

# 2011 Arbitration Awards - Minnesota B.M.S.

March 26, 2019

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

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

## December, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<a href="#">DeZurick Incorporated</a> Int Assn of Machinists District 165	Remington, John	Termination	Low productivity in a factory setting.	Sustained	Insufficient evidence to prove low productivity & procedural deficiencies.
FMCS	<a href="#">Dotson Company</a> GMPIU	Jacobs, Jeffrey	Sick leave	Policy denies use of sick leave on Saturdays.	Sustained	No such restriction in contract.
11-PA-0939	<a href="#">Duluth, City of</a> AFSCME Minnesota Council 5	McCoy, Arthur Ray	2 day suspension	Insubordinate by leaving assignment early; falsified timesheet and claimed mileage reimbursement not due.	Split.	Written warning, Can only bypass warning when conduct is so severe that warning can't correct it.
None listed	<a href="#">FMS Corporation</a> IBEW Local 292	Jacobs, Jeffrey	Union access to plant	BA denied access to plant. Co. cites when necessary language & Union dropped unfair labor practice.	Sustained	Contract only requires BA to sign in before entering. Union decides when necessary.
12-PA-0049	<a href="#">Hennepin County Medical Center</a> AFSCME Minnesota Council 5	Fogelberg, J.C.	Termination	Medical assistant - loud threatening abusive language.	Denied	Pattern of anger, loud outbursts, justified firing w/o prior suspension.
FMCS	<a href="#">Hilton Hotels Minneapolis</a> UNITE HERE Local 17	Gallagher, Thomas	Termination	Housekeeper let guest enter room w/o using his card key.	10 day susp.	Situation not clearly defined in training. Good discussion on discipline.
11-PA-0654	<a href="#">ISD 625, St. Paul</a> Teamsters Local 320	Latimer, George	Termination	Food monitor filed false and fraudulent monitor logs.	Denied	Seriousness of offense justifies termination regardless of past record.
10-PN-1606	<a href="#">Little Falls, City of</a> Law Enforcement Labor Services, Inc.	Latimer, George	Interest	Wages:'09-0%-e (u-3%);'10-0%-e(u-0% with steps or 1.5%);'11-0%-e(u-0% w steps or 2%). Funeral-5 sick days-u.	2009 - 0% 2010 - 0% 2011 - 0%	Wages-economy & 16% fund balance Steps denied despite 49ers getting steps (only 2ees). Funeral-intern pattern
11-VP-1279	<a href="#">Minnesota, State of</a> Individual Grievant	Daly, Joseph	Termination VP Hearing	Corrections officer convicted of 5 charges involving breaking into ex-girlfriend's apt. Failed to notify employer.	Denied	Serious criminal charges; barred from carrying a gun. Attempt to conceal details from employer.
09-PA-0887	<a href="#">Saint Cloud, City of</a> Law Enforcement Labor Services Inc.	Beens, Richard	Right to work a Holiday.	Lts. not allowed to work Holidays so city saves 1 1/2 premium pay.	Denied	Management right to schedule. Discussion on past practice.
11-PA-0875	<a href="#">Shakopee, City of</a> Teamsters Local 320	Wallin, Gerald	Over Time pay	Failed to call for snowplowing OT. Offered employee future OT but no pay.	Sustained	City's policy not to pay ee when they don't work is not in contract.

## November, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PN-0466	<a href="#">Dakota County (Interest Case)</a> Teamsters Local 320	Jacobs, Jeffrey	Interest	Corrections Wages:2011-0%-e (u-3%) Merit pay-0%-e (u-3%).	2011 - 0%	Internal pattern and the state of the economy.
10-PA-0289	<a href="#">Crystal, City of</a> Law Enforcement labor Services, Inc.	Lundberg, James	Comp. Pay	City told officers they could only earn compensatory pay for detail.	Sustained	Contract gives ees option of cash or compensatory pay by virtue of listing compensatory pay option.
12-PA-0226	<a href="#">Edina, City of</a> Firefighters Local 1275	Lundberg, James	1 day suspension	Passenger in medic unit failed to get out & act as a spotter when vehicle was backing, resulting in accident.	Wrtn Wrning	Driver acted so fast & distance so short there was no opportunity to act. Should have told driver to stop.
11-PA-0739	<a href="#">ISD 624, White Bear Lake</a> White Bear Lake Teachers' Assoc.	Befort, Stephen	Leave Request	2 teachers denied leave. 1 sustained, 1 denied. Only remedy was to use this award as a future guide.	Split	Past practice used adequacy of coverage as basis for denial. Length of leave not basis for denial.
11-PN-1177	<a href="#">Hennepin County Medical Center</a> Minnesota Nurses Association	Miller, Richard J.	Interest	One issue - Layoff language -u	Union position	Problems with existing language. Same as other hospitals language.
11-PN-0581	<a href="#">Hibbing, City of (Interest Award)</a> Hibbing Police Federation	Ogata, Harley	Interest	Wages: '10-0%-e (u-8%); '11-2% (e-0.5%, u-5%); '12-2% (e-1%, u-5%). Insurance 85% to 80% in 2011-no-u	2010 - 0% 2011 - 2% 2012 - 2%	Wages - job study & fund balance. Insurance - internal pattern of 85%. No change to duration language-e.
FMCS	<a href="#">Honeywell International, Inc.</a> Teamsters Local 1145	Gallagher, Thomas	Termination	Violated safety rules while repairing a machine; and failed drug test.	14 mo susp.	Using drug test as basis to fire violates MN 181.953 subd 10.
11-PN-0465	<a href="#">Isanti County (Interest Case)</a> Law Enforcement Labor Services, Inc.	Orman, Anthony	Interest	Deputies; 2 years-e (u-1yr.); 11-0%-e (u-1%), 2012-1.5%-u (e-1%); Steps 2011-y,12-n-e; 24 hour furlough-n-u.	2011 - 0% 2012 - 1.5%	Duration-history & pattern; Wages-pattern '11, 2012-pattern deviation; Furlough-questioned savings.
FMCS	<a href="#">Minnesota Epilepsy Group</a> SEIU Healthcare	Jacobs, Jeffrey	Pyramiding	Ee volunteered to work Holiday was paid 2 1/2 X regular rate. He worked 88 hrs in 80hr period. Seeking 8 hrs OT. ER denied based on prohibition on pyramiding.	Sustained	OT triggered when 80 hours exceeded. Good discussion on pyramiding.
BMS 10-PA-	<a href="#">MN State of, Dept of Public Safety</a> AFSCME Minnesota Council 5	Lundberg, James	Termination	Alcohol & Gambling worker caused hostile work environment & intentionally gave bad info to clients.	Denied	Progressive discipline not required. Misconduct so egregious - discharge is the only remedy.
11-PA-0539	<a href="#">St. Cloud, City of</a> AFSCME Minnesota Council 65	Lundberg, James	Holiday pay for P.T Shift Pay for P.T.	Should part time & casual ees get shift differential & holiday pay?	Split	Casual ees don't receive either. All others receive Shift. Holiday for ees over 30 hours per contract.
11-PA-1274	<a href="#">St. Louis County</a> AFSCME, Minnesota Council 5	Befort, Stephen	Step Increase	Should ee hired at step 5 move up steps the same as if hired at step 1?	Denied	Timetable is tempered by longevity step requirements.
10-PN-1621	<a href="#">St. Louis County (Interest Case)</a> AFSCME, Minnesota Council 5	Remington, John	Interest	Attorneys; Stop employee contribution to County's self insurance plan-no-e; 2 floating holidays-yes-u.	Split	A wage increase was quid pro quo for insurance + is internal pattern; 2 Fl. Holidays replace 2 discretionary days.

