

2006 Arbitration Awards - Minnesota B.M.S.

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, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
05-PA-0703	Austin, City of AFSCME, Council 65	Jay, Sara	Comp time - exempt employees	City discontinued hour for hour comp accrual for exempt employees wrking more than 40 hrs/week.	Sustained	Accepted practice for over 12 yrs. City's repudiation not valid due to subsequent actions.
06-PA-1223	Hennepin County AFSCME Minnesota Council 5	Jacobs, Jeffrey	1 day suspension	Social worker was critical of another's actions yelled at her in front of a child.	Wrtn reprmnd	1 day based on prior discipline. Dispute if previous letter dropped?
None listed	ISD 199, Inver Grove Heights Education Minnesota, Inver Grove	Gallagher, Thomas	Retiree Insurance	Does time on leave count towards 20 years of continuous service required?	Denied	Requirement for full time service bars counting leave time.
06-PN-0462	LaCrescent, City of (Interest Award) Law Enforcement Labor Services, Inc.	Latimer, George	Interest	1 year-u; 3%-e (u-8%); out of class pay-no-e; court cancellation-u;	2007 - 3%	1 yr-lack of date 2nd yr; 3% internal; out of class-not enough evidence.
06-HN-0986	Rice Memorial Hospital (Interest Minnesota Nurses Association	Bognanno, Mario	Interest	3yrs-e; Wages (u-3%, 6%; e-0%, 3.5%, On call, EST, PTO, Easter & Mngmnt rights - no change.	2006 - 0% 2008 - 5%	Duration-history of 3yrs; wages-external; Issues best resolved in negotiations.
FMCS	St. Mary's Duluth Clinic Health System United Steelworkers of America, Local	Bognanno, Mario	Lump sum pay	New pay grid, ees above the grid were to above" calls for double payment? ER	Denied	Intent of what was negotiated not

November, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
06-RA-1059	Ely-Bloomenson Hosp & Nursing Home Minnesota Nurses Association	Bognanno, Mario	3 day suspension	Charge nurse rude & unprofessional. suspended 3 days.	Split	Counseling is not discipline, doesn't count as progressive discipline. 1 day susp & loss of charge duties.
06-PN-0823	Fergus Falls, City of (Interest Award) Law Enforcement Labor Services, Inc.	Daly, Joseph	Interest	Sgts. Work yr-FLSA language-e; OT- Union seeking pay v comp only-no-e; Severance incr-no-e; Insurance change \$ to %-no-e; Wages-2.5%,2.5%-e (u- 3.5%,3.5%); Uniforms \$600-e(U-\$700)	2006 - 2.5% 2007 - 2.5%	No compelling reason for proposed new language. Xmas eve-external. Insurance, severance, wages-internal.
06-PA-1223	Hennepin County AFSCME Minnesota Council 5	Jacobs, Jeffrey	1 day suspension	Child protection social worker loud & unprofessional in criticizing co-wrker.	Wrtn Warning	Lack of prior discipline.
06-PN-1089	Hopkins, City of (Interest Award) Hopkins Police Association	Fogelberg, J.C.	Interest	Insurance 06 & 07-e (u seeking %) Opt out of Insurance increase-n-e	City's positions	Internal patterns.
06-PA-1251	ISD 833, Cottage Grove Association of School Bus Drivers ISD	Anderson, Richard	Blackout of Vacation	District barred use of unpaid vacation in fall and spring due to higher use of	Sustained	Management approval is for individual requests - does not create right to black
06-PA-1183	Metro Transit	Kircher, Andrea	Termination	False FMLA information re ineligible	Denied	FMLA used to shield from terminable

	Amalgamated Transit Workers, Local			condition & failing to file Dr's reports that		violation of absence policy. Dr slip re
07-PA-0089	Minnesota, State of, Fergus Falls AFSCME Minnesota Council 5	Befort, Stephen	Termination	After passing probation, employer resume.	Denied	Dishonesty and would not have been
MSCF	Minnesota State Colleges & Minnesota State College Faculty	Ver Ploeg, Christine	Sabbatical	6 teacher's sabbaticals were denied.	Sustained	Insufficient notice of change in explanation for denial.
07-PA-0079	Minnesota, State of, Department of AFSCME Minnesota Council 5	Reynolds, James	Termination	Using state car to pick up child, surfing phone.	Denied	Continuing pattern of misusing time and
06-PN-0903	Nicollet County (Interest Award) Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Interest	Shift differential-no-e; Shift suprv pay-no-e; Training officer-no-e; Comp time-60hrs-e (u-100hrs); Uniform voucher-e.	Co. positions	Jailers. Differential, Shift suprv. & Training-new items no market support. Comp & Uniform - same as deputies.
06-PA-0371	Ramsey County AFSCME Minnesota Council 5	Gallagher, Thomas	Discharge	Counselor slapped mentally disabled patient. Pled to disorderly conduct.	16 mo susp No backpay	State ruled abuse not recurring & is eligible to work w vulnerable adults.
06-PA-0938	Rogers, City of Teamsters, Local 320	Frankman, Janice	Susp w/o pay Termination	Off-duty officer pulled his gun while stopping a speeding car. Charged & pled to 2 misdemeanors.	Sustained Sustained	Admin leave w/o pay = unsupported suspension. Termination rested on felony criminal case.
FMCS	St. Michael's Health & Rehabilitation Ctr United Steelworkers, Local 9349	Jacobowski, Daniel	Termination	LPN failed to take proper steps in an	Denied	Failed to apply CPR; left for suction in report.

October, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
06-PN-0457	Hubbard County (Interest Award- Sheriff's Deputies) Teamsters, Local 320	Toenges, Rolland	Interest	3 yrs-e (u-2y); Wages: 3%, 3%, 3%-e (u-\$1+4%, 4%, 4%); Insurance-new plan-e; Comp accrual 80 to 120-no-e; OT (1st claim to part time hrs)-no-e; Severance: lower hrs required-u; Uniform incr-yes-u; Personal leave day-no-e; longevity increase-no-e.	2006 - 3% 2007 - 3% 2008 - 3%	History of 3 yrs.; wages, insurance, longevity internal comparisons. Lack of compelling need for change on other issues. Can change to aggregate value of ins be arbitrated? - yes.
06-PN-0456	Hubbard County (Interest Award- Jailers/Dispatchers) Teamsters, Local 320	Toenges, Rolland	Interest	Jailers, similar to deputies requests. Wages: 3%, 3%, 3%-e (u-\$.80+4%; \$.50+4%, 4%). Increase longevity-no, Eliminated triple gold insurance plan. Comp accrual increase-no-e; 1st choice to all OT-no-e; Severance:lower min hrs-yes-u Uniform increase-yes-u; Persnl leave day-no-e..	2006 - 3% 2007 - 3% 2008 - 3%	Wages internal pattern - comparable to market when insurance & longevity considered. Longevity is a uniform benefit. Union made aggregate value of insurance reduction argument-no bar to arbitrator changing value. Soc services severance min lowered.
06-PA-1243	Itasca County of AFSCME Minnesota Council 5	Jacobs, Jeffrey	Seniority Promotion	Systems manager position bypassed qualified internal candidate.	Denied	Contract qualifies seniority by adding providing it is in best interest of Co.
06-PA-0620	Steele County Law Enforcement Labor Services, Inc.	Befort, Stephen	Written reprimand	Changed shift without informing his supervisor.	Oral reprimand	Change necessary to complete arrest reports w/o incurring OT.
06-PA-1147	Todd County Teamsters, Local 320	Daly, Joseph	Me too clause	Are elected officials employees under "me too clause"? - No.	Denied	179A.03, subd 14 excludes elected public officials as "public employees".

06-RA-1144	United Parcel Service IAMAW, District Lodge 77	Jacobs, Jeffrey	Termination	Violation of Anti Harassment policy. Called ee queer & challenged to fight.	Denied	No progressive discipline, but many counseling sessions.
06-PA-0192	University of Minnesota AFSCME Minnesota Council 5	Paull, David	1 day suspension	While being counseled, ee made a fist and threw a water bottle.	Wrtn warning	Split award. Blameworthy but no progressive discipline.
06-PN-0650	Winona, City of (Interest Award-Includes Clarification) Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Interest	Wages-u (e 06-2%/1%, 07-3%); Insur. employer's position (u has PEIP);	2006 - 3.25% 2007 - 3.25%	Wages-external & history of police receiving more than other ees.
06-PN-0743	Wright, County of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	3 yrs-e (u-2yrs); Wages-e (u-4%,3.5% & 3.5%); Insurance-e; Comp carryover accrual-no-e; Uniforms-+\$25 ea yr-u; Court minimum incr-no-e; Invst on call incr-no-e; Sick accrual incr-no-e; Shift diff-no-e; Chnge Mileage lang-no-u Out of title must wk 5 days-no-u.	2006 - 2% 2007 - 2.75% 2008 - 2.75%	Duration wages & insurance - internal pattern. Performance pay systems distort wage comparisons. Other requests denied when not supported by evidence.

September, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
AAA	ADT Security Services, Inc. IBEW, Local 110	Daly, Joseph	Unit Work	Unit described as ees working out of Twin Cities office. Are ees working from home required to join union?-yes.	Sustained	35% of wrk done by ees of subdivision is unit work therefore they must join union.
05-PN-1185	Arrowhead Regional Corrections Board AFSCME Minnesota Council 5	Holmes, Barbara	Interest	OT: calculate based on compensated no-e; Shift differential increase-no-e.	Employer's	Union failed to prove a compelling need
06-PN-0798	Cottage Grove, City of (Interest Award) Law Enforcement Labor Services, Inc.	Daly, Joseph	Interest	Sgts wages-c (u-06-4%, 07-3.5%)	2006 - 2.5% 2007 - 3.5%	Wages-internal, same as police.
FMCS	Garelick Manufacturing Company IUE-CWA, Local 87042	Jacobowski, Daniel	Termination	Workplace feud with 2 co-workers. Joked about using his pistol.	3 day susp.	Was not a threat, rather a joke w a friend. Other 2 were the instigators.
FMCS	Highland Chateau Care Center UFCW, Local 789	Toenges, Rolland	Termination	Nursing home worker failed to work a shift he signed up for - claimed not properly posted.	Denied	Failure to report to work is presumed to be a resignation. Alleged errors in posting were not significant.
FMCS	Indian Health Board of Minneapolis SEIU, Local 113	Bognanno, Mario	Extra Shift Pay	Dr.'s schedule changed frm 4 to 5 day total hours the same. Claiming pay for extra shift.	Sustained	MOU "The current practice of Physich Administrator time shall continue", is a bar to mngmnt changing schedule.
06-PA-0181	ISD 316, Greenway-Coleraine AFSCME Minnesota Council 5	Kircher, Andrea	Termination	Food service worker complained to school board member re supervisor. Violated a written warning not to retaliate vs anyone who criticized her wk.	Sustained	Letter re needed changes & warning against retaliation was marred by inscrutable verbiage. Also - lack of progressive discipline.
06-PN-0742	Marshall, City of (Interest Award) Law Enforcement Labor Services, Inc.	Remington, John	Interest	Officers-1yr-u; Wages-4%-u (e-3%); FTO pay-no-e; Shift pay increase-n-e; Uniform allowance-no change-e.	2006 - 4%	Duration - expecting compensation study in 2007. Wages-external. FTO Shift & Uniform - insufficient evidence.
06-PA-0161	Roseville, City of Law Enforcement Labor Services, Inc.	Holmes, Barbara	1 day suspension	Officer failed to follow an order.	Sustained	Order wasn't clear and investigation was insufficient.

