

2014 Arbitration Awards - Minnesota B.M.S.

April 14, 2020

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, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-1156	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Investigators. 2 yrs-e (u-3yrs). Wages: 0%, 0%-e (u-3%, 3%); Range minimum 2%, 2%-e (u-3%,3%). Merit 2%,2%-both.	2014 - 0% 2015 - 0%	Duration-internal, Wages-intrnl&extrnl. Small groups follow rather than lead. ER's obligation to efficiently manage = financial constraint vs inability to pay.
14-PN-0892	Beltrami, County of (Interest Award) Teamsters Local 320	Jacobs, Jeffrey	Interest	Attorneys. Wages-e (both agreed to %, step 17 vs 18 awarded - 7% difference for 3 yrs-e).Court prep time-n-e; Clothing allowance-n-e; Increase longevity-n-e.	2014 - 1% 2015 - 2% 2016-1.5/1.5%	Wages-pattern based on implementing Springsted study. Court & clothing new benefits lacking need or quid pro quo. Longevity internal, tied to investigators.
14-PA-0862	Duluth, City of AFSCME Council 5	Boyer, John W.	Call Out Overtime	U challenged city's right to use stand-by crews for sewer emergencies vs most senior sewer workers. Timeliness-sustained	Denied	U cited past practice, but both contract & policy changed. 3 arbitrations on same issue. See Jacobs & O'Toole-Jan. 2015.
14-PN-1305	Lakeville, City of (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Officers. Wages 2014-2%-e (u-3%), 2015-3%-u (e-2%).	2014 - 2% 2015 - 3%	No pattern. Sgts received 3% & 3%. Award maintains historic differential.
14-PA-0810	Minnesota Court System, Judicial AFSCME Councils 5 and 65	Neigh, Charlotte	Termination	Senior Court clerk improperly accessed data in the DVS system.	10 day susp.	26 ees improperly used system-only 7 disciplined-3 terminated. ER failed to show why this ee was more egregious.
None listed	Minnesota, State of, Board of Minnesota Association of Professional	Befort, Stephen	Layoffs	Reorganization-2 investigators layed off. Sr. Invst. hired. Terminations in disguise?	Denied	Anticipation of likely shortage of funds & legitimate reorganization - permissible basis for layoff. No evidence of Termntn.
FMCS	North Memorial Health Care SEIU Healthcare Minnesota	Fogelberg, J.C.	3 day suspension	Custodian & female ee were in an office w/o authorization. Not truthful in investigation.	1 day susp.	Disparate treatment - other ee received 1 day; & credited for 25 yrs. of service.
14-PA-0568	University of Minnesota-Duluth University Education Association	Schiavoni, Mary Jo	Promotion	Did ER apply a new criterion unknown to U for promotion to tenured professor by citing insufficient publications?	Denied	Not necessary to have an express # established to evaluate substantive & quantitative publishing record.

November, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-1086	Anoka County Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Work Release. Uniforms+50-u (e-no change); Add shoes to allowance.-no-e; Wages-1.5%, 1.5% (u-3%,3%; e-0%,0%); Merit -2%,2%-e (u-3%,3%).	2014 - 1.5% 2015 - 1.5%	Uniform-increase based on replacement cost. Color is only shoe requirement so no additional expense. Wages-external. Merit - internal.