11-PA-0815	<a href="#">South St. Paul, City of</a> AFSCME, Minnesota Council 5	Johnson, John	Timelines Seniority bidding Step Placement	7 day requirement, took 14 days. Denied based on qualifications. From 7 to step 3 in new position.	Denied Denied Denied	Discussion of continuing violations. Timeline missed, not continuing. No rule on placement when demoted.
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## October, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<a href="#">Aspen Medical Group</a> SEIU Local 113	Befort, Stephen	Disciplinary Investigation	Seeking reimbursement for 2 days pay when investigation found no fault.	Denied	Contract allows 7 unpaid days for investigation. Union sought pay for investigations in contract neg.
FMCS	<a href="#">FMS Corporation</a> Electrical Workers Local 292	Jacobs, Jeffrey	Wage Opener	Opener offered for 1/1/11. Must wage increase begin on that date? - no.	Split	Increase effective upon ratification. Contract vote valid despite union's promise to arbitrate effective date.
11-PA-0608	<a href="#">ISD 152, Moorhead</a> Education Minnesota - Moorhead	Paull, David	Selection of Department Chair	Chairs had been selected by election. principal changed to selection based on application.	Sustained	Maintenance of standards clause, prevailed over management right argument.
11-PA-0849	<a href="#">ISD 197, West St. Paul</a> Operating Engineers Local 70	Lundberg, James	Termination	Grounds Worker injured shoulder & unable to perform essential functions.	Sustained	Failed to enter into interactive process to determine whether ee can perform.
11-PA-355	<a href="#">ISD 299, Caledonia</a> Caledonia Education Association	Daly, Joseph	Claims margin return on insurance	Union seeking portion of insurance refunded due to lower usage.	Denied	Contract calls for a maximum amount from district - no language dealing with refund - ees got bargained amt.
11-PN-0203	<a href="#">Lyon County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Befort, Stephen	Interest	Deputies wages 2010: 3% to merit grid-no-e; merit increase-yes-u.	Union Position	Internal pattern for 10. Deputies negotiated steps in 09 while pattern was for no steps.
12-VP-0058	<a href="#">Minnesota, State of, Department of</a> Individual Grievant	Scoville, James	V.P. Termination	Moose Lake treatment employee took & caused escalation of 2nd situation.	Denied	Disciplined 5 times in past year for heart of treatment principles.
11-PA- 0525	<a href="#">Minnesota, State of, Department of</a> AFSCME Minnesota Council 5	Bard, Stephen	Termination	Kicked door, pounded table, cursed site driving state truck recklessly.	60 day susp.	Zero tolerance policy refers to ees not for similar acts was 5 years old.
11-PA-1144	<a href="#">Mounds View, City of</a> Law Enforcement Labor Services, Inc.	O'Toole, Carol	Step movement	Sergeants seeking step increase at 6 months similar to past practice.	Denied	Contract calls for 12 month step Clear language trumps practice & employer free to correct mistake.
FMCS	<a href="#">North Memorial Medical Center</a> Minnesota Nurses Association	O'Toole, Carol	Job Offer	Nurse offered a day/night supervisor job - offer then rescinded.	Sustained	Contract's written confirmation of work agreement can't be changed unilaterally.
11-HA-0935	<a href="#">Virginia Regional Medical Center</a> AFSCME Minnesota Council 65	Frankman, Janice	OT calculation	Calculating OT changed from using all hours paid to only hours worked.	Sustained	Well established past practice of counting all hours paid.

