

CHAPTER 179A

PUBLIC EMPLOYMENT LABOR RELATIONS

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179A.03 DEFINITIONS.

[For text of subs 1 to 6, see M.S.1996]

Subd. 7. **Essential employee.** "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires.

[For text of subs 8 to 13, see M.S.1996]

Subd. 14. **Public employee.** "Public employee" or "employee" means any person appointed or employed by a public employer except:

- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;
- (e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;
- (f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;
- (g) employees providing services for not more than two consecutive quarters to the board of trustees of the Minnesota state colleges and universities under the terms of a professional or technical services contract as defined in section 16B.17, subdivision 1;
- (h) employees of charitable hospitals as defined by section 179.35, subdivision 3;
- (i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;
- (j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;
- (k) an individual hired by a school district or the board of trustees of the Minnesota state colleges and universities to teach one course for up to four credits for one quarter in a year.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

- (1) An employee hired by a school district or the board of trustees of the Minnesota state colleges and universities except at the university established in section 136F.13 or for com-

munity services or community education instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; and

(2) An employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position.

[For text of subs 15 to 19, see M.S.1996]

History: 1997 c 7 art 1 s 81,82; 1997 c 156 s 3

179A.06 RIGHTS AND OBLIGATIONS OF EMPLOYEES.

[For text of subd 1, see M.S.1996]

Subd. 2. Right to organize. Public employees have the right to form and join labor or employee organizations, and have the right not to form and join such organizations. Public employees in an appropriate unit have the right by secret ballot to designate an exclusive representative to negotiate grievance procedures and the terms and conditions of employment with their employer. Confidential employees of the state and the University of Minnesota are excluded from bargaining. Other confidential employees, supervisory employees, principals, and assistant principals may form their own organizations. An employer shall extend exclusive recognition to a representative of or an organization of supervisory or confidential employees, or principals and assistant principals, for the purpose of negotiating terms or conditions of employment, in accordance with sections 179A.01 to 179A.25, applicable to essential employees.

Supervisory or confidential employee organizations shall not participate in any capacity in any negotiations which involve units of employees other than supervisory or confidential employees. Except for organizations which represent supervisors who are: (1) firefighters, peace officers subject to licensure under sections 626.84 to 626.863, guards at correctional facilities, or employees at hospitals other than state hospitals; and (2) not state or University of Minnesota employees, a supervisory or confidential employee organization which is affiliated with another employee organization which is the exclusive representative of nonsupervisory or nonconfidential employees of the same public employer shall not be certified, or act as, an exclusive representative for the supervisory or confidential employees. For the purpose of this subdivision, affiliation means either direct or indirect and includes affiliation through a federation or joint body of employee organizations.

[For text of subs 3 to 6, see M.S.1996]

History: 1997 c 7 art 1 s 83

179A.09 UNIT DETERMINATION.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. Division of units. If a designated appropriate unit contains both peace officers subject to licensure under sections 626.84 to 626.863 and essential employees who are not peace officers, the commissioner, at the request of a majority of either the peace officers or the other essential employees within the unit, shall divide the unit into two separate appropriate units, one for the peace officers and one for the other essential employees.

History: 1997 c 7 art 1 s 84

179A.10 STATE UNITS.

Subdivision 1. Exclusions. The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in this section, except

as provided in section 43A.06, subdivision 1, paragraph (c). The units provided in this section are the only appropriate units for executive branch state employees. The following employees shall be excluded from any appropriate unit:

- (1) the positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with section 43A.18, subdivision 3, and so designated in the official state compensation schedules;
- (2) unclassified positions in the Minnesota state colleges and universities defined as managerial by their respective boards;
- (3) positions of physician employees compensated under section 43A.17, subdivision 4;
- (4) positions of all unclassified employees appointed by a constitutional officer;
- (5) positions in the bureau;
- (6) positions of employees whose classification is pilot or chief pilot;
- (7) administrative law judge and compensation judge positions in the office of administrative hearings; and
- (8) positions of all confidential employees.

The governor may upon the unanimous written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

[For text of subds 2 to 4, see M.S.1996]

History: 1997 c 156 s 4

179A.11 UNIVERSITY OF MINNESOTA.

Subdivision 1. **Units.** The following are the appropriate units of University of Minnesota employees. All units shall exclude managerial and confidential employees. Supervisory employees shall only be assigned to unit 13. No additional units of University of Minnesota employees shall be recognized for the purpose of meeting and negotiating.

- (1) The law enforcement unit consists of the positions of all employees with the power of arrest.
- (2) The craft and trades unit consists of the positions of all employees whose work requires specialized manual skills and knowledge acquired through formal training or apprenticeship or equivalent on-the-job training or experience.
- (3) The service, maintenance, and labor unit consists of the positions of all employees whose work is typically that of maintenance, service, or labor and which does not require extensive previous training or experience, except as provided in unit 4.
- (4) The health care nonprofessional and service unit consists of the positions of all nonprofessional employees of the University of Minnesota hospitals, dental school, and health service whose work is unique to those settings, excluding labor and maintenance employees as defined in unit 3.
- (5) The nursing professional unit consists of all positions which are required to be filled by registered nurses.
- (6) The clerical and office unit consists of the positions of all employees whose work is typically clerical or secretarial, including nontechnical data recording and retrieval and general office work, except as provided in unit 4.
- (7) The technical unit consists of the positions of all employees whose work is not typically manual and which requires specialized knowledge or skills acquired through two-year academic programs or equivalent experience or on-the-job training, except as provided in unit 4.
- (8) The Twin Cities instructional unit consists of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate or instructor, including research fellow, located on the Twin Cities campuses.

(9) The outstate instructional unit consists of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate or instructor, including research fellow, located at the Duluth campus, provided that the positions of instructional employees of the same ranks at the Morris, Crookston, or Waseca campuses shall be included within this unit if a majority of the eligible employees voting at a campus so vote during an election conducted by the commissioner, provided that the election shall not be held until the Duluth campus has voted in favor of representation. The election shall be held when an employee organization or group of employees petitions the commissioner stating that a majority of the eligible employees at one of these campuses wishes to join the unit and this petition is supported by a showing of at least 30 percent support from eligible employees at that campus and is filed between September 1 and November 1.

Should both units 8 and 9 elect exclusive bargaining representatives, those representatives may by mutual agreement jointly negotiate a contract with the regents, or may negotiate separate contracts with the regents. If the exclusive bargaining representatives jointly negotiate a contract with the regents, the contract shall be ratified by each unit.

(10) The graduate assistant unit consists of the positions of all graduate assistants who are enrolled in the graduate school and who hold the rank of research assistant, teaching assistant, teaching associate I or II, project assistant, or administrative fellow I or II.

(11) The academic professional and administrative staff unit consists of all academic professional and administrative staff positions that are not defined as included in an instructional unit, the supervisory unit, the clerical unit, or the technical unit.

(12) The noninstructional professional unit consists of the positions of all employees meeting the requirements of section 179A.03, subdivision 13, clause (a) or (b), which are not defined as included within an instructional unit, the academic professional and administrative staff unit, or the supervisory unit.

(13) The supervisory employees unit consists of the positions of all supervisory employees.

[For text of subd 2, see M.S.1996]

History: 1997 c 156 s 5