

2012 Arbitration Awards - Minnesota B.M.S.

August 15, 2014

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/admin/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PN-1217	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Work Release. Shoe allowance-n-e, Insurance-100% s-n-e; Wages-e (u-2, 2.75%); Merit-3%,3%-u (e-0, 0).	2012 - 1.25% 2013 - 0%	Shoes-not all member wear uniforms. Insurance-internal benefit. Wages-intrnl. Merit-helps close gap with detention.
10-PA-1003	Coon Rapids, City of	Vernon, Gil	150 hr. susp.	Officer failed to respond to call.	Denied	At fire station on Facebook.
10-PA-1009	Law Enforcement Labor Services, Inc.		Termination	Performance 1 yr. after suspension.	10 mo susp.	Lack of progressive discipline & notice of consequences. No back-pay.
12-PN-1041	Hennepin County (Interest Award) Hennepin Co. Sheriffs Deputies Assn	Anderson, Richard	Interest	'12-no step,\$500 lump sum-e(u-steps); 13-step+1.5%(agreed); Longevity steps; Shift & Weekend differential; Off duty work; Discipline file retention-no-e.	2012 - \$500 2013 - 1.5%	Wages & Steps-internal pattern. Other issues lack compelling reason or quid pro quo for change.
VP Panel	Metro Transit Individual Grievant	Jacobs, Jeffrey	Termination - V.P.	Bus driver lost CDL for 1 year. Rules allow for a 30 day loss.	Denied	No extraordinary circumstances that would trump the rule.
VP Hearing	Metro Transit Individual Grievant	VerPloeg, Christine	Termination - V.P.	Overall record of accidents and customer complaints	Denied	Veteran received extensive training, counseling & retraining.
12-PA-1184	Corrections Minnesota Nurses Association	Gallagher, Sharon	Placed on Unpaid Medical Leave	Ee took medical leave due to stressful relationship w supervisor. Upon return refused to meet w suprv. Refused fitness for duty evaluation-placed on unpaid leave.	Sustained	Contract limits unpaid leave to 1 yr. Backpay awarded until new evaluation scheduled. If employee refuses, employer can take action.
12-PA-1296	Minnesota, State of Minnesota Nurses Association	Flagler, John	Termination	Nurse at St Peter security hospital failed to remove herself when presence aggravated a violent patient.	Sustained	No rules governing situation. Doctor in charge did not ask her to leave.
12-PA-1304	Mountain Iron, City of Individual Grievant	Kapsch, Francis	Benefits when Terminated?	Ee pled guilty-felony theft of city funds. Fired & denied benefits. Awarded comp personal days & retiree insurance.	Sustained	Retiree insurance requires retirement, termination = forced retirement. Awarded more comp than requested.
12-PN-0656	New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages-e, (u-2.5%, 2.5%, 2.5%) New ees in Personal leave plan-no-u. Revision of Insurance MOU-e. Xmas eve premium-no-e. Shift differential-no-e	2011 - 1% 2012 - 1% 2013 - 1%	Wages-internal pattern. Insurance MOU internal benefit. No change to other issues due to lack of quid pro quo or demonstrated need.
12-PN-0434	St. Cloud, City of (Interest Award) AFSCME Minnesota Council 65	Kircher, Andrea	Interest	City Attrnys; '11-0%-e, '12-1%July-e (u-4.5%, 4.5%); New 4% step in '12-u; Change # of on call days & pay-no-e,	2011 - 0% 2012 - 1%	Wages - internal pattern. New top step - raises top pay closer to external average. On call-should be negotiated.

12-PN-1040	Washington County (Interest Award) Law Enforcement Labor Services, Inc.	VerPloeg, Christine	Interest	Deputies & Sgts. Wages-u (e-0%,0%) (u-1.5%,1.5%); Wage structure-no-u (e seeking to eliminate steps); Increase retiree insurance-no-e Increase clothing allowance-no-e; Create Specialty uniform stipend-no-e.	2012 - 0.5% 2013 - 0.5%	Wages-u kept step system + .5%. Co. ees w/o steps got 1.5% each yr. to range. Retiree insurance-internal; Clothing-increase justified, but u asked for different amounts for dep & sgts. No internal/external support-specialty unifrm.
12-PA-0752	Wright County Wright County Deputies Association.	Befort, Stephen	Termination	Deputy shared law enforcement info with her cousin after being warned this could result in termination.	Denied	No prior discipline, but serious breach law enforcement protocol and she lied about it in the investigation.
09-PA-013	Wright County Wright County Deputies Association	McCoy, Arthur	3 day suspension Timeline	Deputy sent to smoking complaint at a bar failed to go inside to check. Sgt responded to 2nd call found smokers & warned owner. No step 3 meeting.	Sustained Arbitrable	Policy limit to actions on smoking. No practical diff between Grievant's invest. & Sgt's in terms of the result. ER refused step 3 meeting.

November, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PN-0477	Anoka, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Wages: '11-0%-e (u-3%); '12-1% Jan, 1%Jul-e (u-3%); Shift pay-no-e (u-'11-\$15, 2012-\$25 per pay period)	2011 - 0% 2012 - 2%	Officers: Wages-internal pattern. Unwilling to add shift pay even though sgts receive it. Discussion of how arbitrators approach interest arbitration.
12-PA-0926	Austin, City of United Auto Workers Local 867	Jacobs, Jeffrey	Seasonal Workers	Seasonal ees worked past regular shit Union felt regular ees should have been called in on OT to finish.	Denied	Union argued past practice-none found. Contract dealt w seasonal employees. Discussion of past practice.
12-PA-0401	Carver County Minnesota Public Employees	Abelsen, James	Termination	Off-duty Deputy's domestic dispute in bar; false statement during investigation and misuse of DVS computer system.	Denied	Widespread misuse of DVS in State does not limit actions of Carver Co. Harsh treatment vs others in County justified by totality of circumstances.
12-PA-0110	Cass County AFSCME Minnesota Council 65	Reynolds, James	Job Posting	Generalist social worker position vs specific description of job posted.	Denied	Past practice vs management rights.
12-PA-1106	Crystal, City of Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Insurance Contribution	ER stopped paying into H.S.A. until new contract negotiated. Union argued continuing contract required payment.	Denied	Insur. down 16%, Contract required payment up to a max-did not restrict paying less. No language re H.S.A.
12-PN-0693	Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc.	Wallin, Gerald	Interest	Wages-e (u-'12-2%, '13-2%); 2012 Insurance-e (u-keep '11 \$'s which were 16% higher-note insur cost decreased by 16%); 2013 Ins-u (Arb increased ER amounts to same % as 2012.	2012 - 1% 2013 = 1%	Officers. Wages-internal & economy. Insurance-'12 internal pattern. '13 amounts increased to mirror 2012 ratio to cost.
FMCS	Deer River Health Care Center Minnesota Nurses Association	Remington, John	Termination	Exceeded scope of practice as RN by running an ultrasound on herself..	Sustained	Did not use it on a patient. No prior discipline, no warning, no investigation.
11-PN-1163	Ely, City of (Interest Award) Law Enforcement Labor Services, Inc. Ely, City of (Amended Interest Award)	Orman, Anthony	Interest	Duration-3y-e (u-2y); Wages 2011-e (u-1%); '12-2% July-u (e-1%Mar); '13- both agreed; Pro rate vac. earning-n-u Insurance-e; HRA-e; Residency- agreed.	2011 - 0% 2012 - 2% 2013 - 2%	Duration-recent history & internal. Wages '11-internal; '12 external; '13-agreement. Insurance & HRA-internal. Vacation-closest to current practice.

13-PA-0061	Eagan Support Staff Association of ISD 196	Jacobs, Jeffrey	Filling Positions	Senior candidate with "equal job relevant qualifications", not selected.	Split	Contract limits interviews to top 3 internal candidates-9 were interviewed. Selection overturned. Must re-post.
11-TD-0010	ISD 728, Elk River Elk River Education Association	Jacobs, Jeffrey	Oral Warning	Level of documentation on Oral's is excessive making it look more serious.	Denied	Contract does not limit amount of detail allowed.
12-PN-0697	Hennepin County (Interest Award) Minnesota Public Employees Assn	Schiavoni, Mary Jo	Interest	Wages: 0%, \$500 lump sum-e (u-3%); Steps-no-e, (u-reinstate '11 step+2012).	2012 - \$500	Detention Deputies. Internal pattern.
12-PA-1204	ISD 696, Ely Ely Principals Association	Orman, Anthony	Severance Payout	ER uses 210 duty days +10 holidays to calculate daily rate for severance. EE believes 210 duty day should be used. Teachers arb'd same issue Dec 2013.	Denied Sustained	Award based on past practice of the parties. Discussion on standards necessary for past practice. Arb. Frankman discounted practice.
12-PN-0681	Lac Qui Parle County (Interest Award) AFSCME Minnesota Council 65	Neigh, Charlotte	Interest	Duration-3y-e (u-2y);Wages-e (u-1.5%) Market adj-no-e (u-\$2,500); On-Call: u increase \$300 to \$350-no; e-change to \$2.50 per hour-no; P.T. On-Call increase-no-e; Easter premium-y-u; Life insurance increase-y-union.	2012 - 1% 2013 - 1% 2014 - 1%	Dep&Jail/Dispatch: Duration & Wages internal pattern. On-Call - insufficient evidence for either change. Easter-Good Friday already a holiday, only a few work on Sunday. Life insurance-internal pattern.
12-PN-1175	Lino Lakes, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	2012-1% 7/1-u (e-1% 12/31); '13-1.5% -u (e-1%); Family H.S.A.-\$2500-u, (e-\$2000); '12 f ins-e; s ins-split; Opt-out amount-e.	2012 - 1% 2013 - 1.5%	Only 1 group settled therefore no internal pattern for wages or insurance. Wages '13-external average. Single. insurance lists both 100% & \$ amount.
12-PA-1336	Metro Transit Amalgamated Transit Union Local 1005	O'Toole, Carol	Customer Complaints	Complaints driving too close to curb, speeding and honking horn.	Sustained	People sitting on curb, legs in street prior to St. Pat's parade. Driver's actions reasonable.
12-PN-0571	Pine County (Interest Award) AFSCME Minnesota Council 65	Kircher, Andrea	Interest	Add personal leave day-no-e; Wages-agreed; Market adjustment-no; Shift language specifying hours-no-e.	2012 - 1.5% 2013 - 1.5%	Leave- no quid pro quo. Unreasonable to second guess job classifications. Shifts are management rights.
FMCS	Sara Lee Baking Company Teamsters Local 120	Kircher, Andrea	Unused Vacation	Retiree seeking payout claims vacation is earned in previous year.	Denied	Past practice, no carryover language & ees vac amt.credited on year of annv.
11-RA-0989	SuperValu, Inc. Teamsters Local 120	Reynolds, James	Termination	Driver on last chance agreement for falsifying record submitted wrong start time.	Denied	Contract states falsification of any record shall be grounds for discharge.

October, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PA-0925	Austin, City of United Auto Workers Local 867	Toenges, Rolland	Past Practice	City repudiated practice re call-back time.	Sustained	Practice upheld since language is not clear & practice interprets it.
FMCS	Electrolux Home Products, Inc. IAMAW District Lodge 165	Bognanno, Mario	Termination	EE climbed on top of machine to retrieve tool w/o performing required "lock out" safety steps.	Denied	Contract calls for termination. The act was so obviously prohibited that formalizing explicit rule unnecessary.
12-PA-1220	Hennepin County Teamsters Local 320	Fogelberg, Jay	Termination	Box of 22 cal. bullets found on ees cleaning cart. Also violated order by entering crime lab to clean.	2 week susp.	EE claims he found bullets & they were on cart for 2 years. Suspension based on insubordination re crime lab.

12 PA 0996	ISD 194, Lakeville Education Minnesota - Lakeville	Reynolds, James	Travel Stipend	Assigned 2 schools, seeking travel stipend of \$5,250 per contract.	Denied	Reimbursed only if travel results in loss of prep or increase in duty day.
12-PA-1031	ISD 625, St. Paul IUOE Local 70	Kapsch, Frank	Termination	Ee sent sexually explicit emails using district's computer.	Denied	Violation of District's email policy.
			Skipped Grievance Step	Union filed for arbitration after step 2 failing to use step 3 as required.	Sustained	Presumption favors arbitration over dismissal of grievance.
12-PA-1256	Metro Transit Amalgamated Transit Union Local 1005	Toenges, Rolland	Final Record of Wrning+20d susp.	Bus driver failed to turn cell phone off while storing it on bus.	Final Record Warning+15d	Violation of policy, but did not talk or text on the phone which is mitigating.
12-PA-0680	Northfield, City of Law Enforcement Labor Services, Inc.	Kircher, Andrea	Salary Schedule Placement	2 tiers for those hired before or after 2007. Can new sgt use patrol hire date?	Denied	Union attempt to negotiate change supports ER interpretation of contract.
13PA0122	St. Paul, City of Laborers Local 132	Beens, Richard	10 day suspension	2 water dept. ees working in a trench without trench box end panel. Discussion re unfair labor practice.	Sustained	Ees unaware suprv. had removed panel to move box. Failed to investigate before discipline.
???	St. Paul, City of St. Paul Police Federation	Befort, Stephen	1 day suspension	Squad car using lights & siren struck car that ran a stop sign, wasn't using headlights & driver was DUI.	Oral reprimnd	Officer's speed excessive (43mph). Acc. preventable in spite of others negligence. But policy calls for oral.

September, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Associated Milk Producers, Inc. Teamsters Local 120	Gallagher, Thomas	Termination	Violation of attendance policy.	Sustained	Long term employee, good record, having trouble adjusting to day shift. Given 3 year last chance plan by arb.
12-PN-0694	Baxter, City of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages-0%, 0%-e (u-1%/1%, '12-2%) Increase severance-no-e.	2011 - 0% 2012 - 0%	Wages-based on economy, no internal settlements. Sick buyback should be negotiated-internal pattern exists.
12-PN-0334	Blue Earth County (Interest Award) AFSCME Minnesota Council 65	Miller, Richard	Interest	Co. Attorneys. 2012-1% Jan, 1% July 2013-1.5% Jan, 1% July-e (u-30%)	2012 - 2% 2013 - 2.5%	Internal, external &CPI considered. Discussion on 2 tiers for Co Attorneys salaries, PELRA & M.S. \$388.18, (6).
12-PA-0975	ISD 85, Springfield Springfield Education Association	Tongs, Rolland	Adding 6th Class	6th class "Tiger Time" added to teachers schedule (no prep nor tests).	Denied	No reference to period length - history of flexibility in the schedule.
12-PN-0609	Mound, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Shift differential-no-e; 2011-1%July-e (u-3%), 2012-1%-e (u-3%); Me too-y-u; Insurance-no change-u (e-\$ cap single)	2011 - 1% 2012 - 1%	Shift pay not common in market. Wages and insurance internal - see Sergeants June 2012 arbitration.
12-PA-1181	Pope County Teamsters Local 320	Beens, Richard	Termination	Last Chance Agreement in 2010. Fired for using computer for personal browsing in violation of policy.	6 mo susp.	LCA had no expiration, but returned her to former pay after 1yr. Therefore reasonable to assume 1y expiration. Returned to work but no back pay.
12-PA-0982	Ramsey County AFSCME Minnesota Council 5	Yaeger, Thomas	Working out of Classification	Case Aide worked as Social worker from 2007-2009. Did not file grievance fearing it would be used against him.	Denied	Untimely. The ER voluntary payment for a portion of the time did not reset the clock for a grievance.

12-PA-0729	Red Wing, City of Teamsters Local 320	Befort, Stephen	Callback Pay	Officers called into work 1 hour before regular shift paid at OT rate vs Callback.	Denied	30 years of past practice.
12-PN-0951	St. Louis County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Reduce benefits (vac,sick,etc.)for new ees-n-u; Wages-u (e-1, 1.5% if benefits reduced); Increase on-call pay-no-e; Step compression-n-e; Uniform, 50 to \$54/m & \$70 shoe voucher in 2013-u; Shift differential +\$.05/h in 2013-u. Workers comp disability duration change-u.	2012 - 1% 2013 - 1.5%	Reduce benefit?-no compelling reason nor quid pro quo; Wages internal. Step compression & on-call- no compelling reason. Uniforms-rising costs. Shift diff-same as corrections. Workers comp same as county policy.

August, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PA-0665	Anoka County Law Enforcement Labor Services, Inc.	Crump, Harry	Written Reprimnd	Deputy failed to indicate injury or property damage on a tag.	Sustained	Never told this could lead to discipline.
12-PN-0995	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Remington, John	Interest	Detention Dep. 2yrs-u (e-1yr); Wages 2012-1.5%-u (e-0%), 2013-0%-e (u-1.5%); Merit base pay 2012-0%-e.	2012 -1.5% 2013 - 0%	Duration-encourage more stable relations. Wages external-lowest paid county. Merit - internal.
12-PA-0927	Austin, City of United Auto Workers Local 867	VerPloeg, Christine	Unit Work	Non-union employee drove Loader on Saturday.	Denied	Equipment doesn't belong to Union. Contract governs regular assignment.
12-PA-0732	Brooklyn Center, City of Law Enforcement Labor Services, Inc.	Malamud, S.	3 day suspension	Officer's 6 accidents in 18 mo.- driving 82 mph, prior to being struck by DUI.	Sustained	Speed & lack of lights or siren did not violate policy. Timeline discussion.
FMCS	Flint Hills Resources, LP United Steelworkers Local 662	Gallagher, Thomas	Termination	Created hostile environment for female employee. Refused to communicate or cooperate w her. Called her names.	11 mo. susp.	20 yr. employee - no prior discipline. Returned to work with no back pay.
FMCS	Gerdau Ameristeel U.S. Inc. United Steelworkers Local 7263	Beens, Richard	Termination	Employee with chronic diarrhea - left a mess in hallway and restroom w/o reporting it to anyone.	Denied	Violation of contract's health & safety. Received 5 days for similar incident.
12-TD-0005	ISD 300 Lacrescent-Hokah Education Minnesota	Paull, David	Termination	Special ed. teacher dragged a student by his leg & failed to provide a rest break for a student who became agitated.	Denied	15 year teacher. No progressive discipline, but both events met statutory grounds for termination.
12-PA-0566	ISD 625, St. Paul Federation of Teachers	Jacobs, Jeffrey	Pay for teaching an extra course.	Seeking extra pay for 7 period day vs standard 6 period day.	Sustained	District - PLC time is part of average teaching assignment - no. Teaching requires student contact & evaluation.
12-PA-1112	ISD 2170, Staples Motley Staples Motley Education Association	Befort, Stephen	4 day suspension.	Teacher embarrassed student about sexual orientation in front of classmates.	Written Reprimand	No intent to embarrass. District failed to provide details prior to investigation. No investigation of students who had been harassing the victim.
???	Metro Transit Individual Grievant	Kircher, Andrea	Termination - V.P.	Injured on the job & physically unable to continue job. Seeking another position.	Denied	Unable to find a position where he was the most senior qualified.
12-PA-0405	Minnesota, State of, Board of Public Teamsters Local 320	Fogelberg, J.C	Contract Duration	Steps frozen during listed yrs. '10, '11. Continuing contract language should allow for steps in '12 - no.	Denied	"All compensation. . .shall remain in effect" means the compensation without steps as specifically excluded.

12-PN-0790	Spring Lake Park (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Wages: 2012-2%-e, 2013-1%-e (u-3%,3%); Uniforms: \$740 (u-2012-\$710, "13-\$720); Change uniform carryover-no-u.	2012 - 2% 2013 - 1%	Officers' wages-internal. Uniforms-sgts. amount (more than union requested). No to ER's uniform carryover change because sgt's. language not changed.
12-PA-0579	University of Minnesota AFSCME Minnesota Council 5	Ogata, Harley	Required v preferred qualifications.	Contract bars requiring teaching license. But, only those with license interviewed.	Denied	No bar to adding selection criteria beyond essential qualifications.
12-PN-0441	Willmar, City of (Interest Award) Willmar, City of (Amended Award) Willmar, City of (Court Order Vacating) Law Enforcement Labor Services, Inc.	Latimer, George	Interest	Wages: '11-officers 1%, sergeants 2%; '12-officers 1%, sgts. 2%-u (u seeking 2%for officers & 3% for sgts each yr.; e-'11-0%both, '12-1%both). Insurance- fixed \$ vs % amt-no-u. Amended award-insurance correction.	2011 - 1% 2012 - 1%	Wages - external. Addressed sgts. pay compression issue. Insurance: city's internal pattern weakened by having lower tier benefits for new ees. Amended award vacated-arbitrator exceeded authority by changing date.

July, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-1261	Cold Spring, City of Law Enforcement Labor Services, Inc.	Vernon, Gil	Termination	School liaison officer complained on how a principal handled situation when student brought gun to school.	Denied	Violated data practices by sharing info on investigation of a juvenile.
FMCS	G4S Regulated Security Solutions Association, Local 24	Beens, Richard	Termination	Armed security guard a nuclear facility unable to pass mandatory test.	Denied	ADA raised by Union; arbitrability by ER. Unable to perform essential duties.
11-PN-0781	Mille Lacs County (Interest Award) Law Enforcement Labor Services, Inc.	McCoy, A. Ray	Interest	2011-0%-e (u-1%); 2012-1%-u(e-0%); Steps-yes-u; Raise comp accrual-no-e OT after 8 hrs-no-e; Uniforms- 11 +\$50, 12 +\$50-u; Retain 100% single insur-u; Change ER from Sheriff to Co board-no-u.	2011 - 0% 2012 - 1%	Deputies Wages-pattern. Steps-long practice & increas'd value of experience. OT- lack of evidence. Uniforms-jailers got \$90. Insurance-long practice & some others still receive 100%.
12-PA-0194	Minnesota, State of, Board of Public Defense Teamsters Local 320	Before, Stephen	Excessive Workload	Public defenders claim high case load creates ethical dilemma re adequate representation. Seeking limit of 400 cases.	Denied	No contract language. Remedy requested in conflict with statute requiring representation for indigent.
12-VP-0180	Minnesota, State of, Department of Veterans Affairs Individual Grievant	Fogelberg, J.C	Termination - V.P.	Cashier at Veteran's home fired due to missing cash deposits.	Denied	Case built on circumstantial evidence. No reasonable theory to explain missing money.
12-PA-0561	Oakdale, City of Law Enforcement Labor Services Inc.	Before, Stephen	Injured on Duty	Seeking waiver of using 5 sick days before receiving Injured on Duty coverage.	Denied	Waiver is at "Employer's discretion" per contract language.
12-PA-0744	Ramsey County AFSCME Minnesota Council 5	Fogelberg, J.C.	Termination	Food service worker at Care Center engaged in heated arguments w co-workers	19 mo. susp.	Progressive discipline - but, supervisor failed to address issues brought to her attention. Returned to wk-susp w/o pay.
12-PN-0039	Waseca County (Interest Award) Deputies and Jailers/Dispatchers	VerPloeg, Christine	Interest	3 yrs-e; Compensation-20 stps-e; Hire above start-e; Steps frozen at contract expiration-e; Insurance-e; Uniform returned when employment ceases-e	2012 - 1.1% 2013 - 1.7% 2014 - 1.7%	Compensation plan changed from 6 steps to 20 steps. Increases reflect averages of annual step movement. Jail/Disp averages: 12-0.7%; 13-1.97% 14-1.86% (U seeking 2% + steps/year). Award based on internal patterns or lack of support for requested changes.
12-PN-0368	Teamsters Local 320			No changes to: FTO, Shift diff., Retiree Insurance; Work week; Maximum sick accrual; Transfer sick to Vac. Account-u.		

12-PA-0607	West Metro Education Program West Metro United Educators - Education Minnesota	Schiavoni, Mary Jo	Paid Time Off	Grievant placed on paid Admin leave until EEOC mediation where she agreed to resign. Changed mind after 3 days. Charged 3 days PTO.	Sustained	Union argued G remained on Admin leave. Contract doesn't require G to receive admin leave pay, but she has option to use PTO or unpaid leave.
12-PA-0867	Winton, City of United Food & Commercial Workers 1189	Jacos, Jeffrey	Termination	Liquor store manager testified at unemployment hearing on behalf of ee (daughter-in-law) w/o notifying city.	Split	Failure to notify City was act of disloyalty. Removed as manager returned as bartender-no back pay.

June, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PN-0520	Apple Valley, City of (Interest Award) Law Enforcement Labor Services, Inc.	VerPloeg, Christine	Interest	Sergeants. 1/1/11-1%, 12/31/11-.25%; 1/1/12-1.25%,7/1/12-1.25%;(u-11-3%, 2012-3%/3%). Insurance-e;\$80 HRA-u; Uniforms-\$875, \$900-u; Holidays change language-no-u; July 4, eliminate double pay-no-u.	2011 - 1.25% 2012 - 2.5%	Wages-internal pattern. Insurance-significant change base on pattern; \$80 HRA quid pro quo for ins change (benefit expired in other contracts); Uniform allowance-same as patrol. Holiday issues-same as patrol.
12 PA 0137	ISD 282, St. Anthony-New Brighton School Service Employees Local 284	Kircher, Andrea	Termination	Unexcused absences & lied on job application. Lack of progressive discipln?	Denied	Series of written reprimands. Last-straw discharge
12-PA-0322	ISD 361, International Falls Education Minnesota	Frankman, Janice	In-Service Training	Contract requires a bumping meeting & in-service training. Can bumping meeting be considered in-service? - No.	Sustained	In-service training principally provides substance for professional development. Training also requires Union input.
FMCS	J. J. Taylor Companies, Inc. Teamsters Local 792	Jensen, Eugene	Financial relief for route changes.	Is relief for lost commissions provided for route lost by seniority bidding?-no.	Denied	Relief is provided when employer changes a route causing a loss.
12-PA-0596	Metro Transit Amalgamated Transit Union Local 1005	Flagler, John	Final record of warning	3rd accident. Another vehicle struck bus in a round-about.	Sustained	Video showed other vehicle struck bus.
12-PA-0826	Metro Transit Amalgamated Transit Union Local 1005	Neigh, Charlotte	Verbal Warning	First responsible accident. Braked suddenly - passenger fell.	Denied.	Following to closely. Policy defines passenger falling as an accident.
???	Metro Transit Amalgamated Transit Union Local 1005	VerPloeg, Christine	Verbal Warning	First responsible accident. Failed to properly secure wheelchair - tipped over..	Denied	Policy requires 4 point securement, only 2 were used.
11-PA-0886	Human Services Minnesota Nurses Association Ruling Related to Post-Award Motion	Gallagher, Thomas	Oral Contract	Nurse took voluntary demotion, was promised she would retain pay level, but pay reduced. ER gave appointment letter 2 days late.	Split	Contract doesn't allow enforcement of contracts w individuals. Remedy for late letter - pay higher pay rate until new opening occurred.
12-PN-0205	Mound, City of (Interest Award) Law Enforcement Labor Services, Inc.	Paull, David	Interest	Supervisors. 2011-1% July; 2012-1%-u (e-2011-0%, 2012-.5%); Call back-2hr min-u; Uniforms-no incr-e; Insurance-\$ cap on single-no-u; Vac. carry over-1.5 x earned, 480 hours if +10 years-e.	2011-1% July 2012-1%	Wages-external (no intrnl agreements). Call back & Vac. carry over - internal. Uniforms-above external avg. Insurance cap not necessary due to 16% drop in premiums (may need in future).
12-PA-0893	Red Wing, City of Teamsters Local 320	Johnson, John	Timeline	Union sent timely letter to city that they were arbitrating issue - but did not immediately request list from BMS.	Denied	Contract gives method of appeal as requesting list of arbitrators from BMS within 10 days.
11PA-1099	St. Louis County Teamsters Local 320	Beens, Richard	Bargaining Unit Work	Supervisors were snow plowing a parking lot as a training exercise.	Denied	Union had given an intent to strike notice. Supervisors would have to fill in.