FMCS	Steele-Waseca Cooperative Electric IBEW, Local 160	Daly, Joseph	Loss of Seniority	Clarification of 12/23/2002 arbitration award regarding seniority date. Denied medical leave & terminated. Reinstated-given new seniority date.	Sustained	Seniority given in arbitration can't be challenged using contracts medical leave provision because they never gave the employee medical leave.
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August, 2006						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Ainsworth Engineered (USA), LLC United Steelworkers of America, Local	Reynolds, James	Termination	Employee repeatedly instructed to return to her work area. She did not -	Denied	Contract allows termination upon 1st act of insubordination. No prior record
06-PN-0527	Alexandria, City of (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Sgts: Vac incr-no-e; 1.5 pay for all Hol.-y-u; Uniform incr-no-e; 2006-4%-e (u-4%+\$200); 2007-2% Jan, 3%July-e (u-4%+\$200); Insur-same as officers	2006 - 4% 2007 - 2%, 3%	Vacation, Wages, Insurance,Uniforms based on internal pattern-same as officers. Holiday premium - external market.
06-PN-0479	Belle Plaine, City of (Interest Award) Law Enforcement Labor Services, Inc.	Boyer, John	Interest	2yrs (u-1yr, e-3yr); Holiday prem-y-u; Uniform: +\$20, +\$15-u; Wages-u (e- 3%, 3%).	2006 - 3.35% 2007 - 3.3%	Pattern of multiple year contracts. Holidays - external. Uniform-not increased for 3 yrs. Wages-external.
06-PN-0525	Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc.	Jensen, Eugene	Interest	FTO +\$.05-u; Investigator no incr-e; 2006nsurance 2006 Insurance-e; 2007 ins reopener-u.	Employer's Positions.	Arbitrator rejected increasing prem. by % due to history of parties. Insurance - internal pattern.
05-PA-132	Eveleth, City of AFSCME Minnesota Council 5	Reynolds, James	Unit Work	Casual workers hired to cut lawns in the summer w/o first consulting union.	Denied	LOU has not been consistently enforced. No Union jobs lost.
FMCS	Fairview Oxboro & Ridges Clinics SEIU, Local 113	Bognanno, Mario	Health Insurance- unilateral change	Insurance change to high deductible plan are not substantially similar as required by contract.	Sustained	ER claims substantially similar when considering premium savings. But no actuarial study done to support this.
06-RA-0322	Griggs, Cooper & Company, Inc. Teamsters, Local 120	Boyer, John	Termination	Violated attendance policy-given last chance agreement which was violated.	Denied	Good discussion of attendance policies and last chance agreements.
06-PA-0136	ISD 182, Crosby-Ironton Education Minnesota Crosby-Ironton	Jensen, Eugene	Reprisal Clause	After a strike - teacher terminated for budgetary reasons. Later applied for for position but not selected.	Sustained	Totality of facts pointed to reprisal in violation of MOU.
06-PA-0684	ISD 861, Winona Winona Education Association	Jacobowski, Daniel	Coaching position	Denied asst soccer coach position due to parent complaints.	Sustained	Complaints occurred as head coach but no opportunity to respond. ER failed to use dispute process.
05-PA-1036	Koochiching County Int'l Union of Operating Engineers, Local 49	Daly, Joseph	Promotion - best qualified.	Part-time ee claimed seniority for full- time position based on senior qualified contract language.	Denied	Part-time ees don't have seniority to fill full-time vacancies. And testing showed he was not best qualified.
05-PN-1168	Lyon County (Interest Award-Includes Clarification) Law Enforcement Labor Services, Inc.	McCoy, Arthur Ray	Interest	05-0%, 4%merit-e (u-3%, 4%m); '06- 0%, 2.5%merit-e (u-3%). Incr Court & Call back pay-no-e; remove sub-	2005 - 0% 2006 - 0%	Wages-internal. Insurance-failed to provide compelling reason. Other issues not supported by region 8 data.

