered;
 51.11 and

51.12 C. to which the involved organization is a party is null and void as of the date of
 51.13 the commissioner's determination to the contract.

51.14 **5510.1210 TRANSFER OF TRANSFERRING EXCLUSIVE REPRESENTATIVE**
 51.15 **STATUS.**

51.16 Subpart 1. **Filing petition.** A petition transferring exclusive representative status must
 51.17 include:

51.18 *[For text of item A, see Minnesota Rules]*

51.19 B. a copy of the incumbent exclusive representative's ~~current~~ effective constitution
 51.20 or bylaws, unless on file with the commissioner;

51.21 *[For text of item C, see Minnesota Rules]*

51.22 D. a copy of the ~~current~~ effective constitution or bylaws of the employee
 51.23 organization ~~which~~ that has agreed to accept the transfer of the exclusive representative's
 51.24 rights and obligations, unless on file with the ~~bureau~~ commissioner; and

52.1 E. a copy of the ~~current~~ effective labor contract and certification of the exclusive
52.2 representative.

52.3 Subp. 2. **Right to transfer.** An exclusive representative may transfer its rights and
52.4 obligations to another employee organization by complying with subparts 3, ~~4, 5, and~~ to 6.

52.5 Subp. 3. **Notice.**

52.6 A. The exclusive representative must provide advance written notice of the
52.7 proposed transfer to each member of the exclusive representative in the appropriate unit.

52.8 B. The notice must state the time and location of the meeting ~~or meetings~~ to be
52.9 held by the exclusive representative relating to the proposed transfer.

52.10 Subp. 4. **Meeting.** The exclusive representative must hold a meeting ~~or meetings~~ to
52.11 permit ~~discussion of~~ members to discuss the proposed transfer at a time and location ~~which~~
52.12 that is reasonably convenient for the majority of the members of the exclusive representative
52.13 in the appropriate unit.

52.14 Subp. 5. **Election.** The exclusive representative must conduct a secret-ballot election
52.15 among its members in the appropriate unit to ~~determine approval or rejection of~~ approve or
52.16 reject the proposed transfer ~~in accordance with~~ according to the exclusive representative's
52.17 constitutional requirements of the exclusive representative or bylaws.

52.18 Subp. 6. **Petition.** The exclusive representative must file with the commissioner a
52.19 petition if:

52.20 A. all employees in the appropriate unit have been afforded the opportunity to
52.21 become members of the exclusive representative; ~~and if~~

52.22 B. a majority of the exclusive representative's members ~~of the exclusive~~
52.23 ~~representative~~ voting in the election ~~required by~~ under subpart 5 vote in favor of the transfer;
52.24 ~~a petition shall be filed by the exclusive representative with the commissioner.~~

53.1 Subp. 7. **Order.** Based on the record of hearing or an investigation, the commissioner
 53.2 ~~may~~ must:

53.3 *[For text of items A to C, see Minnesota Rules]*

53.4 Subp. 8. **Rights.** The incoming exclusive representative ~~shall have~~ has all rights and
 53.5 obligations established by the effective labor contract ~~in effect~~ and the act; and must
 53.6 administer the ~~existing~~ labor contract until ~~its expiration~~ it expires.

53.7 **5510.1310 ABANDONMENT OF EXCLUSIVE REPRESENTATIVE STATUS.**

53.8 *[For text of subparts 1 and 2, see Minnesota Rules]*

53.9 Subp. 3. ~~Retention of~~ **Retaining rights and duties.** An exclusive representative
 53.10 abandoning its status retains the rights and obligations under the act and under the labor
 53.11 contract until ~~its expiration~~ the labor contract expires.

53.12 *[For text of subpart 4, see Minnesota Rules]*

53.13 Subp. 5. **Contract bar.** If abandonment occurs, there ~~shall be~~ is no bar to the conduct
 53.14 ~~of~~ conducting a certification election.

53.15 **5510.1810 JOINT-PARTY PETITION.**

53.16 *[For text of subpart 1, see Minnesota Rules]*

53.17 Subp. 2. **Unit clarification.** ~~In addition to complying with the other requirements of~~
 53.18 ~~this chapter,~~ A joint-party petition for unit clarification must include the name, title, and
 53.19 signature of the representative of both the exclusive representative and the employer.

53.20 **5510.1910 HEARINGS OR INVESTIGATIONS.**

53.21 Subpart 1. **Policy.** ~~Stipulations or agreements reached by the parties are conducive to~~
 53.22 ~~harmonious and stable labor and management relationships. The bureau will encourage the~~
 53.23 ~~parties to enter into these agreements whenever possible and will~~ The commissioner must

54.1 accept stipulations ~~which~~ or agreements that are consistent with bureau ~~policies~~ rules and
54.2 the act.

54.3 Subp. 2. **Scope.** Hearings or investigations ~~shall~~ must address all issues raised by a
54.4 valid petition that are within the commissioner's jurisdiction ~~of the commissioner.~~

54.5 Subp. 2a. **Virtual hearing.** If all parties agree, the hearing may take place virtually
54.6 through an online conferencing or videoconferencing tool.

54.7 Subp. 3. ~~Consolidation of Consolidating hearings.~~ Consolidating hearings. The commissioner may
54.8 consolidate one or more hearings or petitions ~~to the extent~~ if the commissioner determines
54.9 ~~the~~ that consolidation will serve the act's purposes ~~of the act.~~

54.10 Subp. 4. **Procedures.** Upon ~~receipt of~~ receiving a petition under parts 5510.0410 to
54.11 5510.1810, the commissioner ~~shall~~ must:

54.12 A. hold ~~hearings~~ a hearing or conduct an investigation as required. ~~Following~~
54.13 ~~receipt of a petition, the commissioner may~~ under Minnesota Statutes, section 179A.12,
54.14 subdivision 5; and

54.15 B. issue an order prohibiting negotiations and maintaining the status quo, in part
54.16 or in whole, of the employees' terms and conditions of employment.

54.17 Subp. 5. **Prehearing conference.**

54.18 A. The purpose of a prehearing conference is to:

54.19 (1) simplify the issues to be determined; ~~to;~~

54.20 (2) obtain stipulations regarding foundation for testimony or exhibits; ~~to;~~

54.21 (3) identify the proposed witnesses for each party; ~~to;~~

54.22 (4) consider other matters that may be necessary or advisable; and;

55.1 (5) if possible, to reach a settlement ~~without the necessity for hearing. Any~~
55.2 ~~final settlement, which if reached~~ must be made a part of the record.

55.3 B. Upon the request of ~~any~~ a party or ~~upon~~ the commissioner's ~~own~~ motion, the
55.4 commissioner may, ~~in his or her discretion;~~

55.5 (1) hold a prehearing conference ~~prior to a hearing. The commissioner may;~~
55.6 and

55.7 (2) require the parties to file a prehearing statement containing items the
55.8 commissioner deems necessary to fulfill the purposes of the prehearing conference.

55.9 C. ~~The~~ A prehearing conference ~~shall be~~ is informal. Agreements ~~regarding the~~
55.10 ~~simplification of~~ simplifying issues, amendments, stipulations, or other matters may be
55.11 entered on the record or ~~may be~~ made the subject of ~~an~~ a commissioner order ~~by the~~
55.12 ~~commissioner.~~

55.13 **Subp. 6. Subpoenas.**

55.14 A. Requests for subpoenas for the attendance of witnesses or the production of
55.15 documents must be made in writing to the commissioner and:

55.16 (1) contain a brief statement demonstrating the relevance of the ~~potential~~
55.17 testimony or evidence sought;

55.18 (2) identify all persons to be subpoenaed; and

55.19 (3) identify with specificity any documents sought.

55.20 B. A subpoena must be served by the sheriff, the sheriff's deputy, or any other
55.21 ~~person~~ individual who is not a party in accordance with rule ~~45.03~~ 45.02 of the Rules of
55.22 Civil Procedure for the District Courts of Minnesota.

55.23 C. When a subpoena is served, the cost of service, fees, and expenses of any
55.24 witness subpoenaed must be paid by the party at whose request the witness appears.

56.1 D. The ~~person~~ individual serving a subpoena ~~shall~~ must make proof of service by
56.2 filing the subpoena and an affidavit of service with the commissioner.

56.3 E. Upon motion made at or before the time specified in the subpoena, the
56.4 commissioner ~~may~~ must quash or modify the subpoena on finding that it is unreasonable
56.5 or oppressive.

56.6 Subp. 7. **Intervenor.**

56.7 A. The commissioner ~~shall~~ must permit an employee organization ~~which~~ that
56.8 submits a 30 percent showing of interest to intervene on a certification, representation, or
56.9 decertification petition.

56.10 B. The commissioner ~~shall~~ must permit a group of employees submitting a 30
56.11 percent showing of interest wishing to decertify an exclusive representative to intervene on
56.12 a representation petition.

56.13 Subp. 8. **Hearing.**

56.14 A. Parties ~~shall have the right to~~ may present evidence, rebuttal testimony, and
56.15 argument on the issues, and ~~to~~ may cross-examine witnesses. Individuals or organizations
56.16 having an appearance status ~~shall only be allowed to~~ may only review exhibits and make
56.17 statements for the record.

56.18 B. ~~Any~~ A party may be a witness or may present witnesses at the hearing. All oral
56.19 testimony must be under oath or affirmation. At the request of a party or upon the
56.20 commissioner's ~~own~~ motion, witnesses may be excluded from the hearing room so that they
56.21 cannot hear ~~the~~ other witness testimony ~~of other witnesses~~.

56.22 Subp. 9. **Rules of evidence.**

56.23 A. The commissioner may admit all evidence ~~which~~ that possesses probative
56.24 value, including hearsay, if it is the type of evidence on which reasonable prudent persons

57.1 are accustomed to rely in the conduct of their serious affairs. The commissioner ~~shall~~ must
57.2 give effect to the rules of privilege recognized by law. Evidence ~~which~~ that is incompetent,
57.3 immaterial, or unduly repetitious may be excluded.

57.4 B. All evidence to be considered in the case, including all records and documents
57.5 ~~in the possession of~~ possessed by the commissioner or a ~~true and~~ an accurate ~~photocopy~~
57.6 ~~thereof~~ copy must be made a part of the record. Matters not part of the record ~~may~~ must not
57.7 be considered ~~in the determination of~~ when determining the case.

57.8 C. The commissioner may seek additional evidence and examine witnesses to the
57.9 extent the commissioner deems appropriate; but ~~shall~~ must do so on the record and with the
57.10 opportunity for ~~any~~ a party to contest the evidence.

57.11 D. The commissioner may take judicial notice of undisputed facts ~~not in dispute~~.

57.12 Subp. 10. **The record.**

57.13 A. The commissioner ~~shall~~ must maintain the record for 90 days in each case
57.14 under this part. The record ~~shall~~ must contain:

57.15 ~~A.~~ (1) all pleadings, motions, and orders;

57.16 ~~B.~~ (2) evidence received;

57.17 ~~C.~~ (3) offers of proof, objections, and rulings on objections;

57.18 ~~D.~~ (4) all memoranda or data submitted by ~~any~~ a party ~~in connection with~~ on the
57.19 case; and

57.20 ~~E.~~ (5) ~~an audiomagnetic or stenographic~~ a hearing recording of the hearing or
57.21 transcript.

57.22 B. The commissioner ~~shall retain~~ must keep the ~~audiomagnetic or stenographic~~
57.23 hearing recording of the hearing or transcript for a period not less than ~~60~~ 90 calendar days
57.24 after issuing ~~the order~~ a determination under subpart 14.

58.1 Subp. 10a. **Requests for transcripts.** ~~The audiomagnetic~~ A hearing recording of a
58.2 ~~hearing before the bureau~~ may be transcribed in whole or in part upon the written request
58.3 of ~~any~~ a party or person, ~~provided that~~ if the party or person requesting the transcript:

58.4 A. makes a request within the ~~60-day~~ 90-day retention period under subpart 10,
58.5 item B; and

58.6 B. agrees ~~in writing~~ to pay the full costs of preparation of for preparing the
58.7 transcript.

58.8 Subp. 10b. **~~Preparation of~~ Preparing case record on appeal.**

58.9 A. ~~Any person~~ An individual or party appealing a determination ~~of the~~
58.10 ~~commissioner~~ under subpart 14 must agree in writing to pay for the:

58.11 (1) cost of preparing the transcript of the hearing upon which the determination
58.12 was based, ~~as well as the~~; and

58.13 (2) costs of duplicating all relevant exhibits and other written ~~case file~~ case-file
58.14 material.

58.15 B. An appealing individual or party may purchase a partial transcript and record
58.16 if:

58.17 (1) the appeal involves only a portion of the elements or factors decided by
58.18 the commissioner; and

58.19 (2) only parts of the hearing are relevant to that element or factor, ~~a partial~~
58.20 ~~transcript and record may be purchased.~~

58.21 C. For a request under item B, the commissioner must determine, on the basis of
58.22 the elements or factors under appeal, the extent of the transcript and record necessary to
58.23 provide a complete record upon which that portion of the commissioner's determination

59.1 was based ~~will be determined by the commissioner, based upon the scope of the issues under~~
59.2 ~~appeal.~~

59.3 D. ~~However, any A~~ party to an appeal may request that a portion of the entire
59.4 record be added to the record submitted by the commissioner. The party making ~~such a~~
59.5 request under this item must agree in writing to pay for the cost of preparing ~~this the~~
59.6 additional record. Any partial transcript ~~shall~~ must include all testimony and evidence
59.7 relevant to the issues under appeal.

59.8 Subp. 11. **Continuances.**

59.9 A. ~~The timely processing of petitions relating to questions of representation is in~~
59.10 ~~the public interest and of value to a constructive and stable labor relations environment.~~
59.11 ~~Accordingly,~~ The commissioner ~~will~~ must grant ~~continuances or postponements of hearings~~
59.12 ~~on these matters~~ a hearing continuance or postponement request only upon a showing of
59.13 substantial cause.

59.14 B. All requests ~~for continuances or postponements of a hearing under item A~~ must
59.15 be served ~~in accordance with~~ according to parts 5510.0110 to 5510.2310. Requests served
59.16 less than six calendar days ~~prior to~~ before a hearing ~~shall~~ must be denied unless the
59.17 commissioner determines that the request could not have been filed earlier and that the
59.18 rights of a party will be substantially affected by denial.

59.19 C. The commissioner ~~may, at the commissioner's discretion,~~ must continue a
59.20 hearing ~~which~~ that has already ~~commenced~~ started whenever ~~the action appears necessary~~
59.21 ~~for determination of~~ the commissioner determines a continuance is needed to determine the
59.22 issues. ~~In those instances,~~ For a continuance under this item, the commissioner must give
59.23 oral notice on the record ~~by the commissioner is sufficient.~~

60.1 Subp. 12. ~~Conduct of~~ Conducting hearing. Unless the commissioner determines
60.2 that the public interest will be otherwise served, ~~the~~ a hearing under this part must be
60.3 conducted ~~substantially in the following manner:~~ according to this subpart.

60.4 A. After opening the hearing, the commissioner must state the procedural rules
60.5 for the hearing, including ~~the following~~ that:

60.6 [For text of subitems (1) and (2), see Minnesota Rules]

60.7 (3) ~~any~~ an objection to the conduct of the hearing, including the introduction
60.8 of evidence, must be stated orally, together with a statement of the grounds for the objection;

60.9 (4) no objection to the conduct of the hearing, including the introduction of
60.10 evidence, ~~shall be~~ is waived by ~~further participation~~ if the objecting party continues to
60.11 participate in the hearing; and

60.12 [For text of subitem (5), see Minnesota Rules]

60.13 B. Any stipulations, settlement agreements, or consent orders entered into by any
60.14 of the parties ~~prior to~~ before the hearing ~~shall~~ must be entered into the record.