## September, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PN-1346	<a href="#">Dakota County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	Police Wages: 2010-0%-e (u-2%); Merit: 0%-e (u-3%).	2010 - 0%	Internal pattern (11 settlements) and state of economy.
11-PA-0821	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	Lundberg, James	20 day suspension	Used cell phone while driving bus. Claimed trauma from witnessing accident.	Denied	Clearly stated, reasonable policy. Video showed cell in hand before acc.
11-PN-0587	<a href="#">Prior Lake, City of (Interest Award)</a> Teamsters Local 320	Fogelberg, J.C	Interest	Sgts. insurance reopener 2011-\$940-e (u-\$875+50% of increase = \$992).	City's Position	Pattern with one group. 10 year history of \$ amounts vs % formula.
11-PA-0834	<a href="#">Shakopee, City of</a> Law Enforcement Labor Services, Inc.	Daly, Joseph	1 day suspension	Officer returned unused uniform jacket seeking cash - received credit. Dept. felt it was someone else's jacket.	Sustained	No proof of jacket's origin. No specific policy dealing with this. Credit used for new Dept. items.
11-PA-0434	<a href="#">Stearns County</a> Law Enforcement Labor Services, Inc.	Toenges, Rolland	Elimination of work	Ramsey County contracted to do Medical examiner work eliminating Detective/medical examiners.	Sustained	Management right; not a demotion since work eliminated. Layoff seniority should have been used.
11-PA-0434	<a href="#">Stearns County (Implementation)</a> Law Enforcement Labor Services, Inc.	Toenges, Rolland	Back pay	Union seeking base pay difference of position eligible to bump. ER wants to reduce amt by specialty pay received.	Split	Seniority rights election retro to Sept 2010. No back pay.
AAA	<a href="#">Xcel Energy</a> Electrical Workers Local 160	Jacobs, Jeffrey	Pool Cars	Foreman's ability to use own vehicles instead of pool vehicles for relief shifts.	Sustained	Past practice argument. Also informal negotiations allowed use.

## August, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PN-0635	<a href="#">Brainerd, City of (Interest Award)</a> Teamsters Local 346	Reynolds, James	Interest	Captains and Sgts. wage reopener. 2010-3% eff. 12/31/10-u (u-3% 1/1/10; e-1% 12/31/10); 2011-1%-u (e-0%).	2010 - 3% 2011 - 1%	Officers received 3% in arbitration (09-PN-0550). This maintains relationship with officers.
10-PN-0423	<a href="#">Carver County</a> AFSCME Minnesota Council 65	Fogelberg, J.C	Interest	2010-0%, no steps-e (u-steps); 2011- 2.75% step, 1% to top-u (c-.5% step 2.5% to top); Ins 2011- \$650s,\$1150f.	2010 - 0% 2011 - 1%	County Attorneys - Internal pattern. Those who already received 2011 step (4.5%) had to return pay.
FMCS	<a href="#">Capitol Beverage Sales, LLP</a> Teamsters Local 792	Gallagher, Thomas	Termination	Relief driver initially refused to make deliveries. Unhappy that pay would be less then his regular helper pay. Deliveries made as directed by Union.	10 mo. susp.	Returned w/o back pay. Also to pay \$105-truck cost for delivery. Prior written for similar incident.
11-PA-0314	<a href="#">Cohasset, City of</a> AFSCME Minnesota Council 65	Beftor, Stephen	Termination	Abusive behavior and insubordination. Personality conflict between sprvsr.&ee.	20 day susp.	Lack of progressive discipline & supervisor's hands were not "clean".
FMCS	<a href="#">CUB Foods, Duluth</a> UFCW Local 1189	Daly, Joseph	Lay Off	Full time ees given option of layoff or part-time work, but part-time with less seniority not laid off.	Sustained	Store wide seniority vs class seniority when laying off in a class.. Pt time less senior to be laid off.

11-PA-0996	<a href="#">East Metro Integration District 6067</a> United Educators 6067	Lundberg, James	Pre-approval of funds for training.	Teacher denied approval to attend a 2 day seminar.	Denied	Denial based on her having no leave time available - not the funding.
FMCS	<a href="#">Federal Bureau of Prisons - Federal Council of Prison Locals (AFL-CIO)</a>	Kircher, Andrea	FLSA Overtime	Registered Nurses correction duties should make them non-exempt.	Denied	Nursing duties considered primary that is reason for existence.
11-PN-0612	<a href="#">Goodhue County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Sergeants; H.S.A. Insurance plan that reduces aggregate value of insurance-e	Co.'s Position	Union seeking no change. Pattern, 5 other units accepted change.
None listed	<a href="#">Hennepin County</a> AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Social Services supervisor engaged in verbal altercation with client.	11 mo. susp.	Oral warning only prior. Returned to work without back pay.
11-PA-0725	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	Anderson, Richard	Termination	Fell asleep in bus & failed to make his run. 4th violation in year.	9 month susp.	Suffers from sleep apnea-seeking treatment. Reinstated w no back pay.
11 PA-0490	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	Imes, Sharon	Termination	Excessive absences in violation of no fault policy.	Sustained	Faults unilateral policy defining excessive absenteeism.
11-PA-0724	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	Jacobs, Jeffrey	Termination	Job abandonment. Gone 23 days without contacting employer.	Denied	Claimed sick & carry status, but claim only made during grievance.
11-PA-0623	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	McCoy, Arthur Ray	Removal as Light Rail Operator.	Removed as light rail operator after third red-light overruns.	Denied	Contract calls for return to bus operations if 3 violations.
???	<a href="#">Minneapolis, City of</a> Minneapolis Police Federation	Fogelberg, J.C.	Termination	Excessive force & untruthful Garrity. Garrity statement was basis for termination.	2 month susp.	Inability to recall details of year old incident do not constitute a lie.
???	<a href="#">MN State Colleges and Universities</a> Minnesota State College Faculty	Befort, Stephen	Eliminating Coordinator Duties	Coordinator duties and pay removed from assigned teachers who continued to perform duties.	Split	ER didn't make arrangements re who should do essential tasks. Partial pay 10 & 11- none forward.
None listed	<a href="#">MN, Department of Human Services</a> Middle Management Association	Jacobs, Jeffrey	Termination	Suprvsr. at group home for vulnerable adults failed to report abuse or deal with hostile work environment.	30 day susp.	Mitigation - she informed her supervisor re some of the incidents.
11-HN-0894	<a href="#">New River Medical Center</a> Minnesota Nurses Association	Anderson, Richard	Interest	Duration: 7/1/10-6/13/13,	2010 - 0% 2011 - 1% 2012 - 2%	No explanation for award.
11-PA-0035	<a href="#">St. Louis County</a> Teamsters Local 320	Fields, Bernice	Termination	Numerous threats to kill supervisor. Criminal investigation but no charges.	Sustained	Due process violations; no summary of investigation; failure to cite rule violated. Good record for 23 yrs.
11-PN-0027	<a href="#">South St. Paul, City of (Interest Award)</a> Law Enforcement Labor Services, Inc.	Wallin, Gerald	Interest	Wages: 0%.0%-e (u-1%,1%); Steps: 10&11-yes-u; 3 days off in lieu of 1%-no-e; comp payout 1st pay period per quarter- no-u; vac accrual as earned-no-u.	2010 - 0% 2011 - 0%	Wages internal pattern and ability to pay. Steps reflect learning curve and employer is getting greater value.
FMCS	<a href="#">Star Tribune Company</a> Minnesota Newspaper Guild Local	Gallagher, Thomas	Transfer to lower paid job	Cost cutting transfer to lower paid job should consider seniority.	Denied	Per contract, when move is due to economy seniority not a factor.

