

## CHAPTER 179A

## PUBLIC EMPLOYMENT LABOR RELATIONS

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## 179A.03 DEFINITIONS.

*[For text of subds 1 to 6, see M.S.2004]*

Subd. 7. **Essential employee.** "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, public safety radio communications operators, 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. Employees for whom the state court administrator is the negotiating employer are not essential employees. For Hennepin Healthcare System, Inc. employees, "essential employees" means all employees.

*[For text of subds 8 to 13, see M.S.2004]*

Subd. 14. **Public employee or 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 16C.08, 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 the Board of Trustees of the Minnesota State Colleges and Universities to teach one course for three or fewer credits for one semester in a year;

(l) with respect to court employees:

- (1) personal secretaries to judges;
- (2) law clerks;
- (3) managerial employees;
- (4) confidential employees; and
- (5) supervisory employees;

(m) with respect to employees of Hennepin Healthcare System, Inc., managerial, supervisory, and confidential employees.

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

(i) 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 community services or community education instruction offered on a noncredit basis: (A) 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 (B) 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;

(ii) 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; and

(iii) an early childhood family education teacher employed by a school district.

**Subd. 15. Public employer or employer.** "Public employer" or "employer" means:

(a) the state of Minnesota for employees of the state not otherwise provided for in this subdivision or section 179A.10 for executive branch employees;

(b) the Board of Regents of the University of Minnesota for its employees;

(c) the state court administrator for court employees;

(d) the state Board of Public Defense for its employees;

(e) Hennepin Healthcare System, Inc.; and

(f) notwithstanding any other law to the contrary, the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees. However, the views of elected appointing authorities who have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of rights and duties under sections 179A.01 to 179A.25.

When two or more units of government subject to sections 179A.01 to 179A.25 undertake a project or form a new agency under law authorizing common or joint action, the employer is the governing person or board of the created agency. The governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency according to sections 179A.01 to 179A.25.

"Public employer" or "employer" does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Nothing in this subdivision diminishes the authority granted pursuant to law to an appointing authority with respect to the selection, direction, discipline, or discharge of an individual employee if this action is consistent with general procedures and

standards relating to selection, direction, discipline, or discharge which are the subject of an agreement entered into under sections 179A.01 to 179A.25.

*[For text of subds 16 to 20, see M.S.2004]*

**History:** 2005 c 125 art 2 s 1-3; 1Sp2005 c 5 art 7 s 16; 1Sp2005 c 6 art 3 s 81

**NOTE:** The amendments to subdivisions 7, 14, and 15 by Laws 2005, chapter 125, article 2, sections 1, 2, and 3 respectively, are effective the day after the Hennepin County Board files a certificate of local approval in compliance with Minnesota Statutes, section 645.021, subdivision 3. Laws 2005, chapter 125, article 1, section 29, as amended by Laws 2005, First Special Session chapter 7, section 34; and Laws 2005, chapter 125, article 2, section 10.

## 179A.06 RIGHTS AND OBLIGATIONS OF EMPLOYEES.

*[For text of subd 1, see M.S.2004]*

**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, confidential court employees, and confidential University of Minnesota employees are excluded from bargaining. Supervisory and managerial court employees are excluded from bargaining. Supervisory, managerial, and confidential employees of Hennepin Healthcare System, Inc., 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, emergency medical service employees certified under section 144E.28, 911 system public safety dispatchers, 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 subds 3 to 6, see M.S.2004]*

**History:** 2005 c 125 art 2 s 4

**NOTE:** The amendment to subdivision 2 by Laws 2005, chapter 125, article 2, section 4, is effective the day after the Hennepin County Board files a certificate of local approval in compliance with Minnesota Statutes, section 645.021, subdivision 3. Laws 2005, chapter 125, article 1, section 29, as amended by Laws 2005, First Special Session chapter 7, section 34; and Laws 2005, chapter 125, article 2, section 10.

## 179A.10 STATE UNITS.

*[For text of subd 1, see M.S.2004]*

**Subd. 2. State employees.** Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. Supervisory employees shall only be assigned to units 12 and 16. The following are the appropriate units of executive branch state employees:

- (1) law enforcement unit;
- (2) craft, maintenance, and labor unit;
- (3) service unit;

- (4) health care nonprofessional unit;
- (5) health care professional unit;
- (6) clerical and office unit;
- (7) technical unit;
- (8) correctional guards unit;
- (9) state university instructional unit;
- (10) state college instructional unit;
- (11) state university administrative unit;
- (12) professional engineering unit;
- (13) health treatment unit;
- (14) general professional unit;
- (15) professional state residential instructional unit;
- (16) supervisory employees unit; and
- (17) public safety radio communications operator unit.

Each unit consists of the classifications or positions assigned to it in the schedule of state employee job classification and positions maintained by the commissioner. The commissioner may only make changes in the schedule in existence on the day prior to August 1, 1984, as required by law or as provided in subdivision 4.

*[For text of subds 3 and 4, see M.S.2004]*

**History:** 1Sp2005 c 6 art 3 s 82

#### **179A.40 HENNEPIN HEALTHCARE SYSTEM, INC.**

Subdivision 1. **Units.** The following are the appropriate employee units of the Hennepin Healthcare System, Inc. All units shall exclude supervisors, managerial employees, and confidential employees. No additional units of Hennepin Healthcare System, Inc., shall be eligible to be certified for the purpose of meeting and negotiating with an exclusive representative. The units include all:

- (1) registered nurses;
- (2) physicians;
- (3) professionals except for registered nurses and physicians;
- (4) technical and paraprofessional employees;
- (5) carpenters, electricians, painters, and plumbers;
- (6) health general service employees;
- (7) interpreters;
- (8) emergency medical technicians/emergency medical dispatchers (EMT/EMD), and paramedics;
- (9) bioelectronics specialists, bioelectronics technicians, and electronics technicians;
- (10) skilled maintenance employees; and
- (11) clerical employees.

Subd. 2. **Nonconforming units.** Preexisting Hennepin County Medical Center bargaining units covered by existing labor agreements on June 3, 2005, that do not conform to one of the 11 units described in subdivision 1 shall continue to be appropriate. If an employee representative seeks to represent employees who are residual to an existing nonconforming unit, then all of the employees who are residual to that unit shall be eligible to vote in an election conducted by the commissioner. An election shall be held when an employee organization or group of employees files a petition for an election and the petition is supported by a showing of interest from 30 percent or more of the employees who are residual to an existing nonconforming unit. The employees who are residual to an existing nonconforming unit shall be included within the existing nonconforming unit if a majority of the eligible employees who vote

cast their ballots in favor of representation during an election conducted by the commissioner. Nothing shall preclude an exclusive representative and Hennepin HealthCare System, Inc., or prior to the formation of the corporation Hennepin County, from agreeing to an election conducted by the commissioner or other appropriate procedure by which less than all of the employees who are residual to an existing nonconforming unit may be added to the unit.

**History:** *2005 c 125 art 2 s 5*

**NOTE:** This section, as added by Laws 2005, chapter 125, article 2, section 5, is effective the day after the Hennepin County Board files a certificate of local approval in compliance with Minnesota Statutes, section 645.021, subdivision 3. Laws 2005, chapter 125, article 1, section 29, as amended by Laws 2005, First Special Session chapter 7, section 34; and Laws 2005, chapter 125, article 2, section 10.