14-PN-0203	Blue Earth County (Interest Award) Minnesota Public Employees Assn	Miller, Richard J.	Interest	Corrections:Sick leave-Statute language w/o 160 hr limit-u; Wages-ER (u seeking 2.5%+2.5% mkt adj ea yr., drop bottom step, add 2, 3% steps to top.). Lead worker from \$2.50 to \$4/hr.-u. Shift diff \$.25-u Outside POST lic part-time employment-n-e	2014 - 2.5% 2015 - 2.5%	Sick language-no pattern. Wages-both internal & external (discussion-Statutory salary appeal vs Arbitration). Lead pay-same as Deputies&dispatch. Shift pay-new benefit-majority of market. Part-time-management right (liability concern).
FMCS	Group Health, Inc. Office and Professional Employees	Gallagher, Thomas	FMLA	Can FMLA be charged concurrently with other contract benefits? Yes.	Denied	ER has statutory right to run FMLA concurrently & no obligation to negotiate.
14VP0627	ISD 624, White Bear Lake	Gallagher, Thomas	Summary Disposition	U declined grievance. Bus driver brought grievance as allowed in CBA. Creation of bus route, seniority selection, ADA compliance.	Granted	Bus routes a management right. Seniority not a factor if unable to perform job. ADA compliance handled by EEOC.
149PA91301	Metropolitan Council (Metro Transit) Transit Managers & Supervisors Ass.	Lundberg, James	Termination	Supervisor submitted false report re his actions prior to train derailment. Also false report at Lodermill hearing.	Denied	Dishonesty so egregious discharge is only appropriate remedy. Short term employee just off probation.
None listed	Minneapolis, City of Police Officers' Federation	Fogelberg, J.C.	32 day susp.	Officer given 10day susp for DOC, 6mo. later arrested for DUI-given 32 day susp.	10 day susp.	32 days reduced due to 25yrs service & disparate treatment vs. other DUI's.
14-PA-0978 14-PA-0989 14-PA-1054	Ramsey County Law Enforcement Labor Services, Inc.	Bard, Stephen	Insurance - premium reduction	Combined grievance for 3 units. insurance premium went down. U seeking 100% of savings - but is not in contract.	2014 Denied	ER used formula for increases (75/25) to determine ees share. Reasonable & a management right if language is lacking.
FMCS	Ramsey Excavating Company Construction and General Laborers,	Daly, Joseph	Pre-employment test	ER used an isokinetic test to determine physical capability prior to hire. Union challenged that it was not negotiated.	Sustained	Union is hiring hall despite language - due to 50% requirement. U applicants are ees so testing must be negotiated.
14-PN-0713	Sherburne County (Interest Award) Law Enforcement Labor Services, Inc.	Moeller, Lon	Interest	Corrections. Remove June restriction on bidding-n-e. Travel time for call back-n-e. Training travel pay-y-u. '14-2%-e (u-12%) 15-2%-both. Change range mvmnt-n-u. Bar grievances re range movement-n-u.	2014 - 2% 2015 - 2%	Wages-internal pattern. Travel time issues explore FLSA & Imada v City of Hercules (9th Circuit Ct). Call back-not on-call, not mandatory. Training-covered in policy. Other requests-not compelling
14-PN-0549	Sherburne County (Interest Award) Law Enforcement Labor Services, Inc.	Crump, Harry	Interest	Supervisors. 2014-2%-e (u-3%+1%July market. adjustment), 2015-2%-e (u-3%); Increase: Longevity PTO; IOD; & Insurance-no-e; rewrite insurance benefits, remove "me too" & assign benefit committee to design ACA plan & 2015 rates-y-e.	2014 - 2% 2015 - 2%	Wages & Insurance - internal pattern. Benefit increases sought by u lacked compelling reasons or quid pro quo. ER had compelling need for changes to insurance benefit language, unlike Benton County arbitration August 2014
14-PA-0719	University of Minnesota-Duluth Teamsters Local 320	VerPloeg, Christine	Posting O.T.	ER failed to post "ice making" OT. OT awarded to ee working different location.	Denied	Long time practice of verbally notifying most senior for OT. Never based on loc.

October, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PA-0814	Austin, City of United Auto Workers Local 867	Vernon, Gil	Job Vacancy	Ee was not given "Trimmer/Chipper" position . Contract allows 30d to qualify.	Denied	Ee lacked 3 yrs experience-not qualified. Could have used 30d for hazard training.