				contacting-y-u; change Columbus day to floating hol-n-u; Insur change-n-u; Shift differential?-n-e		Clarification order explores legal basis for change to award.
06-PA-0990	Metropolitan Council 1005	Befort, Stephen	Pay Rate	Bus cleaner trying to alter specified wage rate because work is harder than other titles who are paid more.	Denied	Arbitrator's role is to read & apply the parties contract - not determine if different contract terms are preferable.
06-PA-1182	Metropolitan Council 1005	Jacobs, Jeffrey	Final Warning	3rd bus accident in rolling 3 yr period accident will result in termination.	Denied	Denied accident. Case proven with circumstantial evidence.
FMCS	Midwest Coca-Cola Bottling Company Teamsters, Local 792	Frankman, Janice	Termination	Told co-worker to stop making racist remarks, pushed him dn on chair, told him to apologize - violation of violence policy.	30 day susp.	Impropriety of ee using form of self-help to address another ee's bad behavior. Reduced to 30 days.
05-PA-0910	Orono, City of Law Enforcement Labor Services, Inc.	Jay, Sara	Seniority Accrual	Sgt went back to patrol. City credited time as sgt for patrol seniority - no.	Sustained	Patrol seniority doesn't count towards Sgt seniority in spite of same language.
06-PN-0916	Ramsey, County of (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	06-2% Mar1-e, '07-2% Mar1, 08-1.5% Mar1 & 1.5% July1-e, (U-3.5%, 3.5%, 3.5%); Change yrs of service for steps -n-u; Deferred comp-y-u; Lic premium-n-e	2006 - 2% 2007 - 2% 2008 - 3%	Wages & Deferred comp - internal. Yrs of service change and License premium - no compelling reasons given for change.
06-PN-0476	Redwood County (Interest Award) Law Enforcement Labor Services, Inc.	Remington, John	Interest	3 yrs-e (u-2yrs); Wages-e (u-4%, 4%, 4%); Rotating shift pay-n-e; Uniforms-from \$525 to \$600-u (e-\$550).	2005 - 1.5% 2006 - 2% 2007 - 2%	Duration-18 months into new contract Wages-internal pattern; Shift pay-disputed schedules should be neg.
06-PA-0177	University of Minnesota AFSCME Minnesota Council 5	Fields, Bernice	Written Warning	Ee accidentally bumped her chair, she went to his desk & harassed him..	Denied	History of aggressive misconduct. Both received written reprimands.
06-PA-0645	West St. Paul, City of Law Enforcement Labor Services, Inc.	Bard, Stephen	Job Elimination	Dispatch services moved to Dakota County. City didn't negotiate impact.	Sustained	City policy requires 60 day notice of layoff - held to be part of contract. Awarded pay and benefits for last month of the contract.

July, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	ABM Building Security SEIU, Local 26	Jacobs, Jeffrey	Pre-assignment Training Pay	ER pays for State mandated CEU & ER required training-not state required pre-assignment training.	Denied	Expressio exclusio -separate listing of required training excludes training not listed.
FMCS	Abbott Northwestern Hospital SEIU, Local 113	Jacobs, Jeffrey	Termination	Theft of cash from parking receipts in an integrity audit.	Denied	Clear and convincing standard of proof.
FMCS	Aramark Refreshment Services Teamsters, Local 792	Jacobs, Jeffrey	Recall	Laid off driver not called back prior to drivers less senior.	Sustained	ER claimed driver turned down recall but circumstances support driver.
FMCS	Cambridge Medical Center IUOE, Local 70	Jacobs, Jeffrey	No-pyramiding clause	Seeking weekend premium & double back pay in spite of no pyramiding.	Sustained	No pyramiding bars OT on top of premium pay- not 2 premiums.

FMCS	Centerpoint Energy and Minnesota Gas Gas Workers Union, Local 340	Jacobs, Jeffrey	Termination-last	Gas service tech violated Last Chance	Sustained	Performance blameworthy, but didn't Can't discipln for legitimate sick use?
06-PA-0422	Grant County Teamsters Local 320	Befort, Stephen	Senior qualified	Seeking financial worker position. Came in second in test-not hired.	Denied	Relative ability standard. Seniority only a factor if qualifications equal.
06-PA-0699	Hennepin County AFSCME Minnesota Council 5	Jacobs, Jeffrey	10 day susp.	Child protection wrkr reunited child with mother w/o supervisor's ok.	Denied	Long term ee w/o prior discipline. ER considered termination.
06-PA-0885	Hennepin County AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Sexual harassment.	Sustained	Failed extra-marital affair that took place outside the workplace.
06-PA-0401	ISD 306, Laporte Laporte Federation of Education	Jensen, Eugene	Recall	ER in SOD, all hrs equitably reduced "to share the pain".	Sustained	Layoff or reduction in hours must be by class - ees with least seniority must be laid off or reduced first.
None listed	Minnesota, State of, Department of Minnesota Association of Professional	Bognanno, Mario	Bumping	I.T. ee bumped into position but given then reevaluated to lower grade.	Sustained	Software in position a bad fit for ee. a real bump.
06-PN-0326	New Brighton, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kircher, Andrea	Interest	Wages-e (u-4%, 4%); Insurance-e; School Resource+\$100-u; Det, FTO, Call back, Sick leave increase-n-e; Uniform+\$40-u; MLK Hol-y-u; SELF-u	2006 - 3% 2007 - 3%	Wages & MLK Hol-internal patterns. Det, FTO, Call back, Sick leave & SELF - insufficient data to support any changes.
06-PA-0801	Princeton, City of AFSCME Minnesota Council 5	Anderson, Richard	Termination - V.P.	Maintenance man accused of stealing gas from city garage.	Sustained	ER unable to prove charge.
06-PA-0719	Ramsey County AFSCME Minnesota Council 5	Jacobs, Jeffrey	FLSA Overtime	Tax clerk used sick day during week therefore not eligible for OT on Sat.	Sustained	Contract states OT paid for working on day off. But - did not work & not paid.
FMCS	St. Francis Regional Medical Center SEIU, Local 113	Jacobs, Jeffrey	Weekend pay to casual employees	\$50 bonus for "full extra/unscheduled weekend shift."	Sustained	Casual employees have no regularly scheduled hours so they qualify.
06-PA-0010	St. Paul, City of IAFF, Local 21	McCoy, Arthur Ray	2 shift suspension	Fire Capt (Union President) confronted black firefighter on Union OT dispute.	Sustained	Not harassment - legitimate role of Union President.
05-PA-0383	SSD 1, Minneapolis AFSCME Minnesota Council 5	McCoy, Arthur Ray	Termination	Are holidays "duty days" for meeting 130 day probationary period - yes.	Sustained	Also discussion of timelines.
FMCS	Stock Yards Meat Packing Company Teamsters, Local 120	Jacobs, Jeffrey	Termination	Ee denied time off for knee surgery fired for not showing up for work.	Sustained	ER's denial based on their Doctor. Ee's Doctor said surgery necessary.
June, 2006						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Great River Energy IBEW, Local 260	Jacobowski, Daniel	Travel Pay	Scheduled for OT Sat. & Sun. ER claimed scheduled shifts exempt.	Sustained	Travel time paid when called back. Not limited to emergency situations.
06-PA-0644	ISD 281, Robbinsdale SEIU, Local 284	Fogelberg, J.C.	Arbitrability 5 d susp/demotion	Head custodian called principal a lesbian dictator. Timeliness?	Denied	Waited 8 mos before filing grievance. Contract has 30 day requirement.
06-PA-0383	ISD 283, St. Louis Park	Reynolds, James	Promotion - most	Shall consider seniority. External	Denied	ER determines most qualified. Used