60.15 [For text of item C, see Minnesota Rules]

60.16 D. After any opening statements, the party with the burden of proof ~~shall present~~
60.17 presents its evidence. The other parties ~~shall~~ follow in a sequence determined by the
60.18 commissioner.

60.19 [For text of item E, see Minnesota Rules]

60.20 F. When all parties and witnesses have been heard, final argument may, ~~in the~~
60.21 ~~discretion of the commissioner,~~ be permitted. The commissioner ~~shall~~ must determine the
60.22 timing and sequence of the argument, and whether the argument is presented in written or
60.23 oral form, or both.

60.24 G. After final argument, the commissioner ~~shall~~ must:

61.1 (1) close or continue the hearing; and

61.2 (2) order when the record of the proceedings closes.

61.3 ~~H. The record of the proceeding shall be closed upon receipt of the final written~~
 61.4 ~~memorandum, transcript, if any, or late-filed exhibits which the parties and the commissioner~~
 61.5 ~~have agreed should be received into the record, whichever occurs later.~~

61.6 Subp. 13. ~~**Disruption of**~~ **Disrupting hearing.**

61.7 ~~A. No television, newsreel, motion picture, still or other camera, and no mechanical~~
 61.8 ~~Recording devices, other than those provided by the commissioner shall~~ or authorized by
 61.9 the commissioner with the consent of all parties, may not be operated in the hearing room
 61.10 during the ~~course of the~~ hearing.

61.11 ~~B. No person shall~~ An individual may not:

61.12 (1) interfere with the free, proper, and lawful access to or egress from the
 61.13 ~~hearing room. No person shall;~~ or

61.14 (2) interfere or threaten ~~interference to interfere~~ with the conduct of the
 61.15 ~~hearing.~~

61.16 Subp. 14. **Determinations.** All determinations issued by the commissioner must be
 61.17 based ~~upon~~ on the record.

61.18 Subp. 15. **Order pending appeal.** ~~Any~~ A unit determination, ~~or~~ or unit clarification, ~~or~~
 61.19 ~~fair share fee challenge order which~~ that is appealed ~~shall continue~~ continues in effect unless
 61.20 stayed by the commissioner upon request of one or more parties or as directed by an appellate
 61.21 court.

61.22 **5510.2010 ELECTIONS.**

61.23 Subpart 1. **Showing of interest.** The commissioner ~~shall~~ may not order an election
 61.24 unless there is at least a 30 percent showing of interest for the unit determined appropriate.

62.1 Subp. 2. **Location.** If the commissioner orders an election ~~for any purpose~~, it shall
62.2 must be conducted by secret ballot either at a site of employment or by mail, as determined
62.3 under Minnesota Statutes, section 179A.12, subdivision 7.

62.4 Subp. 3. **Order.** An election order shall must be ~~mailed to~~ served on all parties at least
62.5 ten calendar days ~~prior to~~ before the date of the on-site election or the date ~~of the~~ for mailing
62.6 ~~of~~ ballots for a ~~mail ballot~~ mail-ballot election. The election order shall must:

62.7 [For text of items A to G, see Minnesota Rules]

62.8 H. if applicable, identify the date ~~of~~ for mailing ballots in a ~~mail ballot~~ mail-ballot
62.9 election;

62.10 I. include any other conditions ~~which~~ that are necessary for ~~the conduct of~~ a fair
62.11 election; and

62.12 J. provide for an employer posting ~~by the employer~~ of the election order and
62.13 attachments.

62.14 Subp. 4. **Voter eligibility.** All employees ~~within~~ in the appropriate unit who are
62.15 employed on the cutoff date and are identified on a list established by the commissioner
62.16 ~~shall be~~ are eligible to vote in an election ~~subject to this chapter~~ under parts 5510.0110 to
62.17 5510.2310.

62.18 Subp. 5. ~~Correction of~~ Correcting voter-eligibility list.

62.19 A. The commissioner shall must determine questions ~~concerning the addition or~~
62.20 ~~deletion of~~ on adding or deleting names on the voter-eligibility list.

62.21 B. Names shall must not be added to the voter-eligibility list after the ~~close of the~~
62.22 hearing closes on the election petition unless:

62.23 (1) names were inadvertently omitted; or

63.1 (2) the cutoff date for voter eligibility is changed because of an appeal or a
 63.2 court order.

63.3 C. Names ~~shall~~ must be deleted from the voter-eligibility list ~~based on~~ if an:

63.4 (1) ~~transfer, promotion, or demotion of an employee transfers, is promoted,~~
 63.5 ~~or is demoted~~ out of the unit ~~which~~ and the action is not prohibited by ~~an order maintaining~~
 63.6 the status quo order under part 5510.1910, subpart 4, item B;

63.7 (2) ~~an~~ appeal or a court action ~~which~~ delays the ~~conduct of the~~ election or
 63.8 changes the cutoff date for voter eligibility; or

63.9 (3) ~~voluntary or involuntary termination of an eligible voter who~~ is voluntarily
 63.10 or involuntarily terminated and has not appealed the termination.

63.11 D. ~~The A~~ deletion ~~shall~~ under item C must be made immediately ~~prior to the~~
 63.12 ~~opening of~~ before the polls open or ~~tabulation of the~~ ballots are tabulated.

63.13 ~~D. E.~~ A written request to correct the voter-eligibility list must be received by the
 63.14 commissioner within seven calendar days after the date of the election order.

63.15 Subp. 6. **Right to vote.** Eligible voters ~~shall be~~ are permitted to vote during their work
 63.16 hours without loss of pay.

63.17 Subp. 7. **Election ballot.**

63.18 A. A certification election ballot ~~shall~~ must contain the following choices:

63.19 (1) the name of the employee ~~organizations which have~~ organization that has
 63.20 submitted the required showing of interest; and

63.21 (2) no representation.

63.22 B. A representation election ballot ~~shall~~ must contain the following choices:

63.23 (1) the exclusive representative's name ~~of the exclusive representative;~~

64.1 (2) the name of the employee organizations which have organization that has
64.2 submitted the required showing of interest; and

64.3 (3) no representation if the required showing of interest has been submitted
64.4 ~~in accordance with~~ according to part 5510.0710, subpart 2.

64.5 C. A decertification election ballot ~~shall~~ must contain the following choices:

64.6 (1) the exclusive representative's name ~~of the exclusive representative;~~

64.7 (2) the name of the employee organizations which have organization that has
64.8 submitted the required showing of interest; and

64.9 (3) no representation.

64.10 Subp. 8. **Absentee ballot.**

64.11 A. Any An eligible voter unable to ~~be present~~ vote at an on-site election may
64.12 secure an absentee ballot by submitting ~~an individual~~ a written request to the commissioner
64.13 ~~which.~~ The request must be:

64.14 (1) received by the commissioner no later than specified in the election order;
64.15 ~~The written request must be~~ under subpart 3; and

64.16 (2) dated and contain the voter's name and home mailing address ~~of the~~
64.17 ~~eligible voter, identification of the employer~~ employer's name, voter's signature ~~of the~~
64.18 ~~eligible voter, bureau case number, and election date of the election.~~

64.19 B. Upon ~~receipt of~~ receiving a timely request for an absentee ballot, the
64.20 commissioner ~~shall~~ must mail to the voter a ballot, a return envelope, and a letter of
64.21 explanation ~~to the voter.~~

64.22 C. Absentee ballots must be received by the commissioner in the return envelope
64.23 no later than specified in the election order.

65.1 Subp. 9. **Election procedures.**

65.2 A. An election ~~shall~~ must be held on the premises where the voters are employed
65.3 during hours the commissioner determines, unless the commissioner determines that the
65.4 election ~~shall~~ must be held at another location, by mail ballot, or by a combination of on-site
65.5 and mail balloting.

65.6 B. The parties to an on-site election may designate one observer ~~who is permitted~~
65.7 to be present at each polling location ~~during the casting of the ballots and their tabulation~~
65.8 while ballots are cast and tabulated. The commissioner may allow ~~attendance of each party~~
65.9 to have more than one observer per party.

65.10 C. The parties to a mail-ballot election may each designate one observer ~~who is~~
65.11 ~~permitted~~ to be present ~~during the tabulation of the~~ while ballots are tabulated. The
65.12 commissioner may allow ~~attendance of each party to have more than one observer per party~~.

65.13 D. The role of ~~the~~ an observer is to identify employees eligible to vote, and ~~the~~
65.14 observers are subject to commissioner orders ~~of the commissioner~~.

65.15 Subp. 10. **Marking ballot.**

65.16 A. ~~The~~ A ballot ~~shall~~ must be marked ~~in accordance with~~ according to the ballot
65.17 instructions ~~on the ballot~~. A ballot ~~which~~ that is defaced or identifies the voter ~~shall be~~
65.18 ~~voided~~ is void. When a voter inadvertently spoils a ballot, the voter ~~shall~~ must immediately
65.19 return the ballot to the commissioner, who ~~shall~~ then must destroy the spoiled ballot and
65.20 provide another ballot to the voter.

65.21 B. When a voter states that, because of physical disability or inability to read or
65.22 write, the voter cannot mark the ballot, the commissioner ~~shall~~ must assist the voter privately
65.23 in marking the ballot.

65.24 C. A voter who has been mailed an absentee ballot by the commissioner ~~shall~~
65.25 may not be permitted to vote at the on-site election ~~under any circumstances~~.

66.1 Subp. 11. **Status of scheduled election during appeal.**

66.2 A. ~~In the event of~~ If there is an appeal, the commissioner ~~shall~~ must proceed with
66.3 any pending election unless the commissioner determines that the nature of the appeal
66.4 precludes a reasonable determination of the question of representation to be decided by the
66.5 election. ~~Any~~

66.6 B. A party wishing to stay an election pending resolution of an appeal ~~shall~~ must
66.7 notify the commissioner in writing within five calendar days of the appeal setting forth ~~the~~
66.8 ~~reasons~~ why the question of representation cannot be resolved ~~during the pendency of~~ while
66.9 the appeal is pending.

66.10 C. The commissioner ~~shall~~ must respond to the notification under item B in writing
66.11 within ten calendar days.

66.12 Subp. 12. ~~Tabulation of~~ Tabulating ballots.

66.13 A. All ballots cast by eligible voters ~~shall~~ must be tabulated by the commissioner
66.14 in the presence of the election observers, if any, at the site designated in the election order
66.15 under subpart 3.

66.16 B. Envelopes containing timely mail or absentee ballots ~~shall~~ must be opened in
66.17 the presence of the election observers, if any, and ~~shall~~ must be placed in the ballot box and
66.18 mixed with other ballots before they are tabulated.

66.19 C. The commissioner ~~shall~~ must immediately rule on each ballot as to whether it
66.20 is valid, void, or blank; ~~and the ballots must be separated into those categories~~ accordingly.

66.21 D. Blank or void ballots ~~shall~~ must not be counted ~~as votes cast for purposes of~~
66.22 ~~the election~~.

66.23 E. Mail ballots returned by employees whose names have been deleted from the
66.24 eligibility list ~~shall~~ must not be counted.

67.1 Subp. 13. ~~Tabulation of~~ Tabulating election results. ~~Upon the conclusion of the~~
67.2 ~~election~~

67.3 A. After tabulating the ballots, the commissioner ~~shall~~ must prepare and sign a
67.4 tabulation of election results. A copy of the tabulation of election results ~~shall~~ must be
67.5 furnished to each observer ~~present~~ under subpart 9, item B or C. ~~Following the completion~~
67.6 ~~of~~

67.7 B. After the tabulation, the commissioner ~~shall retain~~ must keep all election ballots
67.8 and election materials for at least ~~60~~ 90 calendar days.

67.9 Subp. 14. **Runoff election.**

67.10 A. When a ballot contains more than two choices and none of the choices receives
67.11 a majority of the valid votes cast, a runoff election ~~shall~~ must be conducted between the
67.12 choices receiving the greatest and ~~second-greatest~~ second-greatest number of votes.

67.13 B. In a representation or decertification election, where the exclusive representative
67.14 does not qualify for a runoff election, the election ~~shall~~ must be considered a certification
67.15 election for purposes of tie votes.

67.16 Subp. 15. **Tie vote.** A tie vote in an election containing no more than two choices
67.17 ~~shall result~~ results in the following:

67.18 A. for a certification election; certification that no exclusive representative has
67.19 been selected;

67.20 B. for a representation election; certification that the exclusive representative
67.21 remains certified; or

67.22 C. for a decertification election; certification that the exclusive representative
67.23 remains certified.

68.1 Subp. 16. **Certifying exclusive representative.** After an election, runoff election, or
 68.2 tie vote, the commissioner must certify the exclusive representative according to Minnesota
 68.3 Statutes, section 179A.12, subdivision 10.

68.4 **5510.2110 UNFAIR ELECTION PRACTICES.**

68.5 Subpart 1. ~~Definition of charges~~ Defining unfair election practice. The following
 68.6 acts are prohibited and constitute unfair election practices if committed by an employer or
 68.7 its agents, an employee organization or its agents, or an employee:

68.8 A. campaigning on the day of ~~the~~ an on-site election;

68.9 B. congregating in or near ~~the~~ a polling place ~~during the time~~ while the polls are
 68.10 open;

68.11 C. coercing or intimidating or otherwise unlawfully attempting to influence ~~any~~
 68.12 an eligible voter; or

68.13 ~~D. committing an unfair practice as defined by Minnesota Statutes, section~~
 68.14 ~~179A.13; or~~

68.15 ~~E. D.~~ D. violating an election order.

68.16 Subp. 2. **Filing charges.**

68.17 A. A party to an election may file with the commissioner a charge of an unfair
 68.18 election practice ~~with the commissioner,~~ and a copy of the charge ~~shall~~ must be served by
 68.19 the charging party on all other parties to the election. A charge ~~shall~~ must:

68.20 (1) be filed within ten calendar days from the date ~~of the certification of~~
 68.21 election results. ~~The charge shall~~ are certified;

68.22 (2) be in writing, be signed by the charging party, and state the name and
 68.23 address of the party against whom the charge is made. ~~The charge shall; and~~

69.1 (3) specify the alleged unfair election practice and the facts supporting the
69.2 charge.

69.3 B. If a charge of an unfair election practice is filed, the commissioner ~~may~~ must:

69.4 ~~A.~~ (1) stay the election results pending ~~conduct of~~ a hearing or investigation
69.5 according to part 5510.1910 if the commissioner finds that the alleged unfair election practice
69.6 ~~appears to~~ may have materially affected the election results;

69.7 ~~B.~~ (2) conduct a hearing or investigation on the charge according to part
69.8 5510.1910; and

69.9 ~~C.~~ (3) rescind:

69.10 (a) the certification of exclusive representative if the commissioner
69.11 determines an unfair election practice occurred; or

69.12 (b) the certification of election results according to subpart 3.

69.13 Subp. 3. **Determination.** Based on a hearing or investigation under subpart 2, item
69.14 B, the commissioner ~~shall~~ must issue an order on the charge. If the commissioner determines
69.15 an unfair election practice is established occurred, the commissioner must void the election
69.16 ~~may be voided~~ and order a new election may be ordered according to Minnesota Statutes,
69.17 section 179A.12, subdivision 11.