11-PA-0452	<a href="#">Stearns County</a> Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Officer used cocaine.	Denied	Off-duty misconduct may be grounds for discharge where misconduct has substantial impact on busnss or rep.
FMCS	<a href="#">SYSCO Minnesota</a> Teamsters Local 120	Miller, Richard J.	Termination	3 preventable accidents within a 12 month period (last 2 within 53 days)..	Denied	Contract calls for termination after 3rd non-preventable accident.
11-PA-0577	<a href="#">University of Minnesota</a> Law Enforcement Labor Services, Inc.	Fogelberg, J.C.	Unpaid Furlough	Unable to negotiate, U imposed 24 hour furlough on PD.	Denied	2080 hours is not a guarantee; not a layoff. Allowed by Management Rights. Pope Co (BMS 10-PA-0870) sustnd. due to more specific contract.
10-PA-0565	<a href="#">Wright County</a> AFSCME Minnesota Council 65	Jacobs, Jeffrey	Out of Class Pay	Union challenged points awarded in job study.	Denied	Contract called for study & increase if over 1200 pts. Arbitrator has no authority to change points awarded.

## July, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-0691	<a href="#">Duluth, City of</a> Firefighters Local 101	Lundberg, James	Out of Network Insurance costs	Challenged how Health Partners calculated UCR insurance fee.	Sustained	Contract language. Deals with who is successor to listed entity.
11-RA-0711	<a href="#">Human Development Center</a> AFSCME Minnesota Council 5	Scoville, James	Health Insurance	80/20 premium split in contract. ER has 3 plans and is paying 80% of low cost HRA - Union objected.	Sustained	Existing contract until 2012 has 80/20% formula. ER must pay. 80% of all plans.
None Listed	<a href="#">ISD 191, Burnsville</a> Individual Grievant	O'Toole, Carol Berg	Termination VP Hearing	Plumber arrested - DUI & open bottle. Can't be insured to drive district vehicles.	Denied	Long history of progressive discipline. Without insurance is incompetent to hold the job.
11-PA-0276	<a href="#">Metropolitan Council</a> Amalgamated Transit Union Local 1005	Bognanno, Mario	Termination	Fraudulent workers comp claim.	Denied	Video playing soccer yet claiming permanent disability.
None listed	<a href="#">Minneapolis, City of</a> Police Officers Federation of	Lundberg, James	Working out of Class	Two lieutenants claim they are doing captains work.	Denied	Managements right to reorganize & need for classification study to evaluate if working out of class.
None listed	<a href="#">Minneapolis Convention Center</a> Teamsters Local 320	Lundberg, James	5 day suspension	Loud & threatening confrontation with co-worker.	Denied	Egregious nature of misconduct; detrimental impact to co-worker; & is progressive from priors.
11VP1075	<a href="#">MN Department of Transportation</a> Individual Grievant	Fields, Bernice	Termination VP Hearing	Worked on neighbor's van in Dept. garage during working hours.	Denied	Violated clear ethics policy & 2nd similar violation in 6 month period.
11-PA-0560	<a href="#">Mower County</a> Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Termination	Deputy routinely left work early w/o using PTO or properly filling time card.	Denied	Union argued lapses due to Post Traumatic Stress Syndrome.
FMCS	<a href="#">Range Regional Health Services -</a> United Steelworkers Local 9349	Kircher, Andrea	Termination	LPN accused of bullying & creating hostility & fear in the workplace.	Denied	Misconduct serious because of its cumulative negative effect.
11-HA-0639	<a href="#">St. Michael's Hospital and Nursing</a> SEIU Healthcare Minnesota	Paull, David	Termination	Nurse violated HIPPA regulations.	Sustained	Looked up a name - not "critical". Reduced to a final written reprimand.

FMCS	<a href="#">Thermo King Corporation</a> United Steelworkers of America 2175	Gallagher, Thomas	Evaluation of a combined job	Tube bender & Fabricator duties were combined. Dispute re classification.	Denied	Reasoned explanation of classification process. Current duties of new position vs combining previous pts.
11-RA-0788	<a href="#">Usem Chevrolet</a> United Auto Workers Local 867	Remington, John	Insurance Opt-Out	Employees who opted out charged for dental & life insurance.	Sustained	Opted out of health, each type is in a different contract section.