	SPARK		qualified	candidate selected over internal.		orderly process-committee selection.
06-PA-0053	Richfield, City of Law Enforcement Labor Services, Inc.	Paull, David	10 day susp	Made traffic stop using unmarked car; lied about showing his badge.	Wrtn Reprmd	Admitted violating policy for car stop. No improper motivation or intention re denial of showing badge.
05-PA-1121	Thief River Falls, City of Teamsters, Local 320	Flagler, John	3 day suspension	Profanity with co-worker escalated to "fighting words" .	Denied	Previous reprimand re anger issues.
			Termination	Non-work related threat to insurance ee. Charge with felony - pled to DOC.	Sustained	Failure to provide Loudermill hearing created a fatal due process error.
May, 2006						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Advanced Shoring Company Teamsters, Local No. 120	Bognanno, Mario	Subcontracting	Cartage subcontracted in '90. Drivers guaranteed Union benefits as part of agreement expired in '92. Non-Union Trucking Co hired in 2005.	Denied	Agreement expired but honored for 15 yrs - enforceable past practice-no. Grievant never worked for ASC.
05-PA-0997	AFSCME, Council 65 Minnesota Independent Field Staff and	Jensen, Eugene	Termination	Business Agent's performance issues and felony drug conviction.	Denied	Section 504(a) of the Labor-Mngmnt Reporting & Disclosure Act (LMRDA) 29 U.S.C.A. § 504 bars employment as U Rep for 13 yrs if drug conviction.
FMCS	Allina Hospitals & Clinics - Abbott SEIU, Local 113	Flagler, John	Termination	Parking ramp cashier stole money by cash box in an integrity test.	Denied	Clear and convincing" evidentiary Discussion of circumstantial evidence.
06-PN-0102	Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc.	Holmes, Barbara	Interest	Wages-u (e-1.5%, 1.5%, 2%); Court & Call out-no change-e; Shift diff incr- y-e; Floating Holiday from 2 to 3-n-e.	2005 -3% 2006 - 3% 2007 - 3%	Wages-external (deviations in internal settlements). Shift diff- internal and. external. Other issues-not compelling.
05-PA-0932	Duluth Housing and Redevelopment AFSCME, Minnesota Council 5	Neigh, Charlotte	Contracting out.	Union failed to meet step 3 grievance	Denied	Procedural deficiencies by Union.
06-PA-0564	ISD 314, Braham SEIU Local 284	Miller, Richard J.	Promotion Timeliness Arbitrability	Senior qualified language. Ee not qualified due to poor performance, felony record (unable to trust unsuperv), & lack of skills required.	Sustained	District's determination re qualifications were arbitrary, capricious & wrong. Discussion on Timeliness & Arbirability regarding a management right.
FMCS	Lund Food Holdings, Inc. UFCW, Local 789	Gallagher, Thomas	Work Schedules	4 sr ee's work 10 hr shifts. All others on 8 hrs. All ees scheduled to start 2 days at 10:00am so the sr ees must work until 8:00pm-feel jr should work nights.	Sustained	Management right to schedule upheld but contract requires consideration of (ees interest & ability of ER to cover needed hrs.) No solution provided.
06-PA-0658	Metro Transit Commission Amalgamated Transit Union, Local	Holmes, Barbara	Recognition Program	ER failed to post ridership numbers that are used to determine eligibility for a	Denied	Not required per contract. Past practice argument fails-have not been
05-PA-0711	St. Louis County Teamsters, Local 320	Daly, Joseph	Seniority Accrual	Union denied seniority to supervisor who left unit, then voluntarily returned.	Denied	Neither practice nor contract bar accrual.
FMCS	Star Tribune	Anderson, Richard	Termination	Unacceptable attendance.	30 day susp.	Medical and alcohol issues. Sought