69.18 **5510.2210 REQUEST FOR RECONSIDERATION.**

69.19 Subpart 1. **General.** Unless otherwise provided, a party may file a request for
69.20 reconsideration of orders issued by the commissioner a commissioner order under parts
69.21 5510.0110 to 5510.2310.

69.22 Subp. 2. ~~**Timeliness of request**~~ **Filing deadline.** A request ~~shall~~ must be filed within
69.23 ten calendar days ~~following after the order date of the order.~~

70.1 Subp. 3. ~~Form of Request~~ Required form.

70.2 A. The request shall be must:

70.3 (1) be filed in writing with the commissioner;

70.4 (2) be served on all other parties; and

70.5 (3) contain a statement of the request and the grounds supporting the request
70.6 required under part 5500.2800, subpart 1, item A.

70.7 B. A charge of an unfair election practice charges shall is not be a ground grounds
70.8 for reconsideration.

70.9 Subp. 4. ~~Staying of order.~~ If the commissioner determines that the request raises
70.10 ~~substantial and material issues~~ grounds supporting the request are raised under part
70.11 5500.2800, subpart 1, item A, the challenged order may must be stayed until a hearing or
70.12 investigation according to part 5510.1910 has been held and a decision is issued.

70.13 **5510.2310 CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.**

70.14 Subpart 1. **Change or transfer of exclusive representative.**

70.15 A. Except as otherwise provided under this part, a new exclusive representative
70.16 assumes all rights and responsibilities as an exclusive representative the day after certification
70.17 when an incumbent exclusive representative is replaced by a the new exclusive representative
70.18 as a result of:

70.19 (1) a representation election; or

70.20 (2) the transfer of status from one organization to another, the new exclusive
70.21 representative assumes all rights and responsibilities as an exclusive representative effective
70.22 the day following certification, except as otherwise provided by this part.

71.1 ~~A.~~ B. All rights and obligations of the collective bargaining agreement transfer
 71.2 to and are assumed by the new exclusive representative, including ~~the~~ processing of pending
 71.3 grievances made known to the new exclusive representative.

71.4 ~~B.~~ C. Except ~~in the case of~~ for a transfer, the employer ~~shall~~ must terminate all
 71.5 payroll deduction of dues ~~and fair share fees~~ for the prior exclusive representative effective
 71.6 with the first payroll period ~~following~~ after the certification of the new exclusive
 71.7 representative. ~~Payroll deduction of dues for the new exclusive representative may begin~~
 71.8 If the new exclusive representative has submitted signed authorizations from affected
 71.9 employees, the exclusive representative may begin deducting dues by payroll beginning
 71.10 with the first payroll period following after certification, if the new exclusive representative
 71.11 has submitted signed authorizations for the deductions from affected employees. Payroll
 71.12 deduction of fair share fees for the new exclusive representative may begin once the
 71.13 requirements of part 5510.1410 have been satisfied.

71.14 D. ~~Where~~ When a new exclusive representative has been certified as the result of
 71.15 a transfer, the employer ~~shall~~ must continue previous payroll deductions of dues ~~and fair~~
 71.16 ~~share fees~~ and ~~transmit such~~ send the deductions to the person or place designated by the
 71.17 new exclusive representative.

71.18 *[For text of subparts 2 and 3, see Minnesota Rules]*

71.19 **5510.2410 APPLICATION.**

71.20 Parts 5510.2410 to ~~5510.3210~~ 5510.3005 govern:

71.21 A. ~~the conduct~~ of negotiations between an exclusive representative and an
 71.22 employer;₂

71.23 B. ~~the conduct~~ of mediation;₂

71.24 C. ~~the certification of~~ certifying unresolved items to arbitration;₂

72.1 D. the arbitration of arbitrating unresolved items; and

72.2 E. the notification of notifying an intent to strike.

72.3 **5510.2510 POLICY.**

72.4 A. Parts 5510.2410 to 5510.3210 must 5510.3005 are to be liberally construed to
72.5 effectuate the act's purposes and provisions ~~of the act~~. Any requirements of parts 5510.2410
72.6 to ~~5510.3210~~ 5510.3005 may be waived by agreement of all parties and ~~the~~ commissioner
72.7 approval ~~of the commissioner~~.

72.8 B. The commissioner shall grant approval must approve a waiver under item A
72.9 unless the commissioner determines that waiving the ~~particular requirements in question is~~
72.10 requirement would likely to result in significant harm to the general public or to specific
72.11 nonparties or ~~is~~ would likely to result in substantial impairment or frustration of substantially
72.12 impair or frustrate the act's intent or purposes of the act.

72.13 C. The joint waiver request for waiver shall must be made in writing to the
72.14 commissioner in a timely fashion. The commissioner ~~shall~~ must set forth in writing the
72.15 reasons for granting or denying the waiver.

72.16 **5510.2520 FILING.**

72.17 Part 5510.0320, subparts 2 to 4, applies to a document filed under parts 5510.2410 to
72.18 5510.3005.

72.19 **5510.2610 DEFINITIONS.**

72.20 The ~~words, terms, and phrases~~ in parts 5510.2410 to ~~5510.3210~~ 5510.3005 have the
72.21 ~~meaning and definitions contained~~ meanings given them in part 5510.0310.

72.22 **5510.2710 NEGOTIATION NOTICE.**

72.23 Subpart 1. **Content of notice.** A written notification of the desire to meet and negotiate
72.24 an original contract, renewal of a contract, or a reopener of a contract must be served on

73.1 the other party and the commissioner. The notice ~~may~~ must be served on forms available
73.2 from the ~~commissioner or in other written format which includes the following~~ bureau and
73.3 must include:

73.4 A. the exclusive representative's name, address, e-mail address, and phone
73.5 telephone number of the exclusive representative;

73.6 B. the name, address, e-mail address, and phone telephone number of the exclusive
73.7 representative's representative;

73.8 C. the employer's name, address, e-mail address, and phone telephone number of
73.9 the employer;

73.10 D. the employer's representative's name, address, e-mail address, and phone
73.11 telephone number of the employer's representative;

73.12 E. a description of the appropriate unit for which ~~such~~ the notice is being given;

73.13 F. the date ~~of expiration of that~~ the current effective labor contract expires, if ~~any~~
73.14 a contract exists;

73.15 *[For text of items G to J, see Minnesota Rules]*

73.16 Subp. 2. [See repealer.]

73.17 Subp. 3. [See repealer.]

73.18 Subp. 4. **Late notice penalty; fine.**

73.19 A. A \$10-per-day penalty shall be the only penalty for late notice of a desire to
73.20 negotiate a subsequent labor contract and may be imposed by the commissioner Upon
73.21 request by a party adversely affected by ~~the~~ another party's failure to provide timely notice
73.22 according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b), or by the
73.23 commissioner's own motion, the party failing to give timely notice is subject to a fine
73.24 according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b).

74.1 B. A request or motion to assess a ~~penalty shall~~ fine must be made in writing and
74.2 served ~~upon~~ on the commissioner and the other party to the labor contract:

74.3 (1) within ten calendar days of the requesting party's first knowledge of the
74.4 other party's desire to negotiate; or;

74.5 (2) in the case of the commissioner's ~~own~~ motion, within 15 calendar days
74.6 of ~~the receipt of~~ receiving a request for mediation assistance involving the ~~same~~ parties and
74.7 their contract.

74.8 C. A request from a party or motion by the commissioner ~~shall~~ must:

74.9 (1) specify the date of first knowledge of the desire to negotiate; and the
74.10 expiration date of the ~~current~~ effective labor contract; and

74.11 (2) include a brief statement of the adverse results or impact of the late notice.

74.12 D. Upon ~~receipt of~~ receiving a written request or after the commissioner's ~~own~~
74.13 motion to assess a ~~penalty~~ fine for late notice, the commissioner ~~shall~~ must investigate the
74.14 ~~matter pursuant~~ request or motion according to part 5510.1910. ~~If the commissioner finds~~
74.15 ~~that the late notice did not prejudice the commissioner or the other party,~~ The commissioner
74.16 may waive ~~all or a part of the~~ penalty fine according to Minnesota Statutes, section 179A.14,
74.17 subdivision 1, paragraph (b).

74.18 E. The ~~penalty shall~~ fine must be payable credited to the ~~state of Minnesota~~ state's
74.19 general fund. The fine amount of the ~~penalty~~ and or its waiver is not subject to appeal.

74.20 **5510.2810 PETITION FOR MEDIATION.**

74.21 Subpart 1. **Petition.** A petition for mediation must be served ~~on the bureau by an~~
74.22 ~~exclusive representative, an employer, or jointly.~~ Petition forms may be obtained from the
74.23 bureau in accordance with Minnesota Statutes, section 179A.15.

75.1 Subp. 2. ~~Commissioner initiation of~~ Commissioner-initiated mediation. ~~When it~~
75.2 ~~is in the public interest,~~ According to Minnesota Statutes, section 179A.15, the commissioner
75.3 may initiate mediation without receiving a petition. Upon notice to the parties, mediation
75.4 ~~shall~~ must proceed ~~in accordance with~~ according to parts 5510.2410 to ~~5510.3210~~ 5510.3005.

75.5 Subp. 3. **Notice.** Upon receiving a petition for mediation and concluding that mediation
75.6 would be useful, the commissioner ~~shall~~ must serve notice of the time and place for a
75.7 mediation meeting ~~of~~ to the exclusive representative and the employer.

75.8 Subp. 4. **Obligation.**

75.9 A. It is the duty and obligation of the parties to comply with the notice ~~of the~~
75.10 ~~mediation meeting~~ under subpart 3.

75.11 B. The parties must be represented by persons having the authority to negotiate
75.12 in good faith and be prepared to identify unresolved issues and their positions ~~regarding~~
75.13 ~~such~~ on the unresolved issues.

75.14 Subp. 5. **Mediation meetings.**

75.15 A. The commissioner must schedule joint or separate mediation meetings of the
75.16 parties ~~may be scheduled by the commissioner~~ according to Minnesota Statutes, section
75.17 179A.15. Mediation meetings are informal and must be limited by the commissioner to
75.18 matters relevant to ~~the settlement of~~ settling the dispute. The parties must continue to
75.19 participate in a mediation meeting until excused by the commissioner. ~~Use of Recording~~
75.20 ~~devices, stenographic records, or other recording methods is~~ are prohibited in mediation
75.21 meetings.

75.22 B. In accordance with Minnesota Statutes, section 179A.14, subdivision 3, a
75.23 mediation meeting ~~may be~~ is closed to the public ~~by the commissioner when,~~ in the
75.24 ~~commissioner's judgment,~~ unless the commissioner determines that closing the meeting will
75.25 not facilitate a resolution of the dispute. In all cases, a meeting ~~will be~~ is closed only after

76.1 ~~receipt by the bureau of~~ commissioner receives a valid and timely petition for mediation or
 76.2 after ~~initiation of the~~ commissioner initiates mediation ~~by the commissioner. The~~
 76.3 ~~commissioner may close a meeting to the public prior to its start or at any time during the~~
 76.4 ~~meeting.~~

76.5 Subp. 5a. **Meetings of governing bodies.**

76.6 A. When the commissioner determines that it is in the interest of ~~resolution of~~
 76.7 resolving a dispute, the commissioner ~~may~~ must authorize a closed meeting of the public
 76.8 employer's governing body ~~for the purpose of to~~ review and ~~discussion of~~ discuss the status
 76.9 of negotiations and the employer's positions.

76.10 B. ~~No~~ A closed meeting ~~may~~ must not be authorized unless the ~~bureau~~
 76.11 commissioner has received a valid and timely petition for mediation or unless mediation
 76.12 has been initiated by the commissioner.

76.13 C. ~~No~~ A closed meeting ~~may~~ must not be authorized when the commissioner ~~or~~
 76.14 ~~a representative of the commissioner~~ is not physically present at the meeting unless the
 76.15 ~~bureau~~ commissioner has received a timely and valid notice of intent to strike.

76.16 D. ~~In the event~~ The commissioner must authorize a closed meeting upon written
 76.17 notice to the employer's governing body and exclusive representative at least 24 hours before
 76.18 the closed meeting if the commissioner:

76.19 (1) determines that a closed meeting is necessary, ~~but the commissioner~~
 76.20 according to item A; and

76.21 (2) cannot be physically present at the meeting and the commissioner has
 76.22 received a timely and valid notice of intent to strike ~~has been received by the bureau, the~~
 76.23 ~~commissioner may authorize a closed meeting upon written notice to the governing body~~
 76.24 ~~and exclusive representative at least 24 hours prior to the closed meeting.~~

76.25 E. The ~~written~~ notice under item D must:

77.1 (1) include the date, time, and place of the closed meeting of the governing
77.2 body; and

77.3 (2) limit the purpose of the meeting to matters relevant to the dispute.

77.4 Subp. 6. [Repealed, 13 SR 1275]

77.5 **5510.2905 CONFIDENTIAL INFORMATION.**

77.6 Subpart 1. **Mediation information; data classification.**

77.7 A. The following data are classified according to Minnesota Statutes, section
77.8 13.7908, subdivision 2:

77.9 (1) information disclosed to the commissioner ~~or an authorized agent by any~~
77.10 a party during mediation; and

77.11 (2) all files, records, reports, documents, or other papers received or prepared
77.12 by the commissioner ~~during the performance of~~ while performing duties and responsibilities
77.13 related to ~~mediation of~~ mediating a dispute ~~are classified as protected nonpublic data with~~
77.14 ~~regard to data not on individuals and as confidential data on individuals, except to the extent.~~

77.15 B. The commissioner ~~determines to~~ may unclassify such data in the referral of a
77.16 dispute to interest arbitration or to identify the general nature of or parties to a labor dispute
77.17 under item A according to Minnesota Statutes, section 13.7908, subdivision 2.

77.18 Subp. 2. **Final positions.**

77.19 A. Until both parties have filed their final positions with the commissioner under
77.20 part 5510.2930, subpart 4, item A, final positions submitted by a party in conjunction with
77.21 a dispute that has been referred to interest arbitration are regarded as:

77.22 (1) ~~protected nonpublic data with regard to~~ regarding data not on individuals;
77.23 and as

78.1 (2) confidential data on individuals ~~until both parties have filed their final~~
 78.2 ~~positions with the commissioner under part 5510.2930, subpart 4.~~

78.3 B. The commissioner may release the information under item A to the arbitration
 78.4 panel or arbitrator; to fulfill procedural requirements of the act and parts 5510.2410 to
 78.5 ~~5510.3210~~ 5510.3005, but the information ~~shall remain~~ remains nonpublic and confidential
 78.6 until:

78.7 (1) the commissioner has affirmed that final positions have been filed by both
 78.8 parties; or ~~until~~

78.9 (2) an interest arbitration hearing is ~~commenced~~ started by the arbitration
 78.10 panel or arbitrator, ~~at which time the final positions are classified as public data.~~

78.11 C. The final positions are public data after a condition occurs under item B, subitem
 78.12 (1) or (2).

78.13 **5510.2915 MEDIATION PERIOD.**

78.14 A. For all public employees except teachers, mediation periods referred to in the
 78.15 act ~~commence~~ begin on the day after a request for mediation is filed with the commissioner.

78.16 B. For teachers, mediation periods ~~commence~~ begin on the day that the first
 78.17 mediation ~~conference~~ meeting is convened.