14-PA-0812	Austin, City of United Auto Workers local 867	Vernon, Gil	Out of Title Pay	Street worker using chainsaw seeking "Tree Trimmer" pay.	Denied	Chainsaw is not exclusive to "Trimmers" no past practice of additional pay.
14-PN-1211	Clearwater County (Interest Award) Teamsters Local 320	Miller, Richard J.	Interest	Communications/Corr. 2014 reopener Insurance \$838-u, (u-\$850, e-\$829). Ees in Teamster's Insurance plan.	Union's position	Contract 2013-2015. Pattern 50% incr. & full single. U plan blends single/family kept 65/35-1yr. (ER saves vs own Insur.)
13-PA-0861	Forest Lake, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	O.T. for Training Flex scheduling/	ER flexed officer's schedule to reduce overtime for training.	Denied	Contract does not limit flexing. U can't repudiate practice that's a mngmnt right. Detailed discussion on past practice.
14-PA-1270	Isanti, City of Law Enforcement Labor Services, Inc.	Paull, David S.	Tuition reimbursement	Officer requested approval for an entire college degree program. Denied based on budget concerns (cost \$20,000).	Sustained	Despite language requiring approval to be eligible for reimbursement, denial based on budget violates contract.
14-PA-1159	ISD 709, Duluth Firemen & Oilers Local 956	Toenges, Rolland	MOA impact on Contract	EE's promotion rescinded due to Union challenge. MOA returned ee to position as bus driver w guarantee of 8 hr days. Seeking snow day pay based on 8hr. guarantee.	Denied	Bus drivers are not paid for not working bad weather days. Request inconsistent with contract.
14-PA-1165	Metro Transit Amalgamated Transit Union Local 1005	Krueger, Dennis	OT and Unit Work	Light rail mechanic working OT did cleaner's work.	Sustained	Employees can work "down" during their regular shift but contract governs OT
None listed	Minneapolis, City of Electrical Workers Local 292	Bognanno, Mario	Timeliness	Arbitrability regarding 2 termination grievances filed after contracts 21 day timeline when City continued meeting.	Denied	U argued "equitable relief" & "collateral estoppel"- no. Exploring merits is not a waiver of an untimely grievance.
14-PA-0239	Minnesota, State of, Perpich Center for State Residential Schools Education	Imes, Sharon	3 day suspension	Teacher failed to update students online academic progress report.	1 day susp.	Updates required under Section 504. Prior oral and written reprimands.
14-PN-0525	Minnesota, State of, Unit 1 (Interest Minnesota Law Enforcement	Schiavoni, Mary Jo	Interest	Troopers/BCA/DNR. Wages-e (u-delay 3% until 5th pay period each yr.+2% 25th pay period 2015)	2014 - 3% 2015 - 3%	Internal equity, public policy & other economic factors. U proposal cheaper 1st 2 yrs. But adds \$2 million rollup cost.
FMCS	Northern States Power Company d/b/a Electrical Workers Local 949	Fogelberg, J.C.	Termination	EE at nuclear plant fired after discovery he lied on job application re drug use. Tried to introduce new charge at hearing re military record.	Sustained	Question was vague; EE admitted trying marijuana, but did not "use" it. "After-acquired evidence" can be used, but it was also failed due to a vague question.
15-PA-0036	Sherburne County Minnesota Public Employees Assn	Miller, Richard J.	Termination	Corrections officer ate a snack cake while stocking a vending machine.	Denied	Even a small theft by a long-term good ee constitutes just cause for termination.
FMCS	Twin Cities Public Television Broadcast Employees Local 57411	Fogelberg, J.C.	Seniority Selection	Contrct requires hiring frm seniority pool if qualified. Grievant did the work before.	Denied	Special circumstance exception. EE lacked personal skills for assignment.

September, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0712	Breezy Point, City of Law Enforcement Labor Services, Inc.	Schiavoni, Mary Jo	Holidays Timelines	ER changed schedule so they did not need to pay for Holidays not worked - based on scheduling authority language. U waited 1yr after filing for arbitration before selecting an arbitrator.	Sustained Sustained	Authority granted under one provision cannot be used to undermine another. Arbitrator Wallin, St. Francis, June 2010 ruled differently. No time restriction in contract.
14-PN-0820	Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Officers. Wages 2014-2%-e (u-3%); 2015-2.5% (e-2%, u-3%). 2014 Market Adjustment of 2%-n-e.	2014 - 2% 2015 - 2.5%	2014 internal with only 1 settlement. For 2015 external (note: city did budget 2.5% for 2015.)
14-PN-0643	Golden Valley, City of (Interest Award) Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Sergeants. '14-2.5%-e (u-2.5%+4% adjustment) '15-2.5%-both. Court 6 hr. minimum-n-e, Call in to wrk Hol 2x-no-e	2014 - 2.5% 2015 - 2.5%	Wages-internal pattern. Sgts seeking 4% mrkt adjustment officers received - study didn't warrant one. Negotiate other items.
14-PN-0534	Hibbing, City of Minnesota Association of Professional	Miller, Richard J.	Interest	'14-\$.80/hr-u (e-1.5%); '15-2%+\$.30-u (e-1.5%); '16-2.25%+\$.30-u (e-1.75%). Longevity bonus for all in 2014 of 1%-u. Insurance & VEBA-positions the same. Increase Severance& Layoff notice-no-e; Police & Fire Chief Uniforms-n-e.	2014 - \$.80/hr 15-2%+\$.30/h 16-2.25%+.30	Historical relationship w AFSCME. MAPE=9.63% vs AFSCME 10.57%. Severance-1 part of request differed from AFSCME + expense. Layoff currently is same as AFSCME. Uniforms-no requirement to wear them.
14-PA-1354	ISD 278, Orono School Service Employees Local 284	O'Toole, Carol	Timeliness	Union missed time line. ER denied grievance but had a settlement discussion.	Denied	Settlement discussion was not a waiver of time line but a good faith effort by ER.
14-PA-0957	ISD 485, Royalton Royalton Federation of Teachers	Befort, Stephen	5 day suspension	Teacher scheduled vacation trip on a day of parent-teacher meetings.	Denied	U claimed discipline was too severe but ee told she would get 5 days if absent.
FMCS	3M Company United Steelworkers Local 11-418	Gallagher, Thomas	3 day suspension	Violation of absence policy that counts sick usage as an occurrence. Practice changed to resolve grievance w Local 70.	Denied	29 yr practice. Local 70 doesn't have manufacturing ees whose attendance is more critical. Any change must be neg.

August, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-0711	Benton County Law Enforcement Labor Services, Inc.	Gordon, Paul	Interest	Deputies: 2yrs-u (e-3y); '14-1%-e (u-3%) 15-1%Jan+.25%July-e (u-3%); Incr Shift Diff-n-e; Change OT-n-u; Change Hol. for p.t.& premium pay-n-u; Incr Vac bank-n-e; ACA insurance reopener-n-u.	2014 - 1% 2015 - 1.25%	Duration-ER offered no incentive for extra yr. Wages-intrnl pattern/pay equity. compliance. All other items failed due to lack of compelling reason or quid pro quo necessary for a change.
13-PA-0560	Blaine, City of	Anderson, Richard	Promotion	Officer who scored highest for sgt. & w seniority passed over 2 separate times.	Denied	Seniority only trumps equal qualifications. Those selected - leadership experience.
14-PA-0313	Law Enforcement Labor Services, Inc.		Role of Seniority			

14-PN-0367	McLeod County (Interest Award) Minnesota Public Employees Assn.	Johnson, John	Interest	Deputies. 3yrs-e (u-2yrs); retro pay to current ees only-e; COLA-0% each yr-e (u-2%/yr.); Range-2%+\$0.20/hr ea yr-e (u-3%/yr.); 3% for BA-n-e; Incr Invst pay-no-e; ERU, Trainer, & Longevity pay-n-e; Major Hol 2Xpay-n-e, Tuition reimbrs-n-e FLSA OT-n-u; Sick tied to FMLA-n-u.	2014- 2%+.20 2015- 2%+.20 2016- 2%+.20	Wages - internal pattern. All other items lack either a compelling reason for the change or any offer of a quid pro quo.
13-PA-0933	Met Council Teamsters Local 320	Jacobs, Jeffrey	K-9 Selection	E-assignments not restricted by contract. U-transfers are governed by seniority.	Denied	Transfer, but, seniority clause modified by - only "if skills are equal". Also did not meet 50 mile requirement.
14-PA-0436	Oakdale, City of Law Enforcement Labor Services, Inc.	Reynolds, James	Shift bidding	Er held back 3 shifts from bid to train new officers. Violation of seniority bid?-no.	Denied	Different than Sauk Rapids (Jan 2014). Bid seniority restricted to after 18 mo.
FMSC	Rock-Tenn CP LLC United Steelworkers Local 1259	Gallagher, Thomas	Seniority selection	Seniority if qualifications equal. Union challenged experience not obtained at this plant.	Denied	Allowing ee 20 days to qualify for a position doesn't trump selection criteria.
FMCS	Xcel Energy, Inc. Electrical Workers local 949	Daly, Joseph	Termination	Ee caught with Dremel grinding wheels in his lunch box.	Sustained	ER did not show clear & convincing evidence the intent to steal.

July, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-0551	Benton County (Interest Award) Teamsters Local 320	Jacobs, Jeffrey	Interest	Dep/Sgts/Lts, 2014-16. Agreed to wage & insurance pattern at hearing(% unk.) Mkt adj.-n-e; OT, Hol., Unifrm changes-n-u; Affordable Care Act compliance-y-u.		Market adj.-insufficient evidence. OT, Hol., Uniform changes-lack compelling need or quid pro quo for changes. ACA language guarantees no reduction.
14-PA-0351	Hennepin County AFSCME Minnesota Council 5	Kapsch, Francis	3 day suspension	Family Court Mediator/Evaluator on performance plan-unsatisfactory reports.	Denied	Prior 1 day suspension. Documented failures in performance plan.
14-PA-0946	ISD 271, Bloomington Bloomington Federation of Teachers	Jensen, Eugene	Pay for added duties	Pre-school teachers requested pay for assessment reporting & attending PLCs.	Sustained	ER claimed prior approval necessary to pay for extra hrs. Requirement to do work in essence is approval.
14-PA-0315	ISD 550, Underwood Underwood Education Association	Gallagher, Thomas	Placement on Salary Schedule	New teacher hired at step 13. Contract sets maximum level at step 6. U seeking declaratory award re meaning of contract.	Renegotiate language.	ER claims limit only applies to ees with less than 6 yrs. outside experience. Insufficient evidence-must renegotiate.
14-PA-0720	ISD 695, Chisholm Education Minnesota - Chisholm	Lundberg, James	Sick Leave Buy Out	Did ee give 60 day notice of retirement to qualify for sick leave buy out - yes	Sustained	Notice must be in writing - email ok. Intent to retire without specific date ok.
FMCS	Joiners Apprenticeship and OPEIU Local 12	Daly, Joseph	Termination	Office manager lied, failed to cooperate & asked subordinate to cover for her.re invest.	Sustained	29 yrs no discipline. "Case of leaping to conclusions too soon."
None listed	Minneapolis, City of Teamsters Local 320	Lundberg, James	Timeliness Shift Duration	U-clock starts when change takes place. 911 supervisors' shifts changed 10 hrs. Sustained to 8 hours. Contract lists 10 or 8.25hr shifts.	Sustained	ER claimed time starts upon notice. ER can modify work day configurations (24hr periods) but not length of shifts.

14-PN-0399	Minnesota, State of (Interest Award) Minnesota Nurses Association	Fogelberg, J. C.	Interest	Add 4% top & eliminate one step each yr-n-e; Increase shift diff-n-e; \$1,500/yr training-n-e. Wages not arbitrated-3%, 3% internal pattern negotiated.	State's Position	Market adjust-can't compare to hospital nurses. Shift diff-internal pattern (already \$.05 higher than others). Training-free training available-no compelling reason.
14-PN-0356	Pioneerland Library System (Interest) AFSCME Minnesota Council 65	Jacobs, Jeffrey	Interest	Wages: U seeking 2%+steps each yr. E-1%,no steps-offered 2% if no steps-e Add Floating Holiday-n-e.	2014 - 2% 2015 - 2%	Wages-ER offer at hearing. Exceeds pattern of non-union. Floating Hol.-no compelling reason nor quid pro quo.
14-PN-0040	St. Paul, City of (Interest Award) St. Paul Police Federation	Fogelberg, J.C.	Interest	'13 April-1%, Oct.-0.5%-e (u-3% split); '14 April-2%-e (u-3.6% split); '15 Apr.-2.75%-(e-2% Apr.) (u-4.1% Jun/Dec)	2013 - 1.5% 2014 - 2.0% 2015 - 2.75%	'13,'14-pattern.'15 exceeds patrn+.75%. Over 20y only 2 P.D. contracts reflected internal pattern. Used Mpls. comparison.

June, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-0563	Canby, City of Law Enforcement Labor Services, Inc.	Imes, Sharon	Interest	Wages 2014-2%-u (e-1.5%), '15-2%-u (e-1.5%). Limit comp accrual to 120hrs. -n-u; VEBA-n-e (u: s-1,000, f-2,000)	2014 - 2% 2015 - 2%	Wages-internal pattern. Comp-no limit in contract. VEBA negotiated out of contract. Changes require quid pro quo.
14-PA-0717	Hennepin County AFSCME Minnesota Council 5	Kircher, Andrea	Training Time Termination	Seeking return of Vac used to attend training session. Fraud investigator insubordinate & un-cooperative. Co Attorney refused to accept his cases.	Denied Denied	Training was denied as not relevant so ER not obligated to pay. 15 yr ee, with only prior written rprmd & 1 day suspension, but yrs of counseling & intimidating behavior provide cause.
08-PN-0752	ISD 100, Wrenshall Education Minnesota	VerPloeg, Christine	Health Insurance	Should district pay balance of family insurance when spouse works for district?	Sustained	Contract calls for up to \$1,130 per ee per month for family coverage.
14-PA-0454	ISD 199, Inver Grove Heights Education Minnesota Inver Grove	Befort, Stephen	Flexible Work Day	Middle school start 10m before arrival. Elementary end time.	Denied Sustained	Bus arrival or class start? - Bus arrival. No change from longtime practice.
14-PA-0684	ISD 696, Ely AFSCME Minnesota Council 65	Anderson, Richard	Termination	Custodian casually touched and made comments to female teachers which made them uncomfortable.	90 day susp.	Violated sexual harassment policy. 26 yr. ee - 10 yrs. since last discipline. Showed remorse.
FMCS	Jefferson Lines Amalgamated Transit Workers 1498	Beens, Richard	Timelines Bumping Rights	Ee bumped from route - "board" drivers did route for 2 weeks till sr. driver started. Manager refused to meet with ee.	Split	Bumped driver should have kept route until senior actually took it over. ER, not Union violated timeline.
None listed	Minnesota, Dept. of Veteran's Affairs Rick Moore - Veteran	Jacobs, Jeffrey	Termination - VP	Veteran threatened bodily harm & death to a supervisor.	Denied	Contrary to norms of modern American workplace & cannot be tolerated.
None listed	Minnesota State Colleges & Minnesota State College Faculty	Kircher, Andrea	Hiring practice	Contract requires that 70% of staff be "unlimited full time faculty".	Sustained	Upgrade 68 positions. Difficult balance teachers/funding doesn't trump contract.
13-PA-1022	Ramsey County Teamsters Local 320	Bognanno, Mario	3 day suspension	Correctional Officer failed to respond to Code 1 because his shift was ending.	1 day susp.	Reduced to 1 day - lack of progressive discipl. Removed as FTO and acting LT.

May, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PA-0303	McLeod County ASFCME Minnesota Council 65	Jacobs, Jeffrey	Job Reevaluation	ER failed to implement grade increases consultant recommended for 3 positions.	Denied	Increases are subject to board approval. Notice given to Union during negotiations
14-PA-0562	Metro Transit Amalgamated Transit Union 1005	Gallagher, Sharon	Unit Work	Supervisors removed pea gravel from light rail track for safety reasons.	Denied	Past practice. No clear contract language

April, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0148	Blaine, City of (See Court Order)	Crump, Harry	Written Reprimand	On-call detective worked OT traffic detail w/o obtaining fill-in for on-call. Grievance on written rprmd contained lies by grievant.	Denied	Making false statements is stigmatizing so clear and convincing burden of proof was applied and met.
13-PA-0581	Law Enforcement Labor Services, Inc. Blaine, City of (Court of Appeals)	Court of Appeals	Public Policy on Grievances	Union challenged Harry Crump's award in District Court - award confirmed. Court of Appeals affirmed District Court.	Affirmed	U-claims discipline re alledged lies in grievance petition conflicts w PELRA's public policy re grievance arbitration-no.
13-PA-0898	ISD 22, Detroit Lakes Education MN, Detroit Lakes ESP	Befort, Stephen	Arbitrability	Can at-will para's termination be grieved if no contract in place?	Sustained	BMS grievance procedure governs. Detailed analysis of BMS rules.
14-PA-0132	ISD 316, Greenway Education Minnesota, Greenway	VerPloeg, Christine	Unilateral re-assignment	To fill a vacancy 3 teachers moved w/o posting. ER-position=area of licensure (elementary ed.). U=current assignment.	Sustained	Position is unique to a person. District's interpretation would nullify Emergency Transfer language.
14-PA-0914	ISD 706, Virginia Virginia Education Association	Boldt, Charles	Right to alter school calendar	Does district have unfettered right to add days due to emergency closing? - no.	Sustained	Can add student days if they fall below 175, but contract controls in-service days
None listed	Minnesota State Colleges &	Wallin, Gerald	Reassignment 20 day suspension Termination	Coach moved to non-coaching duties. Videos of his children bathing; cell phone personal use; children in locker room. Above issues & pornography on deptmen computers at office & home.	Not allowed Sustained Oral reprimand	Impermissible discipl. & violation of CBA Pictures not sexual in nature; State policy on cell phones allows for reasonable use; no proof of children in locker room. Porn on computer linked to assistants & prior users. Oral for allowing wife to use cmprtr.
14-PA-0147	University of Minnesota ASFCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Fraudulently claimed she was married to obtain health insurance coverage.	11 months	U offered amnesty program where 590 in similar situation not fired. Good work record.

March, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PA-0846	Hennepin County Minnesota Public Employees Assn	Crump, Harry	Attendance Policy	Can ER unilaterally establish sick policy defining habitual & inappropriate use?	Denied	Mgmt. has right to adopt reasonable rules. 4 criteria for sick policy discussed.
13-PA-0531	Isanti County	Jacobs, Jeffrey	Holiday pay	Officer on IOD did not receive Holiday pay.	Denied	Past Practice.
13-PA-0532	Law Enforcement Labor Services, Inc.					
13 PA 0957	Minnesota, State of	Beens, Richard	Safety footwear	\$125 boot allowance vs requirement to	Denied	Boot allowance limits requirement to

	Minn. Government Engineers Council			provide protective equipment or clothing.		provide based on 25yrs past practice.
13-VP-0772	Minnesota, State of, Department of Individual Grievant	Jacobs, Jeffrey	Probationary & Trial periods	EE didn't pass probation; had right to a vacancy in her old class. Offered job 200m from home - refusal considered resignation.	Denied	Job same class despite some differences Offer & time to decide were reasonable. Refusal = resignation even w/o language.
13-PA-0825	Sherburne County Teamsters Local 320	Latimer, George	1 day suspension	Sgt. failed to pass along info at end of shift that prisoner threatened a guard.	Denied	No specific policy & report was made the following morning-but safety requires immediate reporting even w/o policy.
13-PN-0299	Sibley County Minnesota Public Employees Assn	Befort, Stephen	Interest	Deputies/Jail/Dispatch/Investigators. Wages-e (u-same general incr plus 3% merit each yr.). Comp time & accrual- no change-e; OT change for invstgrs-n-e.	2012 - \$.40 2013 - 2% 2014 - 3%	Wages-internal pattern. Comp time - no compelling need for change (already a leader in comparison group). OT-no compelling reason.
AAA	Xcel Energy, Inc. Electrical Workers Local 23	Daly, Joseph	Vacation Accrual	Does vacation accrue during a long term suspension?	Denied	Terminated employees returned to job by arbitrator with no back pay or benefits.

February, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PA-0595	Duluth, City of AFSCME Minnesota Council 5	Befort, Stephen	Terminating Past Practice	EE called in on stand-by denied pay for travel time which had been the practice.	Denied	ER gave notice practice would cease after new contract.
13-PN-0286	Freeborn County (Interest Award) Minnesota Public Employees Assn.	Lundberg, James	Interest	Deputies. Wages-e (u '13-2%, '14-2.5%); Uniforms-no chng-e (u+\$50); Shift pay-no change-e (u+\$.25 hr.).	2013 - 1.75% 2014 - 2.0%	Wages-pattern. Unfrm allowance-same as sgt's & others in region. Shift pay-same as sgt's and all others in county.
14-PA-0181	ISD 625, St. Paul Professional Employees Association	Remington, John	Termination	Architect promoted to Arch II & placed on probation. Probation extended - he did not pass probation, but no Arch I opening to return to, so he was laid off.	Sustained	Ruled a termination w/o cause. ER failed to provide required 4 mo. progress reports therefore probation was not a fair test.
14-PA-0212	Metro Transit Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Termination	Rail operator asked for days off to help her son, was denied, then took FMLA off.	Denied	Clean record but falsification of FMLA is considered a dischargeable offense.
14-PA-0316	Metro Transit Amalgamated Transit Union Local 1005	Krueger, Dennis	Termination	Violated no fault absentee policy - 13 in rolling 12 mos. 35 in 3 years.	Denied	Counseled 21 times in 3 yrs.
14-PA-0092	Metro Transit Amalgamated Transit Union Local 1005	Neigh, Charlotte	Removing non-disciplinary memo	Critical memo placed in file but with no rule or policy violation cited nor w any plan or suggestion for improvement.	Sustained	Union did not seek to bar non-discipline memos, but this memo was unfair & erroneous.
13-PA-0094	Minnesota, State of MN Government Engineers Council	Gallagher, Thomas	Layoff vs Lockout	Was the State shutdown due to budget impasse a improper lockout?	Denied	Lockout is used to gain negotiating advantage. Layoff due to lack of funds.
13-PA-0702	Roseau County Law Enforcement Labor Services, Inc.	Miller, Richard J.	Past Practice	Assignment of OT. Work assigned to non-bargaining unit officer.	Split	Clear contract language. Change causing grievance wasn't dealt w in new contract. Unit work limited to members.