	IAMAW, District Lodge No. 77					and completed treatment. Given LCA
FMCS	Weyerhaeuser Company UFCW, Local 9	Bognanno, Mario	Termination	EE came to work drunk, passed out on parts shop floor. Prior DUI can't be used since it didn't occur at work.	Sustained	M.S.\$181.953, Subd.10, requires 1st offenders be given opportunity to enter a substance abuse program.
05-PA-1001	University of Minnesota University Education Association	Holmes, Barbara	Merit Pay	Seeking written criteria for distribution of merit pay.	Denied	None exist, not required by contract nor policy governing non-union.
April, 2006						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
05-PN-0772	Austin, City of (Interest Award) AFSCME Minnesota Council 5	Jacobs, Jeffrey	Interest	Comp time-u (see S Jay Dec'06 arb) Er Authority language-y-e; Waiver language-n-u; Sick payout-e; Insur-e; Longevity-no-e; On call pay-no-e; Clothing-e; Wages: '05-0%, '06-2.4% April, 1.6% July; '07-2.4%January, 1.6% Jul; Fire Chief incr of \$3,500-u	2005 - 0% 2006 - 4% 2007 - 4%	Er argued comp time policy not subject to negotiation, but Er listed it as issue. Language dependant on Sara Jay arb. Er Authority-statutory lang;Waiver-new-no compelling reason; Fire chief external market; all other issues - internal pattern.
06-PA-0009	Fergus Falls, City of Teamsters, Local 320	Fogelberg, J.C.	Overtime	Ee told he would be working 12 hrs, than only 4hrs Friday to eliminate OT.	Sustained	Contract-hrs in excess of assigned shift paid OT-means normal shift.
06-PA-0005	ISD 91, Barnum Education Minnesota - Barnum	Toenges, Rolland	Prep Time	Teacher transferred & lost 1hr used for Activity Directors duties forcing use him to use prep time.	Sustained	Transfer proper. Even though he received schedule C compensation for Directors duties, there was a 5 year practice of allowing extra hour. Went to 6 classes in 1999 (1 was 20 minute home room). Changed home-room to regular class in 2004. Fails on timeline (1999 change) and merit.
05-PA-0269	ISD 2154, Eveleth/Gilbert Education Minnesota Eveleth-Gilbert	Anderson, Richard	Class period day	Increase from 5 to 6 classes. Timely? District Court compelled arbitration.	Denied	
06-PA-216	Minnesota, State of, Dept of AFSCME Minnesota Council 5	Anderson, Richard	Demotion	Sgt.demoted 6 months for filing false not support accusation.	Denied	Report was not accurate and could have
06-PA-0325	Minnesota, State of, St. Peter Regional AFSCME Minnesota Council 5	Jacobs, Jeffrey	Accommodating job restrictions	Barred frm contact w vulnerable adults unless under supervision. Unable to accommodate so placed on unpaid leave.	Sustained	Contract required "every reasonable effort to accommodate". Can't deny placement due to inconvenience.
FMCS	Owens & Minor SEIU, Local 113	Toenges, Rolland	Termination	Warehouse worker was warned about poor productivity (lines of orders filled).. He started generating additional lines.	Denied	Accurate records necessary to check productivity, Action were dishonest.
FMCS	Pepsi Bottling Group, Inc. Teamsters, Local 792	Daly, Joseph	Termination	Driver told store manager he doesn't shop at Wal-Mart because they don't provide ees health care. Store complained;	Sustained	Comments not inappropriate. They were in response to manager's question.
FMCS	University of Minnesota Medical Center AFSCME, Minnesota Council 5, Local	Anderson, Richard	Termination	Last chance agreement. Falsified attend sister's funeral.	Sustained	Claiming half-sister as a sister not funeral bulletin was changed.
FMCS	Viking Drill and Tool, Inc.	Anderson, Richard	3 day suspension	Unwanted sexual comment to female	Wrtn warning	One time event. Lack of progressive

	Teamsters, Local 120			ee was sexual harassment.		discipline.
05-PA-0599	Washington County Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Officer pointed his gun at others in horseplay.	30 day susp	Supervisors failed to take corrective action. No progressive discipline.
04-PA-0670	West St. Paul, City of Law Enforcement Labor Services, Inc.	Remington, John	2 day susp	Officer failed to return to training class after noon break-did not notify superv.	Wrtn reprmnd	Discourteous to a superior officer.

March, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Aggregate Industries Teamsters, Local 120	Jacobowski, Daniel	Termination	Cement truck driver w excessive tardiness in violation of policy. Union denied policy ever posted.	3 day susp.	Policy does not distinguish between tardies & no shows which detracts from just cause element in the policy.
05-PA-0610	Brainerd, City of Law Enforcement Labor Services, Inc.	Bard, Stephen	Evading OT by changing shift	Sgts schedule changed to eliminate need for an officer's holiday OT to fill in shift at the airport.	Denied	No guarantee of OT in contract. No schedule changed for any officer. Issue of subcontracting not raised.
FMCS	Electrolux Home Products International Association of Machinists	Flagler, John	Termination	Refused to do work involving pushing & pulling a cart, claiming medical	Denied	Restriction to raise arm over his head. Dispute between doctors diagnosis
FMCS	Group Health SEIU, Local 113	Gallagher, Thomas	OT Seniority	Lab Tech went on vac. Hours offered to Lab assistants.	Denied	ER free to adjust its staffing. Bid was for Assistants - only.
06-PA-0262	Hopkins, City of Hopkins Police Officers Association	Befort, Stephen	Senior Qualified	Jr officer selected as investigator both had experience in investigations.	Denied	Jr officer had 14 mos experience v 3 mos. & is was more recent.
06-PA-0150	ISD 115, Case Lake/Bena Cass Lake Education Association	Anderson, Richard	Senior Qualified	Jr teacher selected for counseling position despite seniority language.	Denied	District has right to determine qualifcn & if applicant possesses qualifications.
FMCS	Kemps, LLC Teamsters, Local 160	Befort, Stephen	Termination	Profane language towards female ee.	Denied	Words constituted sexual harassment. Previously disciplined for similar acts.
06-PA-0219	Minnesota, State of, Anoka Metro AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Staff person brought in cigarettes for MN Statue from facility grounds.	Denied	Financial exploitation of vulnerable
???	Minnesota, State of, Dept of Revenue Minnesota Assn of Professional	Bognanno, Mario	5 day suspension	Failed to meet performance standards	Denied	Received prior discipline & counseling regarding failure to meet standards.
FMCS	Progress Casting Group, Inc. Glass, Molders, Pottery, Plastics and	Toenges, Rolland	Termination	Factory worker pushed metal casting with his foot, knocking it off conveyor -	Denied	Repeatedly kicked castings even after being asked to stop by co-worker.
FMCS	Veterans Administration - St. Cloud American Federation of Government	Remington, John	Senior Qualified Timeline	Junior nurses selected based on "clinic not a requirement for position. Two	Sustained Denied	Eliminating qualified senior nurses for abuse of discretion. Untimely, no
FMCS	Viking Drill & Tool, Inc. Teamsters, Local 120	Toenges, Rolland	Vocational Rehab -Termination	Ee place on permanent disability. Union grieved as a discharge.	Denied	Unable to perform essential functions of any available job.

February, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
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06-PA-0228	Arrowhead Regional Corrections AFSCME Minnesota Council 5	Dichter, Fredric	Termination	Probation officer went to gentlemen's club where his client was dancing.	60 day susp.	Poor judgment crossed boundary of PO & Client. Did not violate any rule.
05-PA-1076	Carver County Law Enforcement Labor Services, Inc.	Lundberg, James	Overtime Pay/ Past practice	Year end adjustments for OT if over 2080 hrs eliminated.	Denied	Proper notice given to end practice.
FMCS	Cemstone Products Company International Association of Machinists	Gallagher, Thomas	Holiday - work schedule change.	New Yrs holiday on Sat.- Co. closed Fri and paid ees for holiday. Contract	Sustained	No allowance in contract. One prior situation didn't create practice. May
05-PA-0996	Coon Rapids, City of Law Enforcement Labor Services, Inc.	Paull, David	Termination	Officer went to a women's home after a traffic stop seeking sexual favors.	Denied	Unprofessional behavior. Prior 30 day suspension w similar situation.
FMCS	Federal Deposit Insurance Corporation National Treasury Employees Union,	Remington, John	Merit award	MOU provides 3% merit award if ee not nominated, nor would ER share what	Sustained	ER has broad discretion to decide who be prepared to defend its discretion.
FMCS	Federal Deposit Insurance Corporation National Treasury Employees Union,	Remington, John	Merit award	MOU provides 3% merit award if ee not nominated, nor would ER share what	Sustained	ER has broad discretion to decide who be prepared to defend its discretion.
06-PA-0066	ISD 15, St. Francis (Arbitrability) School Service Employees, Local 284	Remington, John	Arbitrability	Timeliness, grievant failing to sign grievance, selection of arbitrator.	Sustained	Offer to accept resignation anytime amounts to waiver. U owns grievance.
06-PA-0066	ISD 15, St. Francis (Merits) School Service Employees, Local 284	Remington, John	Termination	Maintenance worker's excessive unexcused absences.	Denied	Failure to suspend meaningless, he only showed up for 38% of days schd.
06-PA-0012	ISD 726, Becker, Minnesota School Service Employees, Local 284	Torosian, Herman	Senior Qualified	"Senior most qualified"" means senior qualified.	Sustained	Addendum is part of contract. Past practice gives meaning to the words.
05-PA-0588	ISD 993, Minnesota River Valley Minnesota River Valley Education	Toenges, Rolland	Severance	Teacher w 23 yrs service left district to severance/retirement benefit because	Denied	Union - contract requires retirement MS 122A.48, sec 5 governs. It requires
05-PA-0849	Minnesota, State of, Department of AFSCME Minnesota Council 5	Reynolds, James	Termination	Stopped w van of clients to conduct cooler from work.	Denied	Poor judgment & lack of boundaries.
FMCS	Pan-O-Gold Bakery Company BCTGM Local 22	Flagler, John	Holiday Pay	25 yr practice of not paying for holiday unless worked.	Sustained	Grievance serves notice to end practice & force compliance w contract language.
FMCS	Regina Medical Center Minnesota Nurses Association	Fogelberg, J.C.	Insurance Plan design	Contract bar to substantially reducing plan benefits. Base plan remained similar, but the 3 plans were replaced by 2 new plans.	Denied	Plan (singular) language met by base plan. Keeping current plans constitutes substantial diminishment in benefits due to large jump in required premiums.
06-PA-0056	St. Paul, City of St. Paul Firefighters, Local 21	Befort, Stephen	Sick slip	Reimburse cost to obtain sick slip? MN Stat 181.61 prohibits requiring ee to pay cost of medical exam.	Denied	Not arbitrable. Is a matter of statutory construction excluded from arbitration by the contract.
05-PA-1233	St. Paul's Church Home SEIU, Local 113	Neigh, Charlotte	Termination	Nursing Asst. failed to feed diabetic patient all of his lunch.	Sustained	Faulty investigation. No evidence of any improper act.
05-PA-1233	SSD 1 - Minneapolis AFSCME, Council 5	Bard, Stephen	Termination	Health care asst continued using perform when told to stop. No rule nor was anyone else so barred.	Denied	Insubordination re scented products poor job performance & attendance cumulatively constituted just cause.