78.18 **5510.2930 CERTIFICATION TO INTEREST ARBITRATION.**

78.19 Subpart 1. **Certification.**

78.20 A. The commissioner ~~may~~ must certify a matter to arbitration ~~when the~~
 78.21 ~~commissioner has determined that further mediation efforts would serve no purpose and:~~

78.22 A. (1) in the case of essential employees, ~~either or both parties have requested~~
 78.23 ~~arbitration~~ according to Minnesota Statutes, section 179A.16, subdivision 2; or

79.1 ~~B. (2) in the case of nonessential employees, a request to arbitrate has been made~~
79.2 ~~by one party and has been agreed to by the other within 15 days of the request according~~
79.3 ~~to Minnesota Statutes, section 179A.16, subdivision 1.~~

79.4 B. Requests for arbitration and agreements to arbitrate:

79.5 (1) must be in writing and ~~be~~ served on the other party and filed with the
79.6 commissioner ~~under according to part 5510.0310, subpart 19. The requests and agreements~~
79.7 5510.0320; and

79.8 (2) are binding on the parties except to the extent they otherwise agree in
79.9 writing. ~~An offer to arbitrate for nonessential employees that has not been accepted in writing~~
79.10 ~~within the 15-day period shall be considered rejected and withdrawn.~~

79.11 Subp. 2. **Form of arbitration.** All interest arbitration ~~shall~~ must be conventional
79.12 arbitration except:

79.13 A. if the parties agree in writing to limit the arbitrator's authority to ~~final offer~~
79.14 final-offer item-by-item or ~~final offer~~ final-offer total-package arbitration; or

79.15 B. if the case involves a unit of principals and assistant principals, the arbitration
79.16 panel must use ~~final offer~~ final-offer item-by-item arbitration.

79.17 Subp. 3. **Unresolved issues.** In requesting or agreeing to interest arbitration, each
79.18 party ~~shall~~ must list all issues, items, or matters not previously agreed ~~upon on~~. Based ~~upon~~
79.19 on the submissions of the parties and prior efforts to mediate the dispute, the commissioner
79.20 ~~shall~~ must determine the unresolved items ~~that will~~ to be submitted to arbitration for essential
79.21 employees according to Minnesota Statutes, section 179A.16, subdivision 2.

79.22 Subp. 4. **Final positions.**

79.23 A. When an agreement or requirement to arbitrate has been established, and the
79.24 commissioner has determined the items to be submitted to arbitration, the commissioner

80.1 ~~shall~~ must certify the matters to arbitration and direct each party to submit ~~their~~ its final
80.2 position on the items certified by the commissioner. Final positions ~~shall~~ must be:

80.3 (1) presented in the form of the contract language desired by each party to
80.4 resolve the matter in dispute. ~~Final positions must be submitted to; and~~

80.5 (2) filed with the commissioner within 15 calendar days of the certification
80.6 ~~date of certification~~, but the filing deadline for ~~submitting final positions~~ may be extended
80.7 a reasonable period ~~of time~~ by the commissioner upon ~~an~~ a party's adequate and timely
80.8 showing of good cause ~~by a party~~.

80.9 B. If the arbitration form is a final offer ~~variety~~, the final positions of the parties
80.10 may not be withdrawn or amended except by mutual written consent or to correct
80.11 nonsubstantive errors of a clerical-technical nature or matters solely of form.

80.12 C. When final positions have been received from both parties, the commissioner
80.13 ~~shall~~ must provide each party with a copy of the opposing party's final ~~positions~~ position.
80.14 The commissioner may provide copies of final positions to the arbitrator, but part 5510.2905,
80.15 subpart 2, ~~shall govern~~ governs the protected nature of the final positions.

80.16 Subp. 5. [Repealed, 23 SR 1564]

80.17 Subp. 6. **Effect of untimely final positions; final offer.** The failure of a party to
80.18 submit timely final positions on an item that has been submitted to final-offer arbitration
80.19 ~~shall~~:

80.20 A. must be noted by the arbitration panel or arbitrator; and ~~shall result~~

80.21 B. results in a default award unless the delinquent party, ~~in the sole discretion of~~
80.22 ~~the panel or arbitrator, can demonstrate~~ demonstrates good cause for the delinquency to the
80.23 panel or arbitrator, in which case the panel or arbitrator may proceed as if the delinquency
80.24 had not occurred.

81.1 Subp. 6a. **Effect of untimely final positions; conventional.** The failure of a party to
 81.2 submit timely final positions in a conventional arbitration ~~matter shall~~:

81.3 A. ~~must~~ be noted by the arbitration panel or arbitrator; and

81.4 B. may be considered by the panel or arbitrator in weighing the testimony,
 81.5 evidence, and party's overall ~~good faith~~ good-faith behavior ~~of that party with respect to~~
 81.6 regarding the items before the panel or arbitrator.

81.7 Subp. 7. **Continued mediation.** The commissioner may continue ~~efforts~~ to aid the
 81.8 parties in resolving issues after a matter has been certified ~~for~~ to arbitration under this part.

81.9 **5510.3005 STRIKES.**

81.10 Subpart 1. **Notice.** A notice of an intent to strike must be in writing and served ~~upon~~
 81.11 on the employer and the commissioner under parts 5510.2410 to ~~5510.3210~~ 5510.3005.
 81.12 The notice is timely when the requirements of Minnesota Statutes, section 179A.18, have
 81.13 been fulfilled.

81.14 Subp. 2. **Dates that right to strike matures and terminates.**

81.15 A. The dates that the right to strike matures and terminates ~~shall~~ must be
 81.16 determined by the commissioner ~~in accordance with~~ according to Minnesota Statutes, section
 81.17 179A.18, and the commissioner ~~shall~~ must provide written notice of the dates to the parties.

81.18 B. ~~No~~ A strike ~~shall commence~~ must not begin during the first ten calendar days
 81.19 after ~~receipt of~~ the commissioner receives a notice of intent to strike.

81.20 Subp. 3. **~~Renewal of~~ Renewing intent-to-strike notice.**

81.21 A. Except for teachers, a notice of intent to strike may be renewed by serving a
 81.22 written notice on the employer and the commissioner not sooner than five calendar days
 81.23 before ~~the termination~~ of a right to strike terminates. ~~In the event~~ If the renewal is served,

82.1 a new ~~ten-day~~ ten-calendar-day waiting period ~~shall apply~~ applies and the commissioner
 82.2 ~~shall~~ must reestablish the dates when the right to strike matures and terminates.

82.3 B. Teachers are limited to one intent-to-strike notice per contract negotiation
 82.4 period.

82.5 **5510.5110 POLICY.**

82.6 Parts 5510.5110 to ~~5510.5190~~ 5510.5180 are to be liberally construed so as to effectuate
 82.7 the purposes of Minnesota Statutes, chapter 179A, the Public Employment Labor Relations
 82.8 Act.

82.9 **5510.5120 APPLICATION.**

82.10 Parts 5510.5110 to ~~5510.5190~~ 5510.5180 apply when a public employer
 82.11 and an exclusive representative of public employees have not reached agreement on or do
 82.12 not have access to a contract grievance procedure as required by under Minnesota Statutes,
 82.13 section 179A.20, subdivision 4, paragraph (a).

82.14 **5510.5130 DEFINITIONS.**

82.15 Subpart 1. **Scope.** For the purposes of parts 5510.5110 to ~~5510.5190~~ 5510.5180, the
 82.16 ~~words~~ terms defined in this part have the meanings given them.

82.17 Subp. 1a. **Appropriate unit.** "Appropriate unit" has the meaning given in Minnesota
 82.18 Statutes, section 179A.03, subdivision 2.

82.19 Subp. 2. **Bureau.** "Bureau" means the Bureau of Mediation Services.

82.20 Subp. 2a. **Commissioner.** "Commissioner" means the commissioner of the bureau.

82.21 Subp. 3. **Days.** "Days" means calendar days.

82.22 Subp. 3a. **Exclusive representative.** "Exclusive representative" has the meaning given
 82.23 in Minnesota Statutes, section 179A.03, subdivision 8.

83.1 Subp. 4. **Employee.** "Employee" means ~~any~~ a public employee who is employed in
 83.2 a position that is part of an appropriate unit for which an exclusive representative has been
 83.3 certified under Minnesota Statutes, section 179A.12.

83.4 Subp. 5. **Grievance.** "Grievance" means:

83.5 A. a dispute or disagreement ~~regarding the application or interpretation of any on~~
 83.6 applying or interpreting a contract term of a contract required under Minnesota Statutes,
 83.7 section 179A.20, subdivision 1; or

83.8 B. if no contract exists between the exclusive representative and the employer,
 83.9 "~~grievance~~" means a dispute or disagreement ~~regarding~~ on the existence of just cause in the
 83.10 discipline of ~~any~~ an employee or the termination of nonprobationary employees.

83.11 *[For text of subparts 6 and 7, see Minnesota Rules]*

83.12 Subp. 8. **Service.** "Service" ~~means personal delivery or service by the United States~~
 83.13 ~~Postal Service, postage prepaid and addressed to the individual or organization at its last~~
 83.14 ~~known mailing address~~ has the meaning given in part 5510.0310, subpart 19, and part
 83.15 5510.0320 applies. Service under parts 5510.5110 to 5510.5190 is effective upon deposit
 83.16 ~~with the United States Postal Service, as evidenced by a postmark or dated receipt, or upon~~
 83.17 ~~personal delivery.~~

83.18 **5510.5131 COMPUTATION OF COMPUTING TIME.**

83.19 ~~In~~ When computing ~~any period of time prescribed or allowed by~~ under parts 5510.5110
 83.20 ~~to 5510.5190~~ 5510.5180, the day or act or event upon which a period ~~of time~~ begins to run
 83.21 ~~shall~~ is not ~~be~~ included. The last day of the ~~time~~ period ~~shall be~~ is included unless it is a
 83.22 Saturday, Sunday, or holiday.

83.23 **5510.5140 STEP ONE.**

83.24 When an employee or group of employees represented by an exclusive representative
 83.25 has a grievance, the employee or ~~an~~ exclusive representative's agent ~~of the exclusive~~

84.1 ~~representative shall~~ must attempt to resolve the ~~matter~~ grievance with the employee's
84.2 immediate supervisor within 21 days after the employee, through the use of reasonable
84.3 diligence, should have had knowledge of the event or act giving rise to the grievance. The
84.4 supervisor ~~shall~~ must then attempt to resolve the ~~matter~~ grievance and ~~shall~~ must respond
84.5 in writing to the grievant and the exclusive representative's agent of the exclusive
84.6 ~~representative~~ within five days after the grievance is presented to the supervisor.

84.7 **5510.5150 STEP TWO.**

84.8 Subpart 1. Grievance not resolved. If the immediate supervisor ~~has not been able is~~
84.9 unable to resolve the grievance or has not responded in writing within the ~~time~~ period
84.10 ~~provided in under~~ part 5510.5140 (step one), the exclusive representative may serve a written
84.11 grievance ~~may be served~~ on the next appropriate level of supervision ~~by the exclusive~~
84.12 ~~representative~~.

84.13 Subp. 2. Serving grievance. The written grievance ~~shall provide a concise statement~~
84.14 ~~outlining~~ must:

84.15 A. concisely state the nature of the grievance, the provisions of the contract or
84.16 ~~the just cause~~ just-cause situation in dispute, and a statement of the relief or remedy requested.
84.17 ~~The written grievance must;~~ and

84.18 B. be served on the employer's representative within 15 days after the immediate
84.19 supervisor's response was due under part 5510.5140 (step one).

84.20 Subp. 3. Attempt to resolve grievance.

84.21 A. The employer's representative ~~shall~~ must meet with the exclusive representative's
84.22 ~~agent of the exclusive representative~~ within five days after ~~service of~~ the written grievance
84.23 is served, and both parties ~~shall~~ must attempt to resolve the grievance.

85.1 B. The employer's representative ~~shall~~ must serve a written response to the
85.2 grievance on the exclusive representative's agent ~~of the exclusive representative~~ within five
85.3 days of the meeting.

85.4 C. The response ~~shall contain a concise statement of~~ must concisely state:

85.5 (1) the employer's position on the grievance; and

85.6 (2) the remedy or relief the employer is willing to provide, if any.

85.7 **5510.5160 STEP THREE.**

85.8 Subpart 1. Serving grievance on chief administrative agent. If the grievance is not
85.9 resolved under part 5510.5150 (step two), the exclusive representative may serve the written
85.10 grievance ~~upon~~ on the chief administrative agent of the employer or ~~that person's~~ the agent's
85.11 designated representative within ten days after the written response required by part
85.12 5510.5150 (step two) was due.

85.13 Subp. 2. Meeting.

85.14 A. An exclusive representative's agent ~~of the exclusive representative shall~~ must
85.15 meet with the chief administrative officer or designee within five days of ~~service of the~~
85.16 written ~~grievance~~ grievance's service, and ~~they shall~~ the agent and the chief administrative
85.17 officer or designee must attempt to resolve the matter grievance.

85.18 B. The chief administrative officer or designee ~~shall~~ must serve a written response
85.19 to the grievance on the exclusive representative's agent ~~of the exclusive representative~~ within
85.20 five days of the meeting.

85.21 **5510.5170 ARBITRATION.**

85.22 Subpart 1. Referral to arbitration. If the response of the chief administrative officer
85.23 or designee is not received within the period ~~provided in~~ under part 5510.5160 (step three)
85.24 ~~or is not satisfactory~~ does not satisfy the exclusive representative, the exclusive representative

86.1 may serve written notice on the employer of its intent to refer the case to arbitration within
86.2 ten days after the response required by part 5510.5160 (step three) is due.

86.3 Subp. 2. ~~Selection of~~ Selecting arbitrator.

86.4 A. Within ten days of the service of written notice of intent to arbitrate, the
86.5 employer's chief administrative officer or designee ~~shall~~ must consult with the exclusive
86.6 representative's agent of the exclusive representative and ~~endeavor~~ attempt to mutually
86.7 agree ~~upon~~ on an arbitrator to hear and decide the grievance.

86.8 B. If the parties do not agree ~~upon the selection of~~ on an arbitrator, either party
86.9 may request a list of impartial arbitrators from the ~~bureau~~ commissioner under chapter 5530.
86.10 The parties ~~shall~~ must alternately strike names from a list of seven names to be provided
86.11 by the ~~bureau~~ commissioner until only one name remains, and the remaining name ~~shall be~~
86.12 is the designated arbitrator. ~~The determination of~~ Which party will ~~commence~~ begins the
86.13 striking process ~~shall~~ must be made by mutual agreement or a ~~flip of a coin~~ flip. If one party
86.14 refuses to strike names from the arbitration list ~~provided by the bureau~~, the other party may
86.15 serve written notice of this ~~fact upon~~ refusal on the ~~bureau~~ commissioner, with a copy to
86.16 the offending party.

86.17 C. Unless it is confirmed that the parties have otherwise selected or agreed ~~upon~~
86.18 on an arbitrator within three days ~~of service of the notice of refusal or failure to strike names~~
86.19 notice's service under item B, the ~~bureau shall~~ commissioner must designate one name from
86.20 the list previously provided to the parties, and the ~~person so~~ arbitrator designated by the
86.21 ~~bureau shall have~~ commissioner has full power to act as the arbitrator ~~of the grievance~~.

86.22 Subp. 3. **Arbitrator's authority; award.**

86.23 A. ~~The~~ An arbitrator ~~shall have~~ has no authority to amend, modify, add to, or
86.24 subtract from the terms of an existing contract.