## June, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<a href="#">Abbott Northwestern Hospital</a> <a href="#">Alliana Health System</a> Operating Engineers Local 70	Flagler, John	Termination	Maintenance engineer didn't respond to an alarm that a freezer with body parts was failing - parts were lost.	Sustained	Disparate treatment. No discipline when ventilating fan failed for 13 hours.
10-PN-0934	<a href="#">Brooklyn Park, City of (Interest Award)</a> Teamsters Local 320	Wallin, Gerald	Interest	Wages: 10-0%-e (u-1.5%), 11-0%-e (u-1.5%); Steps-2011-no-e; Mkt adj. language (0-2% based on average) to remain, but not applied.	2010 - 0% 2011 - 0%	Internal pattern. Ability to pay has taken on greater weight; market less important due to city's differences.
11-PN-0057	<a href="#">Champlin, City of (Interest Award)</a> Law Enforcement Labor Services, Inc.	Flagler, John	Interest	Wages-e (u seeking 8% over 3 years); Insurance-e; Sick leave-e; Parenting leave-e.	2010 - 0% 2011 - 1% 2012 - 4%	Internal pattern cited on all issues. Lengthy discussion on why arbitrators prefer internal comparisons.
11-PA-0069	<a href="#">Douglas County Hospital</a> Operating Engineers Local 70	Frankman, Janice	Vacation Denial	Denied weekend vacation unless she could find her own substitute.	Sustained	Hospital unable to show any past practice requiring weekend trades. Can deny, but this request was 6 months in advance.
FMCS	<a href="#">Fairview Southdale Hospital</a> Minnesota Nurses Association	Flagler, John	Mandatory On-Call	Mandatory On-Call requirement in job postings evades contract bar.	Split	Requirement in job posting improper because it nullifies contract language 2 hires must retain requirement.
11-PA-0614	<a href="#">Hennepin County Medical Center</a> AFSCME Minnesota Council 5	Jensen, Eugene	Termination	Interpretive Service scheduler's - performance issues.	Denied	Interpersonal communications problems primary reason.
11-PA-0385	<a href="#">ISD 911, Cambridge-Isanti</a> School Service Employees Local 284	Lundberg, James	Reorganization	Reorganized & duties shifted outside bargaining unit - employee laid off.	Denied	Inherent management right.
11-PA-0018	<a href="#">ISD 750, Ricori</a> SEIU Local 284	Gallagher, Sharon	Bargaining Unit Work	District eliminated child care program referring clients to the Girls and Boys club.	Denied	District is not subcontracting-no money is exchanged. Only needed to bargain effects of shutdown.
FMCS	<a href="#">Joseph T. Ryerson &amp; Son, Inc.</a> United Steel Workers Local 2002	Beens, Richard	Distributing pay checks	Was practice of distributing pay checks at work binding?	Denied	Mailing checks does not result in any pecuniary loss to employees.
11-PN-0174	<a href="#">Metropolitan Council (Interest Award)</a> Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	Proper wage rate for new sergeant title? Differential between Sgts. & Lts. - E.	2010 - 0% 2011 - 0%	Both agreed to 0%, Total cost 2% per year - internal pattern.
10-RA-1645	<a href="#">Peoples Cooperative Services</a> IBEW Local 949	Jacobs, Jeffrey	Job Requirements	Company changed job description so meter readers can change non-self	Sustained	Position negotiated with specific limitations, therefore that change

				contained meters.		must be negotiated.
FMCS	<a href="#">Rainbow Foods</a> UFCW Local 1189	Beens, Richard	Layoff	Developmentally disabled utility worker on layoff, not given opportunity to take cashiers test.	Sustained	To be offered training & 3 tries to pass test per policy.
11-PA-0492	<a href="#">Ramsey County</a> AFSCME Minnesota Council 5	Befort, Stephen	Termination	Inappropriate touching of female ee (touched butt & kissed on cheek).	Denied	Grievant not warned by Co., but ee previously told him to stop.
11-PA-0450	<a href="#">Shakopee, City of</a> Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	7 day suspension	Officer failed to include license # of hit & run vehicle in her report.	Denied	Previous coaching & discipline regarding attention to details.
FMCS	<a href="#">SYSCO Minnesota</a> Teamsters Local 120	Jacobs, Jeffrey	1 day suspension	Slid into snow bank due to glare ice. Second accident warrants suspension.	Denied	Reasonable rule and appropriate suspension.

## May, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-0030	<a href="#">Anoka, City of</a> Teamsters Local 320	Martin, William	Termination	Safety violation - drove street sweeper around school bus w flashing lights.	Denied	15 prior safety violations.
11-PA-0615	<a href="#">Hennepin Healthcare System, Inc.</a> AFSCME Minnesota Council 5	Bard, Stephen	Termination	Security officer at HCMC called Mpls. police to report H&R driver at Hosp. Fired for violating HIPPA.	Sustained	Patient told him she was in H&R. Words were not protected by HIPPA. Letter reprimnd-not reporting to suprvr.
11-PA-0126	<a href="#">Heritage Living Center</a> Teamsters Local 320	Frankman, Janice	Change schedule to avoid Overtime	Regular block schedule changed to avoid OT the week of July 4.	Split	Contract requires block scheduling. Can't change schedule changed to avoid holiday OT. Award does not bar employer changing schedules.
10-PA-1521	<a href="#">ISD 138, North Branch</a> SEIU Local 284	Gallagher, Sharon	Termination	Hostile work environment - obscene language & threats towards females.	Denied	Prior 10 day suspension & last chance agreement.
11-PA-0395	<a href="#">ISD 728, Elk River</a> Elk River Education Association	Kapsch, Frank	6 day suspensions	3 coaches failed to supervise football player free time between 2 a day summer practices that led to hazing.	Denied	Good discussion of just cause. Disciplined as coaches, not as teachers.
10-PA-0412	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Beens, Richard	Termination	4 chargeable accidents in 3 year period. Does responsible = preventable - yes.	Denied	Reasonable rule, prior notice, thorough investigation, employee engaged in conduct.
11-PA-0088	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Gallagher, Thomas	Termination	No fault absenteeism policy - 13 in 12 month period. Union allowed to challenge 4 even though not grieved.	11 mo. susp.	1 was for care of child and statue bars retaliation. Reinstated w/o backpay & 8 absences retained.
FMCS	<a href="#">Polar Tank Trailer</a> Machinists District Lodge 165	Remington, John	Job Posting	Posted for Operator position in the Robot Cell area rather than for Layout Set-up. Union-there is no Operator post.	Sustained	EE wanted Operator to learn duties then advance to Layout Set-up. Not in contract-must be negotiated.
10-PN-1622	<a href="#">Saint Louis County (Interest Award)</a> AFSCME Minnesota Council 5	Remington, John	Interest	Dispatch/Corrections unit. OT will not use sick or comp hrs. as time worked-	Co. Position	Award based on county pattern. Union sought insurance w/o OT change.