12-PA-0114	University of Minnesota Teamsters Local 320	Crump, Harry	Bidding	Change from bidding zones w only 1 doing cleaning to teams working in area. Violation of MOU?	Denied	Legitimate bus.reason for modification of any past practice. Discussion of management rights and past practice.
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May, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	CHS, Inc. Teamsters Local 792	Kircher, Andrea	Termination	Grain handler allegedly yelled at customer & used vulgar language.	Sustained	No progressive discipline, inadequate investigation.
FMCS	Gilleland Chevrolet Cadillac IAM Local 623	Remington, John	Termination	Parts runner failed to report accident with company car.	Sustained	Claims he called supervisor w report. Supervisor not asked to rebut claim.
11-PA-0985	Hennepin County IUOE Local 49	Miller, Richard	Remedy for OT Violation	Union seeking pay for OT lost. ER offered makeup OT.	Sustained	Makeup OT not appropriate in seniority based system.
12-PA-0720	Metro Transit Amalgamated Transit Union Local 1005	Schiavoni, Mary Jo	Final Record of Warning	3rd bus accident in 12 months. Hit mirror & damaged door.	Denied	If only mirror damaged not considered a responsible accident. Sustaining grievance would change policy.
???	Minneapolis, City of Minneapolis	Reynolds, James	Termination	Charged with Felony domestic assault. Wife recanted-pled to misd. domestic asslt.	30 hour susp.	Inadequate investigation.
11-PA-0787	Minnetonka, City of Teamsters Local 320	VerPloeg, Christine	Severance Pay	Police officer, 46yrs old, left w 23 yrs. service. Denied because not eligible for pension until age 50.	Denied	Contract language supports Union - but consistent practice supports city's position.
???	Minnesota, State of, Century College Employees	Jacobs, Jeffrey	2 day suspension Termination	Buyer failed to catch errors in contracts. Changed date on contract.	Denied 30 day susp.	Received coaching/prior discipline. No proof he changed date, but was late and failed to catch error.
11-PN-0119	Minnesota, State of, Depart. of Corr Employees	Cooper, Laura	3 day suspension. 5 day suspension. Termination	Hostile, sarcastic w peers & suprv. Unprofessional & insubordinate. Unwillingness to participate in clinical supervision w/o union representative.	Denied Denied Denied	State mandate requires unlicensed therapist have cases reviewed by licensed clinical suprvs. Refusal to meet w/o union disqualifies working.
12 PA 0866	St. Louis County Association	Ogata, Harley	Termination	Supervisor in Auditors office tried to sell driver's manuals made by his company to the county.	Denied	Conducted business on county time & tried to sell to county while hiding his ownership of the business.
FMCS	Cooperative Workers and Grain Millers Union Local	Gallagher, Thomas	Oral Warning	Unexcused absence from work due to car trouble.	Denied	Reasonable rule due to difficulty in filling a 12 hour shift and the need for continuous plant operation.

April, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Centerpoint Energy Gas Workers Union Local 340	Jacobs, Jeffrey	Termination	Gas service tech under the influence which is absolute cause for discharge.	8 month susp.	State law bars termination on first failed drug test. Went through rehab; reinstated w/o back pay.
12-PA-0053	Chisago County Teamsters Local 320	Fields, Bernice	Demotion	New sheriff reorganized department eliminating the Lt rank. Does Lt retain his pay in new sergeant position - no.	Denied	Inherent management right. Pay is discretionary per policy.
12-HN-0429	(Interest Award) Association	Daly, Joseph	Interest	2012-2%-u (e-0%), 2013-1% (u-2%, e-.5%); PTO-40 hour reduction-e	2012 - 2% 2013 - 1%	Both wages & PTO match nurse's contract.
12-PA-0072	Crow Wing County Law Enforcement Labor Services, Inc.	Kapsch, Frank	Termination	Deputy accused of insubordination for complaining re order to remove a file cabinet from the office.	Sustained	Lack of just cause. Sheriff had personal animus & hostility towards deputy who supported his opponent.
12-HA-0687	Ely-Bloomenson Community Hospital Minnesota Nurses Association	Anderson, Richard	Layoff Seniority	Less senior RN's retained due to restriction barring bumping if position requires more than 4 weeks orientation.	Sustained	Some positions properly denied but "casual" (part-time) positions were not.
12-PA-0131	ISD 11, Anoka - Hennepin Anoka-Hennepin Education Minnesota	Gallagher, Thomas	5 day suspension.	DCD student was held to overcome his resistance while cleaning his fingernails.	Split	Letter of deficiency Motivation was benign, no prior discipline.
11-PA-1211	ISD 2580, East Central AFSCME Minnesota Council 65	Gallagher, Thomas	Past Practice Bumping Rights	Para lost van driving assignment, tried to bump into another van assignment. ER claimed special assignments not covered in contract.	Sustained	12 year practice of paras driving vans based on seniority - back pay ordered. But practice repudiated in negotiations so practice is discontinued in spite of ER not getting exclusion in contract.
12-PA-0595	Metro Transit Amalgamated Transit Union Local 1005	Beens, Richard	20 day susp.	Bus driver talking on cell phone.	Denied	20 day suspension for first offense is reasonable, and consistent.
???	Metro Transit 1005/ Individual Grievant	Jacobs, Jeffrey	Termination - V.P.	Used cell phone to report mechanical problems. Stopped-no passengers.	Denied	Veteran was aware of safety policy barring use of cell phones.
12-PA-0300	Metro Transit Amalgamated Transit Union 1005	Ogata, Harley	Driving violation	Bus driver entered crosswalk after stop light turned yellow.	Denied	May have been mitigation if driver acknowledged violation rather than claiming professional judgment call.
???	Minneapolis, City of Teamsters Local 320	Fogelberg, J.C.	Termination	Truck driver's 2nd positive marijuana test. Union argued 6 yrs. between tests.	Denied	City's exposure to liability outweighs any other mitigating factors.
FMCA	Shaw/Stewart Lumber Company Teamsters Local 120	Toenges, Rolland	Termination	Violated no fault attendance policy.	Denied	Policy has been administered in a uniform and consistent manner.
11-RA-0537	SuperValu Teamsters Local 120	McCoy, Arthur	1 day suspension	Wearing ear buds in the warehouse.	Denied	ER can establish work rules and can jump steps in progressive discipline.
11-RA-0538			Written Warning	Using cell phone & operating forklift.	Denied	

March, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-0824	Chisholm, City of AFSCME Minnesota Council 65	Gallagher, Thomas	Changing shift to avoid overtime.	Ees told to report 2 hours early, then sent home 2 hrs. early so no OT earned.	Denied	Contract right to schedule.
11-PN-0927	Clearwater County (Interest Award) Teamsters Local 320	Powers, Nancy	Interest	Insurance: eliminate \$500 d plan-no-u; change % to fixed \$ for family ins-no-u; change Union security & ee rights-no-u. Union seeking Uniform \$ rollover-no-e; change to shift premium hours-no-e.	2011 - 0% 2012 - 0%	0% & steps both years - ER position. (U seeking 3%, 3% + steps.) Award based on internal pattern & economy. Issues denied lacked quid pro quo or compelling need for change.
???	Jones Metal Products, Inc. Sheet Metal Workers Local 10	Gallagher, Thomas	Termination	Steward told shop workers they didn't have to fill out a form from the supervisor. Returned to work w/o back pay.	6 month susp.	Didn't know form was mandatory, so no intent. Should have talked to suprvr first. Long discussion of just cause.
11-TD-0009	SD 423, Hutchinson Individual Grievant	Imes, Sharon	Discharge	Insubordinate & conduct unbecoming a teacher when she yelled, sworn and threatened an assistant principal.	30 day susp.	Committed an offense that is grounds for termination, but is remediable.
12-PA-0301	Metro Transit Amalgamated Transit Union Local 1005	Schiavoni, Mary Jo	Record of Warning	Customer claimed driver closed bus door on his arm. Warning remains on record for 3yrs - same as an accident.	Denied	Union argued not an accident - no damage nor injury. Denied due to failure to report & potential for harm.
12-PA-0410	Metropolitan Council Transit Operations Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Responsible Accident?	Bus driver blinded by sun hit parked bus in garage - final written warning.	Sustained	Discipline given before viewing video that provides mitigation.
11-PA-0921	Branch AFSCME Minnesota Council 5	Jensen, Eugene	Termination	Sr. court clerk snotty & condescending behavior towards co-workers & clients.	Denied	Warned, counseled & prior discipline. Displayed no insight into her behavior.
12-VP-0582	Minnesota, State of Individual Grievant	Wallin, Gerald	Termination - V.P.	Security officer at Moose Lake susp'd. 7 days for inaccurate bed & sharp tool counts then failed to return to work/	Denied	Progressive discipline. Gave no reason for failing to return to work after his suspension.
12-PA-0151	Rice-Steele County Communications Teamsters Local No. 320	Toenges, Rolland	Longevity vs Base Wage	MOA w "me too" base wage language. Does adding longevity step to another contract = a base wage increase?-No.	Denied	Base rate is rate of pay absent any special pay or allowances.
12-PA-0406	St. Louis County AFSCME Minnesota Council 5	Flagler, John	Annual step while on unpaid leave.	3 months were added to the year of service step calculation due to 3 mos. unpaid child care leave.	Denied	Ee must demonstrate competence & can only be evaluated when there.

February, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Ampco System Parking Teamsters Local 120	Beens, Richard	Termination	Car runner in valet parking garage did not check if keys were in car-4th offense.	Denied	Progressive discipline steps listed in contract and followed by employer.
FMCS	Centerpoint Energy Gas Workers Union Local 340	Jacobs, Jeffrey	Termination	Foreman's inadequate documentation of 2 gas leaks.	30 day susp	Not "Absolute" neglect of duty. Insuffnt. prior discipline to justify termination.
11-PA-1070	Carver County AFSCME Minnesota Council 65	Fogelberg, J.C.	Step increases	Attorney's step movement stopped when contract impasse declared and issues were certified for arbitration.	Sustained	Continuing contract doesn't end at impasse for essential employees. See Aug 2011 Interest Arb. 10-PN-423

12-PA-0038	Duluth Airport Authority AFSCME Minnesota Council 5	Miller, Richard J.	Benefit while on disability.	Union seeking deferred comp while on long term disability.	Denied	Prohibited by both Federal and State laws. Only active ees can participate.
12-PA-0020	Hastings, City of Law Enforcement Labor Services, Inc.	Kapsch Jr. Francis	Termination	Police officer seeking relationship w woman fails to remove himself from conflict of interest in arrest of ex-boyfriend.	Denied	Last chance agreement for lying & bad judgment. Similar issues involved here.
11-PA-0836	ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota	Wallin, Gerald	Staff Meetings	Seeking compensation for 20 minutes scheduled before duty day.	Split	Meetings were reasonable & needed therefore allowed with no pay. Any training scheduled is compensable.
11-PA-1093	ISD 316, Greenway Education Minnesota - Greenway	Wallin, Gerald	Transfer while on probation.	Probationary teacher denied transfer bid due to difficulty in evaluation.	Sustained	No contract bar to transfer.
12-PA-0139	ISD 748, Sartell SEIU, Local 284	Miller, Richard J.	School Bus Driver pay	Type III Vans replaced by Micro buses Vans paid at lower rate; union seeking regular bus rates for micro buses.	Sustained	Micro bus is a school bus, not a van. Ongoing grievance. Backpay only to date of filing grievance.
12-PA-0040	ISD 2142, St. Louis County Education Minnesota, St. Louis County	Daly, Joseph	Assignment	Teacher picked courses on "bump night" then had them denied.	Denied	Bump night is for seniority selection of bldg. Mistake of initial approval can be corrected.
12-VP-0358	Minnesota, Department of Corrections Individual Grievant	Befort, Stephen	Termination - V.P.	Convicted poss. of controlled substance; failed to notify of prior conviction;	Denied	Off-duty has a nexus with job. Also has prior discipline.
11-PA-0712	Moorhead, City of AFSCME Minnesota Council 65	Reynolds, James	Promotion	Outside candidate selected as Crew Chief over grievant.	Denied	City utilized a reasonable selection process.
12-PA-0309	Red Wing, City of IAFF Local 2078	Miller, Richard	Shift exchange policy Arbitrability	Firefighters challenged policy limiting shift exchanges if vacation available Similar incident not grieved & did not grieve policy when published.	Sustained Arbitrable	Policy added restriction not in contract. Failing to grieve is not a waiver. Premature to file before violation.
11-PA-1080	Rogers, City of Law Enforcement Labor Services, Inc.	Neigh, Charlotte	3 day suspension	Officer entered an apartment looking for a suspect w/o a warrant.	Denied	Did not knowingly commit violation or there would be greater punishment..

January, 2012

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Aggregate Industries Teamsters Local 120	Jacobs, Jeffrey	Termination	Truck driver working with Last Chance Agreement failed to wear seat belt.	Denied	Last chance agreement triggered by any violation of company rules.
FMCS	Honeywell International Inc. Teamsters Local 1145	Gallagher, Thomas	Clarification of Nov. 2011 Award	Union seeking return to prior job - yes When does demerit time start?	Split	Demerit time starts upon return to work - employer's position.
12-HA-0050	Immanuel St. Joseph's Hospital AFSCME Minnesota County 65	Jacobs, Jeffrey	Termination	Storeroom clerk with history of inappropriate behavior engaged in a verbal altercation with a co-worker.	Denied	Series of minor offenses, has effect of providing evidence employee can no longer work in this setting.
11-PA-0078	Metropolitan Council, Metro Transit Div Amalgamated Transit Union Local 1005	Kapsch, Jr. Francis	Termination	Violation of no fault absenteeism rules 13 absences in rolling 12 month period.	Denied	Dispute over FMLA exceptions to policy.
12-VP-0115	Minnesota, Depart.of Human Services Individual Grievant	Toenges, Rolland	Termination - V.P.	Dentist's license lapsed for failure to complete continuing education credits.	Denied	Continued practicing for 2 days after license lapsed contrary to statute.
11-VP-0473	Minnesota, Depart.of Military Affairs Individual Grievant	Befort, Stephen	Termination - V.P.	Sexually inappropriate behavior with a co-worker.	Denied	Two prior reprimands in year dealing with sexually inappropriate behavior.

11-PA-0786	Princeton, City of AFCME Minnesota Council 65	Frankman, Janice	Schedule change to eliminate OT	Employees told to take off Fri. so they could plow snow on Sunday & remain below 40 hours for the week.	Split	City can change schedule. OT pay for Sunday is covered by policy & is not in conflict with contract.
12-PA-0088	Richfield, City of Law Enforcement Labor Services Inc.	Wallin, Gerald	Wrtn Reprimand Arbitrability?	Officer violated pursuit policy. Policy is precise, situation did not provide an exception.	Denied	Arbitrability - choice of remedies does not list written as eligible for arb.- but statute requires grievance process cover written - therefore arbitrable.
FMCS	St. Croix Electric Cooperative IBEW Local 953	McCoy, Arthur Ray	Termination	Grievant allowed his children to operate a fork lift; he caused damage w fork lift & disabled security cameras.	Denied	3 priors, but offense serious enough to justify termination alone. Initially lied about events.