87.1 B. The arbitrator's decision and award of the arbitrator shall be is final and binding
87.2 upon on both parties.

87.3 Subp. 4. **Arbitration expenses.**

87.4 A. The employer and the exclusive representative shall must share equally the
87.5 arbitrator's fees and necessary expenses. Cancellation fees shall must be paid by the party
87.6 requesting the cancellation, and any fees incurred as the result of a request for clarification
87.7 shall must be paid by the party requesting the clarification. Each party shall be is responsible
87.8 for compensating its own representatives and witnesses except to the extent as provided by
87.9 under part 5510.5180, subpart 1.

87.10 B. For purposes of this subpart, "request for clarification" means a party's request
87.11 to an arbitrator to clarify the arbitrator's decision and award under subpart 3.

87.12 Subp. 5. **Briefs and transcripts and briefs.**

87.13 A. Because arbitration is intended to provide a simple, speedy alternative to
87.14 litigation processes, the use of transcripts and briefs should be considered only in exceptional
87.15 circumstances. If a verbatim record is required, it may be prepared providing the party
87.16 desiring the record pays the cost and makes a copy available to the other party and the
87.17 arbitrator without charge. Briefs are as provided under part 5500.2510.

87.18 B. If a party requests a transcript be made, the arbitrator must allow a transcript
87.19 to be made if the party requesting the transcript:

87.20 (1) arranges for the transcript;

87.21 (2) pays for all transcript-related costs; and

87.22 (3) provides:

87.23 (a) a free copy to the arbitrator; and

88.1 (b) a copy to the other party upon request, with the other party paying
 88.2 the full cost of the copy.

88.3 Subp. 6. Recording and notes. ~~The~~ An arbitrator may maintain written notes of the
 88.4 hearing and may use an electronic recording device to supplement the note taking. ~~These~~
 88.5 ~~notes shall be considered.~~ The arbitrator's notes are the arbitrator's private and personal
 88.6 property and ~~shall~~ must not be made available to the parties or another third party. ~~If a~~
 88.7 ~~recording device is used by the arbitrator to supplement the arbitrator's notes, the arbitrator~~
 88.8 ~~shall retain the recording for a period of 90 days following the issuance of the award.~~

88.9 **5510.5180 PROCESSING OF GRIEVANCES.**

88.10 Subpart 1. **Release time.**

88.11 A. To the fullest extent feasible, ~~the processing of grievances processed~~ under
 88.12 parts 5510.5110 to ~~5510.5190~~ 5510.5180 must be conducted during the employer's
 88.13 normal business hours of the employer. Employees designated by the exclusive representative
 88.14 ~~shall~~ must be released from work without loss of regular nonovertime earnings as a result
 88.15 of their necessary participation in meetings or hearings held ~~pursuant~~ according to parts
 88.16 5510.5110 to ~~5510.5190~~ 5510.5180, whenever such release is consistent with the ability of
 88.17 the employer to conduct safe and reasonable operations.

88.18 B. No more than three employees ~~shall be~~ are entitled to compensation for
 88.19 ~~participation~~ participating in a single meeting or hearing ~~with respect to any one~~ on a
 88.20 grievance.

88.21 *[For text of subpart 2, see Minnesota Rules]*

88.22 Subp. 3. **Time limits.**

88.23 A. ~~A failure~~ An exclusive representative forfeits its right to pursue the grievance
 88.24 if it fails to:

89.1 (1) raise a grievance within the time limits specified in part 5510.5140; (step
89.2 one); or ~~to~~

89.3 (2) initiate action at the next step of the procedure in parts 5510.5140 to
89.4 5510.5170 within the time limits ~~in these parts shall result in forfeiture by the exclusive~~
89.5 ~~representative of the right to pursue the grievance.~~

89.6 B. A failure of an employer representative to comply with the time periods and
89.7 procedures in parts 5510.5140 to 5510.5170 shall require mandatory alleviation of the
89.8 grievance as requested in the last statement by the exclusive representative. If an employer
89.9 fails to comply with the time limits and procedures in parts 5510.5140 to 5510.5170, the
89.10 employer must resolve the grievance as requested in the exclusive representative's last filing
89.11 under part 5510.5160 (step three).

89.12 **5530.0100 APPLICATION.**

89.13 A. This chapter applies to the empanelment, referral, conduct, and removal of
89.14 persons arbitrators on the arbitrator commissioner-maintained roster maintained by the
89.15 commissioner, excluding under Minnesota Statutes, sections 179.02, subdivision 4; and
89.16 179A.04, subdivision 3, paragraph (a), clause (13), but does not apply to:

89.17 (1) the list of arbitrators maintained under Minnesota Statutes, section
89.18 179A.04, subdivision 3, paragraph ~~(e)~~ (b), for teacher discharge or termination hearings;
89.19 or

89.20 (2) the roster of arbitrators under Minnesota Statutes, section 626.892,
89.21 subdivision 4, except as otherwise provided under Minnesota Statutes, section 626.892,
89.22 subdivision 12.

89.23 B. This chapter applies to all:

89.24 (1) all persons on the arbitrator roster; members;

- 90.1 (2) ~~to all~~ applicants for placement on the roster;²
- 90.2 (3) ~~to all parties and~~ users of the roster;² and
- 90.3 (4) ~~to all~~ arbitration proceedings conducted as the result of a referral from
- 90.4 the roster.

90.5 C. Nothing in this chapter ~~is intended to limit~~ limits the right of ~~the~~ parties to

90.6 jointly select ~~any~~ an arbitrator or arbitration procedure ~~which is~~ acceptable to them.

90.7 **5530.0200 POLICY.**

90.8 A. It is the policy of the state of Minnesota to promote orderly and constructive

90.9 relationships between labor and management and to avoid unresolved disputes that can be

90.10 injurious to the public as well as the parties. The use of collective bargaining procedures

90.11 and binding arbitration to resolve grievances and certain interest disputes between labor

90.12 and management are encouraged.

90.13 B. This chapter ~~shall~~ is to be liberally construed to effectuate ~~these policies~~

90.14 collective bargaining procedures and binding arbitration and the provisions of Minnesota

90.15 Statutes, chapters 179 and 179A.

90.16 **5530.0300 DEFINITIONS.**

90.17 *[For text of subpart 1, see Minnesota Rules]*

90.18 Subp. 1a. **Advisory committee.** "Advisory committee" means a committee consisting

90.19 of three union representatives, three employer representatives, and two roster members

90.20 appointed by the commissioner under Minnesota Statutes, section 15.014, subdivision 2, to

90.21 advise the commissioner ~~regarding the appointment and removal of persons to the arbitrator~~

90.22 on appointing arbitrators to and removing arbitrators from the roster. ~~The committee shall~~

90.23 ~~not expire as provided by Minnesota Statutes, section 15.059.~~

90.24 *[For text of subpart 2, see Minnesota Rules]*

91.1 Subp. 2a. **Arbitrator.** "Arbitrator" means an individual who is either selected or
91.2 appointed to arbitrate a dispute.

91.3 ~~Subp. 3. **Arbitrator roster or roster.** "Arbitrator roster" or "roster" means a listing~~
91.4 ~~list of persons determined by arbitrators the commissioner to be~~ determines qualified and
91.5 available for referral as an arbitrator of labor disputes under this chapter.

91.6 Subp. 3a. **Award.** "Award" means an opinion or decision, including any damages,
91.7 relief, and remedies, rendered by an arbitrator in a dispute among two or more parties under
91.8 an agreement to arbitrate or referral to arbitration.

91.9 Subp. 4. **Bureau.** "Bureau" means the Bureau of Mediation Services.

91.10 Subp. 5. [See repealer.]

91.11 Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the bureau of
91.12 ~~Mediation Services.~~

91.13 Subp. 6a. **Exclusive representative.** "Exclusive representative" has the meaning given
91.14 in Minnesota Statutes, section 179A.03, subdivision 8.

91.15 Subp. 7. [Repealed, 21 SR 583]

91.16 Subp. 8. [See repealer.]

91.17 Subp. 9. [See repealer.]

91.18 Subp. 9a. **Grievance procedure.** "Grievance procedure" means the grievance procedure
91.19 required under Minnesota Statutes, section 179A.20, subdivision 4, paragraph (a).

91.20 Subp. 10. **Panel.** "Panel" means a ~~listing~~ list of roster members compiled by the
91.21 commissioner for referral to the parties, from which they may subsequently select an
91.22 ~~arbitrator~~ arbitrator a roster member.

91.23 Subp. 11. **Party or parties.** "Party" or "parties" means:

92.1 A. an employer or exclusive representative directly involved and affected by a
 92.2 dispute for which a roster member has been requested or referred; or a

92.3 B. the employer's or exclusive representative's designated representative.

92.4 Subp. 12. [See repealer.]

92.5 Subp. 13. **Renewal appointment.** "Renewal appointment" means the appointment of
 92.6 ~~an existing~~ a roster member to an additional term as a roster member.

92.7 Subp. 14. **Roster member.** "Roster member" means an arbitrator who is on the roster.

92.8 **5530.0400 ROLE OF BUREAU.**

92.9 A. ~~The role of the bureau~~ bureau's role under this chapter is limited to matters
 92.10 ~~relating to the appointment of persons to and removal or referral of names from the arbitrator~~
 92.11 appointing arbitrators to the roster, removing arbitrators from the roster, and referring
 92.12 arbitrators from the roster.

92.13 B. The bureau has no role, responsibility, or authority under this chapter to:

92.14 ~~A.~~ (1) compel parties to agree to arbitrate;

92.15 ~~B.~~ (2) enforce an agreement to arbitrate;

92.16 ~~C.~~ (3) compel parties to appear before an arbitrator;

92.17 ~~D.~~ (4) influence, alter, enforce, or set aside the decisions or awards of arbitrators;

92.18 or

92.19 ~~E.~~ (5) except as provided under part 5500.2850, compel, deny, or modify the
 92.20 payment of fees and expenses to an arbitrator, ~~except as provided in part 5530.1000, subpart~~

92.21 **6.**

93.1 **5530.0410 ADVISORY COMMITTEE.**

93.2 The advisory committee continues after its initial expiration under the commissioner's
 93.3 discretionary authority given under Minnesota Statutes, section 15.059, subdivision 6.

93.4 **5530.0500 STATUS OF ARBITRATORS.**

93.5 ~~Persons listed on the Roster~~ members, whether or not selected or appointed to hear
 93.6 matters under this chapter, do not become employees or agents of the state of Minnesota or
 93.7 the bureau by virtue of ~~their placement~~ being placed on the roster or ~~their subsequent selection~~
 93.8 ~~or appointment~~ selected or appointed as an arbitrator. Except for the reporting and
 93.9 performance requirements of ~~this chapter~~ under parts 5530.0800, subpart 10, and 5530.1200,
 93.10 the arbitrator's relationship is solely with the parties to a dispute.

93.11 **5530.0600 ARBITRATOR APPLICANT QUALIFICATIONS.**

93.12 Subpart 1. **General Labor relations background.** ~~Persons seeking appointment to~~
 93.13 ~~the arbitrator roster~~ An applicant must have substantial knowledge of collective bargaining
 93.14 and labor relations matters in the public or private sectors, be well versed in applicable state
 93.15 and federal law, and be experienced and knowledgeable in the field of labor arbitration a
 93.16 labor relations background in the public sector and be qualified according to Minnesota
 93.17 Statutes, section 179A.04, subdivision 3, paragraph (a), clause (13).

93.18 Subp. 2. **General abilities.** ~~Potential applicants for placement on the roster~~ An applicant
 93.19 must be willing and able to:

93.20 A. travel throughout Minnesota;

93.21 B. fairly and impartially conduct hearings in a fair and impartial manner;

93.22 C. analyze and evaluate testimony and exhibits;

93.23 D. write clear and concise awards in a timely manner; and

93.24 E. be available for hearings within a reasonable time after the request of the parties.

94.1 Subp. 3. [See repealer.]

94.2 Subp. 4. **Demonstrating qualifications.**

94.3 A. An applicant has the burden for establishing to demonstrate qualifications for
94.4 appointment ~~on to the roster is on the person seeking appointment.~~ The commissioner will
94.5 ~~examine the evidence to determine the complexity of issues the applicant claims experience~~
94.6 ~~in, and the technical, theoretical understanding the applicant has demonstrated in handling~~
94.7 ~~such matters, and shall~~ must make appointments to the roster ~~pursuant~~ according to part
94.8 5530.0700, subpart 6.

94.9 ~~B. Evidence of an applicant's qualification may be advanced~~ An applicant must
94.10 demonstrate the applicant's qualifications for appointment to the roster in one or a
94.11 combination of the following ways:

94.12 ~~A. (1) submission of~~ by submitting six or more arbitration awards or contested
94.13 case decisions that were authored and signed by the applicant in the 24-month period
94.14 preceding application;

94.15 ~~B. (2) a minimum of~~ by having at least six years' experience as a full-time labor
94.16 relations advocate and ~~submission of~~ by submitting six arbitration awards in which the
94.17 applicant acted as the principal representative for either ~~labor or management~~ the labor
94.18 organization or the employer;

94.19 ~~C. (3) a minimum of~~ by having at least six years' experience as a full-time labor
94.20 mediator, including ~~substantial~~ grievance mediation experience;

94.21 ~~D. (4) a minimum of~~ by having at least six years' experience as a practitioner or
94.22 full-time instructor of labor law or industrial relations, including ~~substantial content in the~~
94.23 ~~area of~~ collective bargaining, labor agreements, and contract administration;

94.24 ~~E. (5) membership in~~ by being a member of the National Academy of Arbitrators;
94.25 and or

95.1 F. ~~(6) satisfactory completion of a formalized course of instruction and internship~~
 95.2 ~~in a program that has been approved by the commissioner in advance of participation or~~
 95.3 ~~enrollment by the applicant~~ by completing a mentorship with a roster member.

95.4 C. The ~~program~~ mentorship under item B, subitem (6), must include the writing
 95.5 ~~of~~ not less than two mock awards under the supervision and guidance of ~~an arbitrator already~~
 95.6 ~~admitted to the~~ a roster or otherwise member and must be approved in advance by the
 95.7 commissioner.

95.8 Subp. 5. **Domicile.**

95.9 A. To be eligible for appointment ~~or continuation on~~ to the roster, ~~individuals an~~
 95.10 applicant must maintain a principal place of residence in Minnesota or one of its contiguous
 95.11 states. ~~The maintenance of~~ Maintaining a mail box mailbox or mail delivery point ~~is~~ does
 95.12 ~~not sufficient to satisfy the requirement of~~ this subpart.

95.13 B. The residency requirement under item A may be waived on an
 95.14 appointment-by-appointment basis by the commissioner ~~for individuals who have served~~
 95.15 ~~at least three years on the current or immediately preceding bureau roster.~~

95.16 **5530.0610 ARBITRATOR QUALIFICATIONS.**

95.17 Subpart 1. **Advocacy disqualification.** A roster member may not advocate for a
 95.18 public- or private-sector employer, employee, or employee organization in labor management
 95.19 relations.

95.20 Subp. 2. **Domicile.** To be eligible to remain on the roster, a roster member must comply
 95.21 with part 5530.0600, subpart 5.