				e. Health Insurance: ee to pay \$37.72 for 2010 & 2011-u.		change. Claimed others who agreed did not regularly receive overtime.
FMCS	<a href="#">Sappi Fine Paper-Cloquet Paper LLC</a> United Steelworkers Local 11-63	Reynolds, James	Proper pay rate for new classification	Parties negotiated new rate for Roll Handler. Union claimed duties were then added warranting more pay.	Denied	No showing of any significant change from what was negotiated
None listed	<a href="#">SSD 1, Minneapolis</a> Individual Grievant	Powers, Nancy	Termination	Choral music teacher at Southwest H.S. terminated	Denied	Inefficiency in teaching in spite of extensive counseling and support.
11-PN-0209	<a href="#">Washington County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Wages: Deputy10-0%, 11-0%-e (u-3%, 1,5%), Sgts. 3%, 1.5%-u (e-0%,0%); Step compression-no-e; Steps 2011-yes-u; Shift diff incr-no-e; Comp accrual incr-no-e; Clothing-\$625to\$700-u; Cell phone language-no-e; Eliminate sick preservation & purchasing card-no-u.	2010 - 0% 2011 - 0%	Deputies 0%,0% based on pattern. Sgts. due to pay equity (changed differential between Deputy & Sgts.). Increase to clothing due to market & buy American requirement. Lack of compelling reason to change contract basis for other awards.
FMCS	<a href="#">Wirtz Beverage Minnesota Beer</a> Teamsters Local 792	Remington, John	Termination	Warehouse work failed drug test. Union asked for 2nd chance.	Denied	No past practice even though some given 2nd chance.

## April, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
09-PN-1040	<a href="#">Duluth, City of (Interest Award)</a> Firefighters Local 101	Fogelberg, J.C.	Interest	Union asked city to increase HCSP contribution for new ees from 1.25% to 2% - no. Other unions receive 1%.	City's Position	Internal pattern; city's distressed finances; fire already is .25% above other union's 1%.
11-PN-0059	<a href="#">Hennepin Healthcare System, Inc.</a> Minnesota Nurses Association	Kircher, Andrea	Interest	Wages: 2010-0%-e (u-3%, 5%-clinic nurses put into 2nd tier in 2008).	2010 - 0%	Internal & external patterns of 0%.
10-PA-1299	<a href="#">ISD 700, Hermantown</a> Education Minnesota - Hermantown	Fogelberg, J. C	Job Description	District failed to negotiate changes to janitor job description.	Sustained	Job duties revert to previous ones until negotiated with union.
11-TD-2	<a href="#">ISD 911, Cambridge-Isanti</a> Individual Grievant	Reynolds, James	Termination - School Principal	Sent to a seminar in Orlando by the district. Skipped an afternoon session & went to amusement pk w 5 teachers.	3 day susp.	Behavior is remediable. Others received letters of reprimand. He only supervised 1 of the teachers.
11-PA-0041	<a href="#">Janesville, City of</a> Electrical Workers Local 160	O'Toole, Carol Berg	Layoff then replacement w PT	Police officer laid off due to budget, then 2 part-time officers hired.	Denied	Contract not violated. Part-time not members of union so seniority not at issue.
10-PN-0925	<a href="#">Lyon County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Interest	Wages: 0%, 0%-e (u-3%, 3%); Merit pay:09-yes-u;2010-yes-e; Vac:240 hr cap-no-u; Hol. Pay: Columbus floater -u (e-2 floaters); Retiree Ins. if hired prior to 5/1/97-no-e.	2009 - 0% 2010 - 0%	1st Jail/Disp contract. Wages-internal & economy. Merit & Hol. pay-deputy pattern. Vac.-should be negotiated. Retiree benefit provided through policy not contract.
11-PA-0414	<a href="#">Metro Transit</a> Amalgamated Transit Union Local 1005	Gallagher, Sharon	Termination	Bus cleaner violated absentee policy with 13 absences.	Sustained	Not a true no-fault policy. Just cause used to exempt 1 absence.

11-PA-0382	<a href="#">Minneapolis Park Board</a> Minneapolis Police Federation	Schiovani, Mary Jo	Termination	Police Lt. terminated for taking a bolt from I35 bridge collapse; running a business on work computer; & double dipping working extra duty assignments.	1 day susp.	Insufficient evidence to support termination and his clear record. One day suspension for sloppy records of extra duty assignments.
10-PN-0748	<a href="#">Roseville, City of (Interest Award)</a> Law Enforcement Labor Services, Inc.	Martin, William	Interest	2 yrs.-e (u-1 yr.), Wages:1%,1%-u (e-0%,0%); Longevity:1%,1%-u (e-0,0); Ed credit:1%,1%-u (e-0%,0%).	2010 - 1% 2011 - 1%	Duration-already in year 2. Wages-1% is modest request; below cpi. (Sgt's. 2010-2.95%). Longevity & Ed credit historically mirror wage incr.
FMCS	<a href="#">United Hospital</a> Minnesota Nurses Association	Kapsch, Frank	Termination	Nurse accessed HIPPA records in violation of policy and law.	Denied	Nurse acknowledged she screwed up at the time, but did not self-report, which may have mitigated.