14-PA-0219	St. Paul, City of St. Paul Police Federation	Ogata, Harley	Termination	Officer used excessive force when he sprayed ASR into suspects ear & filing an incomplete report.	1 day susp.	Civilian Review board recommended 10 day susp. for intentionally spraying into ear, but neither city, nor video proved charge. Suspended for report.
13-PN-0840	Wilkin County (Interest Award) Minnesota Public Employees Assn.	Neigh, Charlotte	Interest	Jailer/Dispatcher. Change comparison group-n-e. Wages-2%-e (u-3%+\$1); Incr. OT accrual 40hr. to 80hr.-n-e; Uniform change "provide" to cash system-n-e; Shift pay + .25 to \$1 hr. - u. FTO pay-n-e.	2014 - 2%	Wages-internal & external. Shift pay increase based on comp group average. No compelling reasons provided for any of the other proposals

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BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0659 13-PA-0660	Crosby, City of Teamsters Local 346	Remington, John	Demotion Termination	Sgt. serving as officer's union steward lied about his duties & revised his job description in negotiations.	Denied Sustained	Demoted. Negligent in duties as suprv. Returned to work. Comments made in bargaining are protected.
FMCS	Faribault Allina Medical Clinic AFSCME Minnesota Council 65	Gallagher, Thomas	Travel to Training	Travel time compensation for training in the twin cities.	Denied	Neither contract nor FLSA require pay. Suprv who paid in past not authorized.
14-PA-0099	ISD 12, Centennial Minnesota School Employees Assn	Befort, Stephen	Restructuring Position.	SEIU & Paraprofessional's challenge changes made w/o negotiating.	Denied.	Work not transferred out of unit. Change de minimus. In good faith-due to budget.
14-PA-0111 14-PA-0112	ISD 194, Lakeville Education Minnesota Lakeville	Miller, Richard J.	Teacher Assignments	Assignments changed from prior year. 1 due to complaints; 1 to balance work.	Sustained	Despite good reasons for assignments, they did not meet contract requirements.
13-PN-0783	Isanti County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J	Interest	Deputies: Duration-3y-e (u-2y); '13-1.5% Apr.&1.5%Jul.-e (u-1%Jan.,1%Jul.); '14-2%Jan.-e (u-1%Jan.,1%Jul.); '15-1%-e (u-2%); Insurance - e. (effective March '14 vs July 2013-u). Cell phone-no change-u.	2013 - 3% 2014 - 2% 2015 - 1%	Duration-internal pattern. Wages & insr.- pattern. U tried to back load wages so insurance wouldn't change. Cell phone policy -no quid pro quo offered.
14-PA-0103	International Falls, City of Law Enforcement labor Services, Inc.	Ogata, Harley	1 day suspension	Jailer failed to make timely prisoner checks as required by statute & policy.	Denied	No prior discipline but 4 memos re failed checks serve as proper notice
13-PN-0782	Lino Lakes, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Sergeants. 2014-2%-e (u-2.5%). Insurance-u (full single vs. 90%; H.S.A. \$1,000/2,500 vs.\$750/\$1,500.	2014 - 2%	Wages internal pattern. Insurance, ER has burden to show change is necessary & reasonable to reduce benefit.
14-PA-0194	Metro Transit Amalgamated Transit Union Local 1005	Lundberg, James	Accident	Written warning, Pedestrian on Nicollet mall walked into side of bus.	Denied	Driver did not leave himself an "out", Should have anticipated situation.
13-PA-0502	Oakdale, City of Law Enforcement Labor Services, Inc.	Beens, Richard	Overtime	OT assigned, ignoring requirement to equally distribute OT.	Denied	Special assignment exception.
13-PA-0748	Sauk Rapids, City of Law Enforcement Labor Services, Inc.	Reynolds, James	Assigning Shift for Training	Can city deny bid to afternoon shift so it can be used to train probationary officer?-no. Can officers bid for regular days off?	Sustained Denied	Shift slots are reserved for School Resource officers & sgts. but no justification given for training. See Oakdale (Aug. '14) - different ruling.

14-PA-0071	Todd County Law Enforcement Labor Services, Inc.	Toenges, Rolland	Termination	4 accidents in 4 mo. 33 over 17yrs. Prior reprimands but only a 1 day susp.	Denied	Rules regarding driving are reasonably related to mission of Sheriff's Office.
13-PN-0781	Wilkin County (Interest Award) Minnesota Public Employees Assn.	Latimer, George	Interest	Deputies.'13-3%-e (u-3%+\$2), '14-2% e (u-3%+\$2); Chief Dep incr \$1/h-no-e; Comp accrual 40h to 80h-no-e; change uniforms from draw to cash-no-e; shift diff from \$.85 to \$1-y-u; FTO pay-n-e; SWAT premium-no-e,	2013 - 3% 2014 - 2%	Wages - internal pattern. Shift diff raised to level comparable with surrounding counties. No compelling reason to award any other requests.