95.22 **5530.0700 APPOINTMENT TO ROSTER.**

95.23 Subpart 1. **Size of Roster size.** ~~The size of the arbitrator roster shall be~~ is not fewer
 95.24 than 25 nor more than 60 ~~members~~ arbitrators. ~~Annually, the commissioner shall determine~~

96.1 ~~whether or not to add members to the roster based on the number of referrals over the~~
96.2 ~~preceding 12 months and projected referrals from the roster over the next 12 months.~~

96.3 Subp. 2. **Procedure; initial appointments.**

96.4 ~~A. When, pursuant to subpart 1, the commissioner determines that it is appropriate~~
96.5 ~~to make additional appointments to the roster~~ If the commissioner must increase the size of
96.6 the roster, the commissioner shall must:

96.7 ~~A. (1) publish notice in the State Register~~ on the bureau's website for ~~not less~~
96.8 ~~than~~ at least 30 days, indicating that applications for appointment are being accepted and
96.9 establishing a deadline for the applications;

96.10 ~~B. (2) in conjunction together~~ with the advisory committee, ~~conduct interviews~~
96.11 ~~of applicants selected for further consideration, to further assess the~~ an applicant's
96.12 qualifications and suitability for appointment to the roster according to subpart 6;

96.13 ~~C. (3) advise all applicants~~ each applicant in writing ~~regarding on the~~
96.14 commissioner's final determination with respect to their on the applicant's application;

96.15 ~~D. (4) actively solicit qualified applicants who will help provide balance in the~~
96.16 roster's racial and gender composition of the roster; and

96.17 ~~E. (5) conduct an initial review of applications received and;~~ select or reject
96.18 applicants for further consideration based on the:

96.19 (a) information provided in the application; and reference checks; and
96.20 the

96.21 (b) arbitrator qualification requirements of this chapter; select or reject
96.22 applications for further consideration under part 5530.0600. The commissioner may conduct
96.23 additional investigations regarding the application if necessary to obtain a full understanding
96.24 of the applicant's qualifications.

97.1 B. If the commissioner determines that additional information is needed after
97.2 reviewing the information under item A, subitems (2) and (5), the applicant must provide
97.3 additional information on the applicant's:

97.4 (1) qualifications according to subpart 6; and

97.5 (2) arbitrator qualification requirements under part 5530.0600, application,
97.6 and reference checks.

97.7 **Subp. 3. Procedure; renewal appointments.**

97.8 A. The commissioner ~~shall~~ must notify all roster members ~~not less than~~ at least
97.9 120 calendar days before ~~the expiration of their appointment expires~~ of the procedures
97.10 necessary for reappointment to the roster. ~~Persons desiring to renew their appointment on~~
97.11 ~~the roster shall~~ a renewal appointment.

97.12 B. A roster member seeking a renewal appointment must submit a written
97.13 application and a fee to the commissioner ~~not less than~~ at least 60 calendar days before the
97.14 ~~expiration of their~~ the roster member's appointment expires. ~~Following receipt of~~

97.15 C. After receiving a renewal application under item B, the commissioner ~~shall~~
97.16 must review ~~available referral, performance, and activity records of the applicant and proceed~~
97.17 the roster member's performance measures under part 5530.1200 and evaluate the roster
97.18 member according to subpart 6.

97.19 **Subp. 4. Application forms.**

97.20 A. ~~Individuals who wish to be considered for initial or~~ An applicant or a roster
97.21 member seeking a renewal appointment to the roster must complete an application on forms
97.22 available from the bureau.

97.23 B. Writing samples must accompany the application.

98.1 Subp. 5. **Application fee and renewal fees.**

98.2 ~~A. A nonrefundable application fee of \$50 for initial appointments and \$25 for~~
98.3 ~~renewals must accompany each application for appointment or renewal. Application and~~
98.4 ~~renewal fees are as provided under Minnesota Statutes, section 179A.04, subdivision 3,~~
98.5 ~~paragraph (a), clause (10).~~

98.6 B. The fee must be in the form of a check or money order made payable to "State
98.7 of Minnesota, Bureau of Mediation Services."

98.8 Subp. 6. **Standards for appointment.**

98.9 ~~A. In~~ When determining whether ~~or not~~ to appoint or reappoint a member to the
98.10 roster, the commissioner ~~shall~~ must evaluate each application for evidence of the applicant's
98.11 competence, proficiency, and qualifications in the following areas:

98.12 ~~A.~~ (1) knowledge and understanding of labor relations systems and collective
98.13 bargaining processes and dynamics;

98.14 ~~B.~~ (2) knowledge and understanding of applicable contract, employment, and
98.15 labor relations law ~~and rules~~;

98.16 ~~C.~~ (3) ability to hear and decide complex labor relations issues ~~in a fair and~~
98.17 ~~objective manner~~ fairly and objectively;

98.18 ~~D.~~ (4) ability to communicate, ~~both orally and in writing, in a clear and concise~~
98.19 ~~manner~~ clearly and concisely in writing and orally;

98.20 ~~E.~~ (5) ability to conduct orderly and effective arbitration hearings ~~in a variety of~~
98.21 various settings and locations throughout Minnesota; and

98.22 ~~F.~~ (6) reputation in the labor-management community for high professional
98.23 standards of competence, ethics, and integrity.

99.1 B. In addition to meeting these the standards for appointment under item A, a
 99.2 roster members member seeking reappointment a renewal appointment must satisfy the
 99.3 requirements of under part 5530.1200, subparts 2, 3, and 7.

99.4 Subp. 7. ~~Disposition of applications~~ Appointing applicants.

99.5 A. If the commissioner has determined determines that the applicant or roster
 99.6 member has satisfied the requirements of subpart subparts 3 to 6, if applicable, the
 99.7 commissioner shall must appoint the applicant or reappoint the applicant roster member to
 99.8 the roster.

99.9 B. If the applicant has failed or roster member fails to satisfy the requirements of
 99.10 subpart subparts 3 to 6, the commissioner shall must reject the application in writing,
 99.11 including the reasons for the rejection. In the event that If there are more qualified applicants
 99.12 than vacancies on the roster, the commissioner shall must appoint applicants in rank order
 99.13 of their qualifications or by lottery where qualifications are relatively equal.

99.14 Subp. 8. **Term of appointment.** ~~Appointments~~ An appointment to the roster shall be
 99.15 is for a term of three years.

99.16 **5530.0800 ARBITRATOR CONDUCT AND STANDARDS.**

99.17 Subpart 1. **Scope.** The criteria and standards ~~in subparts 2 to 10~~ under this part apply
 99.18 to all persons on the roster. roster members, and failure to comply with these provisions
 99.19 constitutes grounds for disciplinary action or removal from the roster under according to
 99.20 part 5530.1300.

99.21 Subp. 2. **Professional and ethical responsibilities; incorporation by**
 99.22 **reference.** Except as otherwise provided in this chapter, the Code of Professional
 99.23 Responsibility for Arbitrators of Labor-Management Disputes ~~approved and~~ published by
 99.24 ~~the National Academy of Arbitrators~~ Federal Mediation and Conciliation Service, 2007 and
 99.25 as subsequently amended, is incorporated by reference and is applicable to and shall govern

100.1 governs the professional behavior of persons appointed to the roster members. The code is
100.2 not subject to frequent change and is available from the bureau's website. ~~The code is~~
100.3 ~~available through the Minitex interlibrary loan system.~~

100.4 Subp. 3. **Conflicts of interest.** ~~The arbitrator~~ A roster member must disclose to the
100.5 parties and the commissioner any personal or professional relationships, including direct
100.6 or indirect past employment, consultative relationships, or affiliations with one of the parties;
100.7 ~~which that~~ may give an appearance of partiality. The burden of disclosure is on the ~~arbitrator~~
100.8 roster member.

100.9 Subp. 3a. **Biographic sketch.**

100.10 A. Annually, the commissioner must review and publish on the bureau's website
100.11 a biographic sketch of each roster member using information provided by the roster member
100.12 and from other publicly available information. A biographic sketch must include:

100.13 (1) information on the roster member's background, education, and experience;
100.14 and

100.15 (2) data on the roster member's fee schedule.

100.16 B. Roster members must ensure the accuracy of all biographic and fee data under
100.17 item A.

100.18 Subp. 4. ~~Communication~~ **Communicating with parties.**

100.19 A. ~~Arbitrators shall~~ A roster member may not solicit parties for selection to cases.
100.20 All matters involving a case or contact with the parties must be handled in a manner that
100.21 fosters the roster member's impartiality ~~of the arbitrator.~~

100.22 B. ~~The arbitrator shall~~ A roster member may not communicate, directly or
100.23 indirectly, in connection with any issue of fact or law with any person or party, except upon
100.24 notice and opportunity for all parties to participate. This item does not apply when an

101.1 arbitrator discusses a case with another arbitrator, consistent with the incorporated code
 101.2 under subpart 2.

101.3 C. When this chapter authorizes communications contrary to this ~~part~~ subpart, the
 101.4 communications ~~shall be~~ are limited to only those matters permitted by this chapter. The
 101.5 ~~arbitrator~~ roster member may communicate regarding dates or procedures for the hearing
 101.6 without violating this ~~part~~ subpart.

101.7 *[For text of subpart 5, see Minnesota Rules]*

101.8 Subp. 6. **Timeliness.** ~~It is the responsibility of the arbitrator to~~ A roster member must:

101.9 A. schedule time commitments in a manner consistent with the needs of the parties
 101.10 and the expeditious handling of disputes. ~~The arbitrator must;~~ and

101.11 B. adhere to the time limits ~~of~~ under Minnesota Statutes, section 179A.16, ~~and~~
 101.12 ~~the parties' arbitration procedure. When initially accepting and scheduling a case, or at the~~
 101.13 ~~first reasonable opportunity to become aware of the time limits, the arbitrator must indicate~~
 101.14 ~~whether or not the applicable time limits will present a problem in the timely handling of~~
 101.15 ~~the case. Although the time limits specified in a grievance arbitration procedure may be~~
 101.16 ~~waived or extended by the parties, it is improper for an arbitrator to routinely request or~~
 101.17 ~~suggest extensions. If, after accepting and hearing a case, the arbitrator is unable to render~~
 101.18 ~~an award within the time limits specified in the grievance arbitration procedure, the arbitrator~~
 101.19 ~~shall notify each party in writing of the reason for the delay and shall seek approval for~~
 101.20 ~~establishing an alternate date for completion of the award. A request for an extension of the~~
 101.21 ~~timeline for an interest arbitration award must be submitted directly to the commissioner~~
 101.22 subdivision 7.

101.23 Subp. 7. **Administrative or cancellation fees.** ~~Arbitrators~~ If any administrative or
 101.24 cancellation fees are noted on the biographic sketch under subpart 3a, the roster member
 101.25 may charge;

102.1 A. an administrative fee for establishing a case file; and

102.2 B. cancellation fees for hearings that are canceled or rescheduled by one or both
102.3 parties with less than ~~21~~ 28 calendar days' notice, ~~provided the fees and policies are clearly~~
102.4 ~~noted on the biographic sketch for that arbitrator that is on file with the bureau.~~

102.5 Subp. 8. **Arbitration fees and expenses.**

102.6 A. ~~Except as provided under subpart 7, all fees charged by an arbitrator selected~~
102.7 ~~under this chapter shall~~ a roster member must be based on the per diem fee schedule in the
102.8 biographic sketch ~~on file with the commissioner~~ under subpart 3a.

102.9 ~~The arbitrator shall~~ A roster member must maintain reasonable time and expense
102.10 records related to each case and, ~~in the event of~~ if there is a dispute over the reasonableness
102.11 of fees and expenses in a case, ~~shall~~ must make the records available to the parties or the
102.12 commissioner, upon written demand. ~~Disputes~~ A dispute over the reasonableness of fees
102.13 may be resolved ~~under~~ according to part ~~5530.1000, subpart 6~~ 5500.2850.

102.14 Subp. 9. **Filing copies of awards.**

102.15 A. Unless one or both ~~private sector~~ private-sector parties have ~~specifically~~
102.16 requested that an award not be provided to the commissioner, ~~arbitrators shall~~ a roster
102.17 member must electronically submit copies of all awards to the commissioner an award
102.18 involving a Minnesota work sites to the commissioner site or location, regardless of the
102.19 source of appointment or selection.

102.20 B. Except as provided under item A, public and private-sector awards must be
102.21 submitted electronically to the commissioner.

102.22 C. Except as otherwise limited by law, awards under items A and B filed with the
102.23 commissioner are public documents.

102.24 D. An award submitted electronically is subject to part 5510.0320.

103.1 Subp. 10. **Arbitrator fee and summary report.** For each award filed with the
103.2 commissioner, ~~whether originating from a bureau referral or other source, the arbitrator~~
103.3 ~~shall~~ a roster member must provide a fee and summary report in a form prescribed by the
103.4 commissioner that discloses the following:

103.5 A. case identification information, including the:

103.6 (1) ~~arbitrator's~~ roster member's name;

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

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

103.9 (4) name and location of the exclusive representative and the exclusive
103.10 representative's agent ~~of the exclusive representative;~~

103.11 B. ~~case processing~~ information on the case-processing date information, including
103.12 the:

103.13 (1) date ~~arbitrator~~ that the roster member was notified of selection by parties;

103.14 (2) date of hearing;

103.15 (3) final date for ~~submission of~~ submitting briefs or other written material,
103.16 if any; and

103.17 (4) date that the award was issued; and

103.18 C. arbitrator fee and expense information for all awards resulting from a referral
103.19 by the commissioner, including the:

103.20 *[For text of subitems (1) to (7), see Minnesota Rules]*

103.21 (8) amount of the total costs to be paid by each party.

103.22 ~~Forms for reporting this information must be furnished by the bureau.~~

104.1 **5530.0810 TRAINING FOR PEACE OFFICER ARBITRATORS; DISCIPLINE**
104.2 **GRIEVANCES.**

104.3 Subpart 1. **Applicability.** This part applies only to a roster member under Minnesota
104.4 Statutes, section 626.892.

104.5 Subp. 2. **Definitions.** For purposes of this part, the terms defined in this subpart have
104.6 the meanings given them.

104.7 A. "Agency" has the meaning given in Minnesota Statutes, section 16A.011,
104.8 subdivision 2.

104.9 B. "CE" means continuing education.

104.10 C. "CLE" means continuing legal education.

104.11 D. "Office of Higher Education" or "office" means the Minnesota Office of Higher
104.12 Education under Minnesota Statutes, chapter 136A.

104.13 E. "School" has the meaning given in Minnesota Statutes, section 136A.62,
104.14 subdivision 3.

104.15 Subp. 3. **Training required.** A roster member must complete training as required
104.16 under Minnesota Statutes, section 626.892, subdivision 10.

104.17 Subp. 4. **Training providers.**

104.18 A. Required training must be obtained from any of the following:

104.19 (1) the American Arbitration Association, the Federal Mediation and
104.20 Conciliation Service, or the United States Federal Labor Relations Authority;

104.21 (2) another state agency;

104.22 (3) a CLE or CE provider that provides training for licensed professionals;

104.23 (4) one of the following:

- 105.1 (a) a school registered with the office under chapter 4840;
- 105.2 (b) a school licensed with the office under chapter 4880;
- 105.3 (c) the University of Minnesota under Minnesota Statutes, chapter 135A;
- 105.4 (d) an exempt school under Minnesota Statutes, sections 136A.653 to
- 105.5 136A.658; or
- 105.6 (e) a designated college or university under Minnesota Statutes, section
- 105.7 136F.10; or
- 105.8 (5) a nonprofit company or a training provider, either of which has a stated
- 105.9 mission of providing training on cultural competency, racism, implicit bias, community
- 105.10 diversity, or peace-officer-related training.
- 105.11 B. For a roster member to comply with this part, the roster member must receive
- 105.12 training on specified topics under Minnesota Statutes, section 626.892, subdivision 10,
- 105.13 paragraph (a), clauses (1) and (2).
- 105.14 C. A roster member may receive training from one or more providers under item
- 105.15 A to achieve the number of required training hours under Minnesota Statutes, section
- 105.16 626.892, subdivision 10, paragraph (a), clauses (1) and (2).
- 105.17 D. If a roster member is completing a certificate or other program lasting longer
- 105.18 than six months, the roster member must still receive the number of required training hours
- 105.19 under Minnesota Statutes, section 626.892, subdivision 10, paragraph (a), clauses (1) and
- 105.20 (2), by the deadline under Minnesota Statutes, section 626.892, subdivision 10, paragraph
- 105.21 (b).