### March, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<a href="#">Electrolux Home Products</a> IAMAW District Lodge 165	Bognanno, Mario	Holiday Pay	Need to work before & after to receive holiday pay? Union-no.	Sustained	ER repudiated longstanding practice but Arbitrator relied on parties history,
			Timelines	Union late in filing for arbitration.	Arbitrable	Continuing violation, pay not awarded for incident missed by timeliness.
10-PN-1600	<a href="#">Hopkins, City of (Interest Award)</a> Hopkins Police Officers Association	Lundberg, James	Interest	2010-1% (u-Jan1%,Jul2%) (e-0%); 2011-2%-e (u-2%); Single insur. 2010-\$667-u (e-\$612), 2011-\$724-u (e-\$669) Uniform-\$800-u (e-\$850). (U-use \$50 to pay for single insurance).	2010 - 1% 2011 - 2%	W-internal pattern argued-49ers 3% in year 3 (08-10) trumped current 0%. Single insur. (100% of high vs 100% of low plan) past trend & lack of quid pro quo.
11-PA-0386	<a href="#">ISD 741, Painesville</a> School Service Employees Local 284	Jacobs, Jeffrey	Earned Vacation on unpaid leave	12 mo. employee only worked 3 mo. then went on unpaid leave. Felt vac. should paid as a full time employee.	Denied	Vacation prorated, since hours worked only qualify for part time status. Discussion of past practice.
11-PA-0091	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Imes, Sharon	20 day suspension	Bus driver using cell phone. 20 days and indefinite record of warning challenged.	Split	Indefinite warning removed. It is in conflict with 36 month contract limit. 10 day suspension based on other cases arbitrated.
11-PA-0093	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Latimer, George	Assigning Work	Transportation information center told to take customer complaints during hours customer service is closed.	Denied.	Assignment reasonable. Did not result in any loss of positions for customer service.
10-PA-1646	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Neigh, Charlotte	Unit work	Supervisor moved locomotive from yard to shop.	Denied	Moving equipment in the yard is not exclusively the work of mechanics.

### February, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<a href="#">Ameripride Services, Inc.</a> Workers United, SEIU Local 150	Gallagher, Thomas	Termination	Told to return to work station 2 times. 3rd time refused because his work was done & he thought others were lazy. Was helping others at another station.	Split	Insubordinate, but not grossly-1 year suspension. No prior discipline & was not told failure could result in discipline.

10-PN-1602	<a href="#">Cottage Grove, City of</a> Cottage Grove Police Officers	Anderson, Richard	Interest	Wages:12/31/10*-2%-e (u-\$1/h to top pay); 1/1/11-1% & 7/1/11-1%-u (e-1% 1/1 & mrkt adjustment 7/1);drop short term disability eligibility from 20 days to 5 days-no-e.	2010 - 2%* 2011-1%,1%	2010 internal pattern. 2011 COLA, Union failed to meet burden of need to change ST Disability eligibility.
FMCS	<a href="#">Honeywell International, Inc.</a> Teamsters Local 1145	Anderson, Richard	Subcontracting	2 millwrights laid off while millwright work was subcontracted.	Denied	Right to subcontract was not encumbered by the Grievant's layoff.
11-RA-0120	<a href="#">Human Development Center</a> AFSCME Minnesota Council 5	Remington, John	Termination	Performance issues due to data entry errors.	Sustained	Failure to establish objective performance standards.
10-PA-1207	<a href="#">ISD 316, Coleraine</a> AFSCME Council 65	Daly, Joseph	Benefit Accrual on Workers Comp	Benefits paid on part time basis due to employer only paying 1/3 of wage.	Denied	1/3 payment proper. Mistake by bookkeeper does not establish a practice. District has no claim for repayment as a matter of equity.
10-PN-1074	<a href="#">ISD 625, St. Paul</a> St. Paul Principals Association	VerPloeg, Christine	Interest	Retiree insur.. sunset for new ee hired after 1/1/96, in exchange they got a 403b. Seeking 403b for those who kept insurance.	Denied	Final Offer. Neither internal nor external comparisons support incr. budget realities and should adhere to 1995 negotiated agreement.
10-PA-1498	<a href="#">Hibbing Public Utilities Commission</a> AFSCME Council 65	Gallagher, Thomas	Filling Temporary Vacancies	Union claims seniority must govern temporary filling of higher paid position.	Denied	Contract only requires seniority for bids on permanent positions.
FMCS	<a href="#">McQuay International</a> Sheetmetal Workers Local 480	Imes, Sharon	Termination	Violated 4 plant rules in 12 mos. Last 2 for smoking & calling supervisor a snake (abusive language)..	Sustained	Failure to conduct an investigation denied ee due process. Didn't see smoking; "snake" is not abusive.
10-PA-0868	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Jacobs, Jeffrey	Termination Last Chance	Bus driver's last chance agreement limits 2 incidents in a year-he had 3.	Denied.	Unsafe driving incidents-on camera. .
10-PA-0733	<a href="#">Moorhead, City of</a> Law Enforcement Labor Services, Inc.	Jacobos, Jeffrey	Tuition Reimbursement	Union challenged city's denial of tuition reimbursement.	Denied	City's right to deny course or reimbursement can include denial because of budget.
10-PA-1561	<a href="#">Rice County</a> Teamsters Local 320	Before, Stephen	Termination	Child mental health worker arrested for domestic assault, put on 2 Return to Work Expectations Agreements, then arrested for DUI.	Denied	Return to work agreements weren't last chance agreements, but several emotional meltdowns raise questions re her capacity to perform sensitive mental health counseling functions
FMCS	<a href="#">SMDC Health System</a> Operating Engineers Local 70	O'Toole, Carol Berg	Interest	Interest Arbitration- keep language-u; part-time ee language-no change-u; lump sum of \$595 (exclude 5 eligible for steps or longevity?)-no-u.	Union position	Changes to contract should take place at negotiating table. Lump sum will treat every one the same.
10-PA-1392	<a href="#">Waite Park, City of</a> Teamsters Local 320	Martin, William	Continuing Contract	City changing insur. contribution from % to set \$ amount. Union tried to keep % arguing continuing contract	Denied	Insurance expressly stated 97% of 2009 cost, which city was paying. Maintaining status quo doesn't add to am

## January, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-1616	<a href="#">Alexandria, City of</a> Law Enforcement Labor Services, Inc.	Toenges, Rolland	3 day suspension Right to Union rep.	Off-duty officer was called by Sgt. re driving under influence. He lied about driving. Sgt. didn't notify him of rights to a Union rep before questioning.	Denied	Lying to sergeant was basis for susp. Discipline not contemplated at time of call therefore need to advise of right to Union representative.
10-PN-1311	<a href="#">Anoka County (Interest Award)</a> Law Enforcement Labor Services Inc.	Miller, Richard J.	Interest	Wages: 0%-c (u-2%); Merit steps: 3%-u (c-1.5%); Pay for negotiating: yes-u (c-no).	2010 - 0%	Wages-internal pattern; Merit step-needed to adjust internal pay gap; Neg. pay-maintains past practice.
10-PN-0769	<a href="#">Dakota Communications Center</a> Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Steps v Pay for performance wage schedule-steps-u; OT seniority rights & right to grieve-no-(county position). Wages 0% for 10 & 11 not arbitrated.	Step system	Steps are more common in public safety. Dispatchers who had P for Performance rejected it. Steps effective 3/1/11 with no back pay.
11-RA-0211	<a href="#">Douglas County Hospital</a> Operating Engineers Local 70	Flagler, John	Supervisors doing Union's Work	Union challenged supervisor doing bargaining unit work.	Sustained	Supervisors can only be assigned in emergencies. Suprvsr. improperly removed from Unit w/o BMS ruling.
10-PN-0853	<a href="#">Forest Lake, City of (Interest Award)</a> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Retiree insur. sunsets for ees hired after 1/1/10. Wages, health, dental, severance positions identical. Union tried to reject HCSP incrs. as insufficient quid pro quo for retiree insurance.	2010 - 0% 2011 - 1.5% 2012 - 3%	No quid pro quo required since only effects new employees. City's position-no increase if sunset not awarded. Economy distinguishes this from 2008 Arbitration award.
10-PN-0313	<a href="#">Freeborn County (Interest Award)</a> Teamsters Local 320	Bognanno, Mario	Interest	Working out of class-\$2-u (c-2weeks in position before eligible). Health Insurance-no change-c(u-90%)	Union position Co.'s position.	Maintains intent of existing article-nullified by new Sergeant's position. Insurance-internal pattern.
FMCS	<a href="#">Great Western Recycling</a> Operating Engineers Local 49	Jacobs, Jeffrey	Termination	Grievant fell asleep while operating a scrap metal bailer.	5 month susp.	Reinstated w/o backpay. Lack of notice that sleeping would result in termination.
10-PN-1022	<a href="#">Hennepin County (Interest Award)</a> Hennepin County Sheriffs Supervisors	Miller, Richard J.	Interest	OT: for Capts. & Lts., remove FLSA restrictions for Sgts.-u; Hol. premium-no-c; Comp time for Watch Cmdrs-no-c; Uniform incrs.-no-c (u-\$1,000). 2 year wage freeze-w/no 2011 steps negotiated.	OT for Capts. & Lieutenants	Contract provided for OT in rare & unusual circumstances. Award changes to, "if obligated". FLSA reference is removed.
10-PA-1365	<a href="#">ISD 728, Elk River</a> Elk River Education Association	Toenges, Rolland	5 day suspension	Unprofessional conduct, put a candy bar in a 7th grade girls pocket and touched her buttock.	Denied	12 students testified re. this event. Actions inappropriate whether sexual or not.
11-PA-0180	<a href="#">Metro Transit</a> Amalgamated Transit Union Local1005	Neigh, Charlotte	20 day suspension Final Warning	Bus driver talking on a cell phone. Can warning be on indefinite length?	Denied Sustained	Safety policy calls for 20 day susp. Limited to 36 months per contract.
10-PA-1475	<a href="#">Minneapolis Parks &amp; Recreation Bd</a> Teamsters Local 320	Bognanno, Mario	Arbitrability due to missing time lines.	Grievance denied, notice sent by e-mail. Union did not receive e-mail &	Sustained	No follow-up letter nor fax was sent per parties practice. No timelines

			filed for arbitration 3 months later.		to move to next step if no response.	
11-PA-0315	<a href="#">Plymouth, City of</a> AFSCME Minnesota Council 5	Dunn, Richard	20 day suspension Timeliness?	Senior Engineering Tech (surveyor) performance issues i.e. errors. Union notified intent to arbitrate in April but did not file w BMS until Oct.	Denied Arbitrable	Notice, counseling and previous discipline failed. Delay caused no harm.
09-PA-0940	<a href="#">Princeton, City of</a> AFSCME Council 65	Paull, David	3 day suspension 5 day suspension	Didn't notify suprvr. re disabled vehicle. Used obscene language at drug test.	Writn Rpmnd Denied	Investigation took 5 months. Other members of public present.