106.1 Subp. 5. Proof of training.

106.2 A. For each training provider under subpart 4, item A, that a roster member receives
106.3 training from, the roster member must submit to the commissioner proof of training by
106.4 providing:

106.5 (1) the training's title and description;

106.6 (2) the completed hours of training;

106.7 (3) information on whether the training was in person, online, hybrid in person
106.8 and online, or some other format;

106.9 (4) the training start and end dates; and

106.10 (5) the individual who provided the training, and, if available, the training
106.11 provider's name, address, e-mail address, and telephone number.

106.12 B. If the commissioner determines that the information under item A does not
106.13 prove that the roster member has complied with this part, the commissioner must notify the
106.14 roster member in writing and the roster member must complete the training according to
106.15 this part.

106.16 C. If the commissioner cannot determine proof of training with the provided
106.17 information under item A, the roster member must provide any other training information
106.18 necessary for the commissioner to determine whether the roster member has complied with
106.19 this part.

106.20 Subp. 6. Record required. A roster member must maintain proof of training for the
106.21 duration of the roster member's appointment.

107.1 **5530.0900 PANEL SELECTIONS AND REFERRALS.**

107.2 Subpart 1. **Request for panels.** ~~Individuals or organizations desiring~~ A party or parties
107.3 that request a panel of arbitrators drawn from the roster shall must submit to the commissioner
107.4 individual or joint written requests that include ~~the following~~:

107.5 A. the employer's name and location of the employer and the employer's
107.6 representative's name, address, e-mail address, and telephone number of the employer's
107.7 representative;

107.8 B. the employee organization's name of the employee organization and the
107.9 organization's representative's name, address, e-mail address, and telephone number of the
107.10 employee organization's representative;

107.11 C. a brief statement of the nature of the dispute being submitted to arbitration, ~~for~~
107.12 ~~example, discharge or overtime pay~~;

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

107.14 E. a description of the type of bargaining unit involved, ~~for example, clerical,~~
107.15 ~~maintenance, dietary, or teacher~~; and

107.16 F. the date the ~~grievance or~~ dispute was first made known to the employer.

107.17 Subp. 2. **Size and selection of panels.**

107.18 A. Unless a single arbitrator is to be appointed under subpart 3, All panels
107.19 submitted by the commissioner shall must contain seven names roster members. When If
107.20 the parties' arbitration agreement provides for panels of fewer than seven names roster
107.21 members, the parties may use the striking procedures in subpart 5 to reduce the size of a
107.22 seven-member panel. This item does not apply if:

107.23 (1) a single roster member is appointed under subpart 3, item A;

108.1 (2) a single roster member is mutually agreed on according to Minnesota
108.2 Statutes, section 179A.16, subdivision 4;

108.3 (3) the arbitration proceeding is as provided under Minnesota Statutes, section
108.4 179.09 or 179.38; or

108.5 (4) as otherwise provided by law.

108.6 B. In When assembling panels a panel, the commissioner shall must:

108.7 (1) use a random selection system that results in a reasonably equal number
108.8 of opportunities for referral among roster members ~~who have been on the roster for three~~
108.9 ~~or more years. When possible, no more than three arbitrators who have been on the roster~~
108.10 ~~for less than three years shall be included on a single panel, but the commissioner shall~~
108.11 ~~provide greater referral opportunities for those individuals. In assembling panels, the~~
108.12 ~~commissioner shall; and~~

108.13 (2) seek to avoid potential conflicts of interest and ~~shall~~ include or exclude
108.14 roster members ~~pursuant~~ according to mutual requests of the parties.

108.15 C. If requested by all parties to the dispute, the commissioner must consider
108.16 geographic location or unique and special circumstances and technical expertise must be
108.17 considered by the commissioner when the parties request that those factors be considered.

108.18 D. At least five members of the panel must be residents of Minnesota.

108.19 Subp. 3. **Direct appointment by commissioner.** The commissioner ~~shall~~ must appoint
108.20 ~~one person from the roster member~~ to serve as the arbitrator ~~whenever~~ when:

108.21 A. the agreement to arbitrate or other joint agreement of the parties provides for
108.22 direct appointments; or

108.23 B. applicable under Minnesota Statutes, section 179.09.

109.1 Subp. 4. **Replacement names or panels ~~or names~~.**

109.2 A. Upon the joint request of the parties, the commissioner shall ~~shall~~ must appoint a
109.3 new roster member or issue a new panel of seven ~~names~~ roster members to replace a prior
109.4 roster member or panel under subpart 2 or 3.

109.5 B. ~~The commissioner may not honor~~ single-party requests for replacement ~~names~~
109.6 ~~roster members~~ or panels ~~will not be honored~~ unless the commissioner determines that a
109.7 bona fide conflict of interest exists regarding the matter in dispute between one or more
109.8 parties and one or more members of the panel. ~~If the commissioner determines that a conflict~~
109.9 ~~is found by the commissioner,~~ exists, the commissioner must issue a replacement roster
109.10 ~~member or panel will be issued.~~

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

109.14 Subp. 5. **~~Selection~~ Selecting from panels.** The parties ~~shall~~ must select ~~an arbitrator~~
109.15 a roster member or arbitrators from the panel under the terms of according to Minnesota
109.16 Statutes, section 179A.16, subdivision 4, or of their grievance procedure. ~~In the absence of~~
109.17 ~~an agreement~~ If there is no grievance procedure for binding arbitration, the selection ~~shall~~
109.18 must be made by alternately deleting names from the panel until the required number of
109.19 names remain. ~~Determining which party shall delete the first name shall be accomplished~~
109.20 ~~by a toss of a coin~~ according to part 5510.5170, subpart 2.

109.21 Subp. 6. **Scheduling.**

109.22 A. ~~Notifying the arbitrators of their selection and the scheduling of the arbitration~~
109.23 ~~hearing is the responsibility of the parties.~~ When the parties select one or more roster
109.24 members according to this part, they must notify the roster members and work with the
109.25 roster members to schedule the hearing.

110.1 B. Once the ~~initial arbitration~~ hearing has been ~~established~~ scheduled, the party
 110.2 ~~who~~ that requested the panel ~~shall~~ must notify the commissioner of the:

110.3 (1) ~~arbitrators~~ roster members selected;

110.4 (2) ~~the date that~~ the selection was made; and

110.5 (3) ~~the date of the initial arbitration~~ hearing.

110.6 Subp. 7. [See repealer.]

110.7 Subp. 8. **Jurisdiction of bureau.**

110.8 A. ~~Submission of~~ Submitting a panel or ~~appointment of an arbitrator~~ appointing
 110.9 a roster member under this chapter signifies nothing more than compliance with a request
 110.10 and is not a determination as to the legitimacy of the dispute or the competency of the
 110.11 ~~arbitrators~~ panel or roster member to resolve it.

110.12 B. The bureau does not have jurisdiction or responsibility for enforcement,
 110.13 resolution, or compliance with any aspect of the arbitration process other than providing
 110.14 the services ~~specifically~~ established by under this chapter.

110.15 **5530.1200 PERFORMANCE MEASURES.**

110.16 Subpart 1. **Renewal criteria.** When reviewing an application for a renewal appointment
 110.17 to the roster, the commissioner ~~shall~~ must use the criteria ~~in subparts 2 to 7 in~~ under this
 110.18 part when determining whether ~~or not~~ to reappoint.

110.19 Subp. 2. **Selection rate.**

110.20 A. The commissioner ~~shall~~ must develop and maintain reliable data concerning
 110.21 the frequency with which ~~individuals~~ roster members are selected by:

110.22 (1) parties from panels referred by the bureau;

110.23 (2) parties' mutual agreement; and

111.1 (3) the commissioner according to part 5530.0900, subpart 3.

111.2 B. A selection frequency that falls in the upper three quartiles of the frequencies
111.3 of all ~~arbitrators on the roster~~ members is evidence that ~~an arbitrator~~ a roster member has
111.4 established acceptability among the parties who use the roster., but a selection rate in the
111.5 lowest quartile ~~shall~~ is not be the sole basis for failure to reappoint unless the ~~arbitrator~~
111.6 roster member has been in the lowest quartile for ~~two~~ three consecutive years ~~and was~~
111.7 ~~selected for fewer than three cases in the most recent 12-month period.~~

111.8 Subp. 3. **Scheduling.** A lack of substantiated written complaints from parties that ~~an~~
111.9 ~~arbitrator~~ a roster member has failed to offer ~~a reasonable number of~~ at least three dates on
111.10 which the ~~arbitrator~~ roster member is available to hear a case within ~~60~~ 90 calendar days
111.11 of the ~~arbitrator's~~ roster member's notification of selection is evidence that ~~an arbitrator~~ the
111.12 roster member is meeting the availability standards of this chapter.

111.13 Subp. 4. [See repealer.]

111.14 Subp. 5. **Evaluation by parties.** ~~The commissioner shall encourage evaluations of~~
111.15 ~~the~~ Parties may evaluate a roster member's performance of roster members by the parties.
111.16 The commissioner must consider both individual and summary evaluation information ~~shall~~
111.17 ~~be considered by the commissioner.~~

111.18 Subp. 6. [See repealer.]

111.19 Subp. 7. **General professional criteria.** ~~All roster members are required to~~ Each
111.20 roster member must maintain proficiency and competency ~~in~~ under the areas in part
111.21 5530.0700, subpart ~~2~~ 6. Failure of ~~an arbitrator~~ a roster member to comply with this chapter,
111.22 including ~~the submission of~~ failing to submit awards, fee and summary reports, or other
111.23 ~~information or reports, shall be~~ is grounds for ~~removing or not reappointing~~ the commissioner
111.24 to remove or to not reappoint a roster member.

112.1 **5530.1300 DISCIPLINARY OR REMOVAL PROCEDURES.**

112.2 Subpart 1. **General.**

112.3 A. Membership on the roster is a privilege and no arbitrator has a right to placement
112.4 on the roster. The commissioner has authority to investigate all complaints and allegations
112.5 against roster members regarding the professional performance and compliance with this
112.6 chapter by members of the roster.

112.7 B. The commissioner shall must advise, counsel, suspend, or remove a roster
112.8 members member when the results of an investigation demonstrate violation by the arbitrator
112.9 of that a roster member has violated the performance, professional, or ethical standards
112.10 established by under this chapter.

112.11 Subp. 2. **Preliminary investigation.**

112.12 A. When the commissioner receives a complaint regarding of a roster member's
112.13 violation of this chapter by a member of the roster, the commissioner shall must conduct
112.14 an informal investigation of the matter to determine if there is probable cause to believe
112.15 that a the roster member has violated any requirements a requirement of this chapter. In the
112.16 absence of

112.17 B. If there is no probable cause to believe that a violation occurred, the
112.18 commissioner shall take no may not take further action.

112.19 C. If further action on the matter is warranted the commissioner determines that
112.20 probable cause exists, the commissioner shall must suspend the roster member from further
112.21 referrals pending the conclusion of proceedings under this chapter part.

112.22 Subp. 3. **Notice.**

112.23 A. When the commissioner finds probable cause to believe that a violation of this
112.24 chapter has occurred and that removal or disciplinary suspension of a warrants the
112.25 commissioner to remove or suspend the roster member should be considered, the

113.1 commissioner ~~shall~~ must provide written notice to the roster member and the advisory
113.2 committee.

113.3 B. The written notice must:

113.4 (1) ~~contain the nature of the action being considered and the reasons for it.~~
113.5 ~~The notice shall~~ state that the commissioner is determining whether to remove or suspend
113.6 the roster member and the commissioner's rationale for the action;

113.7 (2) provide an opportunity for the roster member to respond in writing; and
113.8 ~~shall~~

113.9 (3) ~~fix~~ set a date for a hearing on the matter before the commissioner or a
113.10 designated representative, if the roster member wishes to contest the proposed action.

113.11 Subp. 4. **Hearing.** If a hearing on a the disciplinary matter is requested by the affected
113.12 roster member, the commissioner or the commissioner's representative ~~shall~~ must convene
113.13 and conduct a hearing ~~pursuant~~ according to part 5510.1910, subparts 2a, 6, 8, 9, 10, 12,
113.14 13, and 14. Advisory committee members may attend the hearing or may review, if any,
113.15 the ~~audio-magnetic hearing recording from the proceedings or transcript.~~

113.16 Subp. 5. **Determination.**

113.17 A. The commissioner ~~shall~~ must determine the action to be taken ~~with respect to~~
113.18 on the roster member's status on the roster, based on the basis of:

113.19 (1) ~~on the record of the hearing, the~~ record if a hearing is conducted under
113.20 subpart 4;

113.21 (2) recommendations ~~of~~ from the advisory committee; and

113.22 (3) performance, professional, or ethical standards under this chapter.

113.23 B. The commissioner's determination is a final decision.

114.1 **7315.0210 SCOPE.**

114.2 This chapter applies to procedures governing independent review ~~pursuant to~~ under
114.3 Minnesota Statutes, section 179A.25.

114.4 **7315.0300 POLICY.**

114.5 ~~Parts 7315.0200 to 7315.0800 shall~~ This chapter is to be liberally construed to effectuate
114.6 the purposes and provisions of the Public Employment Labor Relations Act.

114.7 **7315.0400 DEFINITIONS.**

114.8 Subpart 1. **Other words, terms, and phrases.** Except as otherwise provided ~~in this~~
114.9 ~~chapter~~ under subpart 2, the ~~words, terms, and phrases~~ in this chapter shall have the same
114.10 ~~meaning and definition as defined~~ meanings given in part ~~7300.0100~~ 5510.0310.

114.11 Subp. 2. **Party.** "Party" means any public employee, public employer, exclusive
114.12 representative of public employees, public employee organization, or public employer
114.13 organization whose legal rights, duties, or privileges ~~will be~~ are directly determined in an
114.14 independent review.

114.15 **7315.0410 FILING AND SERVICE.**

114.16 Part 5510.0320, subparts 2 to 4, apply to a document filed or served under this chapter.

114.17 **7315.0500 PETITION.**

114.18 Subpart 1. **Authority to petition.**

114.19 A. As provided under Minnesota Statutes, section 179A.25, an employee may
114.20 petition the ~~board~~ commissioner in writing for independent review of a grievance ~~arising~~
114.21 ~~out of the interpretation of or adherence to terms and conditions of employment when no~~
114.22 ~~other such~~ another procedure exists does not exist to hear ~~that~~ the grievance.

114.23 B. The petitioner must provide file the petition with the commissioner and serve
114.24 on all parties a copy of the petition at the time of filing with the board when it is filed.

115.1 Subp. 2. **Petition contents.** The petition must ~~contain~~:

115.2 A. include the petitioner's name, address, e-mail address, and telephone number
115.3 ~~of the petitioner;~~

115.4 B. include the name names, address addresses, e-mail addresses, and telephone
115.5 ~~number numbers~~ of the other parties; and

115.6 C. ~~a concise statement specifying state:~~

115.7 (1) the terms and conditions of employment claimed to be violated;

115.8 (2) ~~whether~~ how the terms and conditions of employment claimed to be
115.9 violated are established by law, ~~rule~~, contract, or ~~practice~~ policy;

115.10 (3) the law, ~~rule~~, contract provision, or ~~practice~~ policy claimed to be violated;

115.11 (4) the conduct ~~which~~ that is claimed to violate the law, ~~rule~~, contract, or
115.12 ~~practice~~ policy;

115.13 (5) the relief requested; and

115.14 (6) why independent review of the grievance is ~~not available~~ unavailable
115.15 under any other procedure.

115.16 **7315.0650 ANSWER.**

115.17 Within 15 calendar days after ~~receipt of~~ receiving a petition, all other parties ~~shall file~~
115.18 ~~with~~ must serve on the ~~board~~ commissioner and ~~provide to~~ the other parties an answer to
115.19 the petition. The answer must ~~contain a concise statement specifying whether~~ state:

115.20 A. whether the terms and conditions of employment claimed to be violated are
115.21 established by law, ~~rule~~, contract, or ~~practice~~ policy;

115.22 B. whether the law, ~~rule~~, contract provision, or ~~practice~~ policy has been violated
115.23 by the respondent;

116.1 C. if a violation is found, ~~the~~ what relief ~~requested~~ is appropriate; and

116.2 D. whether independent review of the grievance is ~~not~~ available under ~~any other~~
116.3 another procedure.

116.4 **7315.0750 JURISDICTION.**

116.5 The ~~board commissioner~~, on ~~its own~~ the commissioner's motion or ~~on a party's~~ motion
116.6 ~~of any party~~, may ~~must~~ dismiss a petition if the ~~board commissioner~~ lacks jurisdiction. ~~The~~
116.7 ~~board may conduct a hearing on the question of jurisdiction.~~ The commissioner may dismiss
116.8 a petition:

116.9 A. by granting summary judgment after reviewing the parties' written briefs
116.10 without a hearing; or

116.11 B. after conducting a hearing according to part 7315.2100.

116.12 **7315.0900 ~~PRESIDING OFFICER; BOARD OR PANEL~~ GRIEVANCE HEARING.**

116.13 Subpart 1. Procedure to hear grievance. ~~The board, as a full body or as a panel of~~
116.14 ~~three of its members, may hear and decide an independent review. Whenever possible, a~~
116.15 ~~panel must consist of an equal number of representatives of public employees and public~~
116.16 ~~employers, and the member who represents the public at large.~~ The commissioner must
116.17 either:

116.18 A. conduct a hearing on the grievance according to part 7315.2100; or

116.19 B. follow the requirements for selecting an arbitrator under Minnesota Statutes,
116.20 section 179A.16, subdivision 4.

116.21 Subp. 2. Arbitrator duties. An arbitrator selected under subpart 1, item B:

116.22 A. has the same authority and duties as the commissioner under parts 7315.1100
116.23 to 7315.2300; and

116.24 B. must have the arbitrator's fees and expenses paid equally by the parties.

117.1 **7315.1100 BRIEFS.**

117.2 A. The ~~board~~ commissioner may request the parties to submit a written brief if
117.3 the ~~written~~ brief will assist the ~~board in making its~~ help the commissioner make the
117.4 determination under part 7315.2200. If briefs are ~~necessary~~ requested, the ~~board~~
117.5 commissioner must ~~establish a briefing schedule and~~ notify the parties of the dates for
117.6 ~~submission of~~ submitting the briefs.

117.7 B. All briefs must be served on the other parties, and proof of service must be
117.8 filed with the commissioner.

117.9 **7315.1200 NOTICE OF HEARING; NOTICE AND FORMAT.**

117.10 Subpart 1. Hearing notice. At least 15 calendar days before the hearing date, the
117.11 ~~board~~ commissioner must provide to serve on all parties ~~by certified mail~~ a notice of hearing
117.12 providing:

117.13 A. the hearing's date, time, and place ~~of hearing~~;

117.14 B. a statement of the grievance to be determined;

117.15 C. the rights of the parties to representation; and

117.16 D. that ~~failure~~ failing to appear may prejudice ~~the~~ a party's rights.

117.17 ~~A copy of this chapter must be included with the notice of hearing.~~

117.18 Subp. 2. Virtual hearing. If all parties agree, the hearing may take place virtually
117.19 through an online conferencing or videoconferencing tool.

117.20 **7315.1300 CONTINUANCE OF CONTINUING HEARING.**

117.21 A request for continuance of hearing, ~~if mutually consented to by all of the parties,~~
117.22 ~~must be granted by the board's executive director. If there is no mutual consent, the board~~
117.23 ~~must consider the request for continuance at its next meeting and may grant the request~~
117.24 ~~upon good cause shown. If a board meeting is not scheduled that provides the opportunity~~

118.1 ~~for the board to consider the request and provide a timely response, the board chair has the~~
118.2 ~~authority to consider and decide the request~~ to continue a hearing must be served on the
118.3 commissioner and all parties at least six calendar days before a hearing. The commissioner
118.4 must grant or deny a request according to part 5510.1910, subpart 11.

118.5 **7315.1400 RIGHT TO REPRESENTATION.**

118.6 Any party may be represented by a designated agent ~~in an independent review~~
118.7 ~~proceeding before the board.~~

118.8 **7315.1500 INFORMAL DISPOSITION.**

118.9 A. Informal disposition may be made of any grievance or any issue by stipulation,
118.10 settlement, or agreement at any point in the proceedings so long as the stipulation, settlement,
118.11 or agreement does not violate any law and is approved by the board. At any time after a
118.12 petition is filed and before the determination under part 7315.2200 is made, the parties may
118.13 enter into a stipulation or settlement agreement.

118.14 B. A stipulation or settlement agreement made under this part must be entered
118.15 into the record.

118.16 **7315.1600 DEFAULT.**

118.17 The ~~board~~ commissioner may decide a grievance adversely to a party who fails to
118.18 appear after receiving due notice and an opportunity for hearing.

118.19 **7315.1700 INTERVENTION.**

118.20 The ~~board may, upon timely application,~~ commissioner must allow a person to intervene
118.21 in an independent review proceeding if:

118.22 A. the person files a request with the commissioner before a hearing under part
118.23 7315.2100 begins; and

119.1 B. the applicant establishes that its commissioner determines that the person's
119.2 legal rights, duties, or privileges will be directly determined in the matter proceeding.

119.3 **7315.1800 ~~SUBSTITUTION OF~~ SUBSTITUTING PARTY'S REPRESENTATIVE.**

119.4 Substitution of a party's representative may be allowed only if notice of the substitution
119.5 is served on all other parties and the board at least seven calendar days before the hearing
119.6 date. Until a hearing under part 7315.2100 begins, a party may substitute its representative
119.7 if the party serves notice of the substitution on all other parties and the commissioner.

119.8 **7315.1900 CONSOLIDATION.**

119.9 Subpart 1. **Basis.** ~~The board~~ commissioner may consolidate cases ~~either on its own~~
119.10 ~~motion or on motion of any party~~ if the commissioner determines that:

119.11 A. separate grievances present ~~substantially~~ the same issues;

119.12 B. a decision in one case would affect the rights of a party in another case; and

119.13 C. consolidation would not ~~substantially~~ prejudice any party.

119.14 Subp. 2. **Stipulation.** Notwithstanding ~~the requirements of subpart 1~~, the parties may
119.15 stipulate and agree to consolidation. A stipulation under this subpart must be in writing and
119.16 filed with the commissioner and is subject to board commissioner approval according to
119.17 subpart 1.

119.18 Subp. 3. **Order.** ~~The board~~ commissioner must serve on all parties ~~the any~~ order of
119.19 consolidation under subpart 1 or 2.

119.20 Subp. 4. **Severance from consolidation.**

119.21 A. Within seven calendar days of receipt of the receiving an order of consolidation,
119.22 a party may file with the board commissioner a written petition for severance from
119.23 consolidation which. The petition must include the reasons explain why the requirements
119.24 of subpart 1 are were not met.

120.1 B. Upon receiving a petition under item A, the commissioner must approve or
120.2 disapprove the petition after determining whether the requirements of subpart 1 were met.

120.3 C. The commissioner must serve on all parties the commissioner's determination
120.4 under item B.

120.5 **7315.2100 THE HEARING.**

120.6 Subpart 1. **How conducted.** ~~The A hearing must be conducted as follows:~~ according
120.7 to part 5510.1910, subparts 6, 8, 9, 12, and 13.

120.8 ~~A. It shall be the duty of the presiding officer to inquire fully into the facts in~~
120.9 ~~dispute, to call, examine, and cross-examine witnesses and to require the production of~~
120.10 ~~documentary or other evidence as the presiding officer may deem necessary to be fully~~
120.11 ~~acquainted with all facts relating to the case.~~

120.12 ~~B. Any objection with respect to the conduct of the hearing, including any objection~~
120.13 ~~to the introduction of evidence, must be stated orally, together with a statement of the~~
120.14 ~~grounds of the objection and included in the record of the hearing. No objection shall be~~
120.15 ~~deemed waived by further participation in the hearing.~~

120.16 ~~C. The presiding officer may admit evidence which possesses probative value~~
120.17 ~~commonly accepted by reasonably prudent persons in the conduct of their affairs. The~~
120.18 ~~presiding officer shall give effect to any rule or privilege recognized by law.~~

120.19 ~~D. Witnesses must testify under oath and shall be subject to cross-examination~~
120.20 ~~by all parties.~~

120.21 ~~E. Upon a showing of good cause the presiding officer may allow the taking of~~
120.22 ~~depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules~~
120.23 ~~of Civil Procedure.~~

121.1 Subp. 2. ~~Transcript of board Hearing record.~~ ~~A verbatim record must be taken by~~
121.2 ~~a hearing reporter or recording equipment of any hearing conducted pursuant to subpart 1.~~

121.3 A. The hearing record must be maintained according to part 5510.1910, subpart
121.4 10, and it must be kept for 90 calendar days after the commissioner issues the determination
121.5 under part 7315.2200.

121.6 B. A party may request to have the hearing recording transcribed by submitting
121.7 a written request to the commissioner and by:

121.8 (1) making the request within 90 calendar days after the commissioner issues
121.9 the determination under part 7315.2200; and

121.10 (2) agreeing to pay the full costs for transcribing and preparing the transcript.

121.11 Subp. 3. [See repealer.]

121.12 **7315.2200 BOARD DECISIONS AND COMMISSIONER'S DETERMINATION**
121.13 **AND OTHER ORDERS.**

121.14 A. All decisions and orders issued by the board After the hearing closes, the
121.15 commissioner must be issue a determination on the petition under part 7315.0500 in writing
121.16 and must be accompanied by a statement of the reasons therefor. All decisions. The
121.17 determination must be based on the record and served on all parties.

121.18 B. The commissioner's determination and other orders shall be under this chapter
121.19 are binding on all parties and served on all parties to the case.

121.20 **7315.2300 REQUEST FOR REHEARING REQUESTING RECONSIDERATION.**

121.21 Subpart 1. Requesting reconsideration.

121.22 A. The board on its own motion or on petition of any party and for good cause
121.23 shown, may reopen, rehear, and redetermine an independent review decision. The petition
121.24 for rehearing by the parties must be served on all parties and the board within 15 calendar

122.1 ~~days of the date of the board's written decision.~~ A party may request that the commissioner
 122.2 reconsider the determination under part 7315.2200 by filing a request in writing that details
 122.3 the required grounds for reconsideration and why the request should be reconsidered.

122.4 B. The party must serve a copy of the request on the commissioner and all other
 122.5 parties. To be considered under subpart 2, a request must be served within ten calendar days
 122.6 of the commissioner's determination.

122.7 C. The required grounds for requesting reconsideration are as provided under part
 122.8 5500.2800, subpart 1, item A.

122.9 Subp. 2. Considering, granting, and determining request.

122.10 A. The commissioner must consider, grant, and make a determination on a request
 122.11 according to part 5500.2800, subpart 2.

122.12 B. If the commissioner grants a request, the hearing and briefs are according to
 122.13 this chapter.

122.14 **RENUMBERING INSTRUCTION.** Each part of Minnesota Rules listed in column A is
 122.15 renumbered with the number listed in column B. Cross-reference changes consistent with
 122.16 the renumbering are made.

<u>Column A</u>	<u>Column B</u>
<u>5500.2200</u>	<u>5510.5200</u>
<u>5500.2210</u>	<u>5510.5210</u>
<u>5500.2220</u>	<u>5510.5220</u>
<u>5500.2300</u>	<u>5510.5230</u>
<u>5500.2400</u>	<u>5510.5240</u>
<u>5500.2500</u>	<u>5510.5250</u>
<u>5500.2510</u>	<u>5510.5260</u>
<u>5500.2600</u>	<u>5510.5270</u>

123.1	<u>5500.2700</u>	<u>5510.5280</u>
123.2	<u>5500.2800</u>	<u>5510.5290</u>
123.3	<u>5500.2850</u>	<u>5510.5295</u>
123.4	<u>7315.0210</u>	<u>5510.5300</u>
123.5	<u>7315.0300</u>	<u>5510.5310</u>
123.6	<u>7315.0400</u>	<u>5510.5320</u>
123.7	<u>7315.0410</u>	<u>5510.5330</u>
123.8	<u>7315.0500</u>	<u>5510.5340</u>
123.9	<u>7315.0650</u>	<u>5510.5350</u>
123.10	<u>7315.0750</u>	<u>5510.5360</u>
123.11	<u>7315.0900</u>	<u>5510.5370</u>
123.12	<u>7315.1100</u>	<u>5510.5380</u>
123.13	<u>7315.1200</u>	<u>5510.5390</u>
123.14	<u>7315.1300</u>	<u>5510.5400</u>
123.15	<u>7315.1400</u>	<u>5510.5410</u>
123.16	<u>7315.1500</u>	<u>5510.5420</u>
123.17	<u>7315.1600</u>	<u>5510.5430</u>
123.18	<u>7315.1700</u>	<u>5510.5440</u>
123.19	<u>7315.1800</u>	<u>5510.5450</u>
123.20	<u>7315.1900</u>	<u>5510.5460</u>
123.21	<u>7315.2100</u>	<u>5510.5470</u>
123.22	<u>7315.2200</u>	<u>5510.5480</u>
123.23	<u>7315.2300</u>	<u>5510.5490</u>

123.24 **REPEALER.** Minnesota Rules, parts 5500.0400; 5500.0600; 5500.1100, subparts 2, 3, 4,
123.25 5, 6, 7, 8, and 9; 5500.1200; 5500.1500; 5510.0310, subparts 4 and 21; 5510.0510, subpart
123.26 5; 5510.1410; 5510.1510; 5510.1610; 5510.1710; 5510.2710, subparts 2 and 3; 5510.5190;
123.27 5530.0300, subparts 5, 8, 9, and 12; 5530.0600, subpart 3; 5530.0900, subpart 7; 5530.1000;

- 124.1 5530.1200, subparts 4 and 6; 7315.1000; 7315.2100, subpart 3; 7315.2400; 7315.2500;
- 124.2 7315.2600; 7315.2700; 7315.2800; and 7315.2900, are repealed.