05-PA-1221	Winona County AFSCME, Council 65	Lundberg, James	4 week susp.	Child protection worker accessed & added personal info to a complaint re ex-husband.& sought restricted data.	Denied	Using position to further personal goals is a conflict of interest violating policies central to County's operation.
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January, 2006

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Gopher Resources, Inc. Teamsters, Local 120	Toenges, Rolland	Senior Qualified Overtime	Ee not trained on loader. Seeking training so he can bid for OT. ER only trains for need.	Denied	Ee not qualified. No requirement to train ees outside a department No fixed & established practice.
05-PA-1113	Grant County Teamsters, Local 320	Bognanno, Mario	Payroll Period	ER implemented hold back of pay by holding back 1 day for 5 pay periods.	Split	ER had right to hold back pay, but must negotiate impact.
05-PA-0443	ISD 276, Minnetonka Minnetonka Teachers Association	Toenges, Rolland	President's 40% release time	New president denied ,4 release time afforded prior presidet. ER - release was given to individual, not to the title.	Denied	MS 179A. Sub.3,(10) - it is unfair practice for ee organization to cause pay for services not performed.
05-PA-1093	ISD 595, East Grand Forks East Grand Forks Education	Gallagher, Thomas	Lane advancement	Teacher took 2 internet golf classes & was seeking lane advancement.	Denied	Classes were continuing education. CBA requires grad or undergrad level.
FMCS	Kerry Ingredients Teamsters, Local 1602	Flagler, John	Job Elimination	Old light duty jobs were combined due to declining busn. Incumbent ees not qualified due to medical conditions.	Denied	Management right. Discussion of effects vs decision bargaining.
06-PN-0030	Minneapolis Park and Recreation Minneapolis Professional Employees	Kircher, Andrea	Interest	Add a 6th step to Environment Prog equity argument.	Employer	Statute requires a reasonable jobs be paid the same.
FMCS	Pierz Villa USW, Local 9359	Frankman, Janice	Union work	Part-time maintenance ee laid off due to budget cuts. Community volunteers continued working.	Sustained	Can't use volunteers while employees laid off.
FMCS	Saint Paul's Church Home SEIU, Local 113	Daly, Joseph	Termination	Nurse violated safety and policy requirements.	Sustained	ER failed to sustain burden of proof.
FMCS	Sappi - Cloquet LLC PACE, Local 63, USW	Jacobowski, Daniel	Termination	Viewing pornography and lying when questioned.	6 day susp.	Policy of automatic termination is excessive & was unilaterally imposed.
None listed	University of Minnesota AFSCME, Council 5	Flagler, John	Termination	Sprayed co-worker in eyes w window cleaner. 1st claimed horseplay then denied involvement.	Denied	3rd incident of disruptive behavior. Discussion on circumstantial evidence.
FMCS	Virginia Regional Medical Center (Interest) Minnesota Nurses Association	Remington, John	Interest	Wages: July '04-4%, July '05-3%, July 3% Jan '07). Longevity-no-e. Vacation for 12 hr nurses-u. Eliminate Retiree insurance-no-u Increase life insurance-yes-u. Health Insur. 50/50-e. Change insurance waiting period-no-u.	2004 - 4% 2006 - 3%	Wages-external comparisons. Long-no benefit enjoyed by 8hr nurses. Retiree change should be negotiated. Life insurance-external comparisons. Health insurance-hospital's finances. Waiting period-failed to show need.

2007 Arbitration Awards - Minnesota B.M.S.

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, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	American Iron and Steel Company UER & M Workers of America, #1139	Lundberg, James	Termination	Employee failed to drain fluids from a crane that was being cut for scrap.	Denied	Employee claimed he forgot, but evidence showed insubordination.
07-PN-0414	Beltrami County (Interest Award) Teamsters, Local 320	Jacobs, Jeffrey	Interest	Attorney's 1st contract. Wages and schdl-c (c offered 2.5% per yr-despite pattern of 2.5,3 &3); Longevity-u; Comp	2006 - 2.5% 2007 - 3% 2008 - 3%	Wages,Longevity, Waiver clause, Drug Testing - internal patterns. State Bar fee & professional fee-no-c;
06-PN-0874	Dodge County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	2 yrs-u (e-3y); 2006-3%, 2007-2.8%-u (e-2.5% each yr); wage step change-e Uniforms-\$650, \$700-u; receipt based-e. Incr call back-no-e; Shift diff \$.30-u Longevity-no-e; FTO pay-no-e; Sunset retiree insur-no-u.	2006 - 3% 2007 - 2.8%	Duration-history of 2 yrs; lack of data for 3rd y. Wages=avg of Region 10. Shift differential,new benefit which is common in Region.
FMCS	Dotson Company, Inc. Glass, Molders, Pottery, Plastics and	Gallagher, Thomas	Written Warning	Two ees received warnings due to leaving work area and visiting for 27	Denied	Past lax enforcement would have been considered if this was a prior to disclplne not fatal since ER
FMCS	Dotson Company, Inc. Glass, Molders, Pottery, Plastics and	Lundberg, James	Negotiating with an employee.	Negotiated a weekend flex schedule with an employee.	Sustained	Although contract allows flexing exclusive weekend work is in conflict
07-PN-0721	Faribault, City of (Interest Award) Firefighters, Local 665	Jacobs, Jeffrey	Interest	Wages and insurance.	2007 - 3.25% 2008 - 3.25%	Final offer, employers position.
FMCS	Fairview University Hospital SEIU, Local 113	Jacobs, Jeffrey	Information Requests	Requirement that grienance info requests be in writing challenged.	Denied	No bar to requirement in contract. Should rely on common sense.
FMCS	Federal Bureau of Prisons American Federation of Govt Empl.	Daly, Joseph	Bargaining over Safety Equipment	Request that ER return to table to negotiate re Safety Equipment.	Denied	ER has Contract right to determine safety needs.
FMCS	Flint Hills Resources USW Local 7-662	Lundberg, James	Withholding Performance Pay	Received a verbal reprimand for an accident and P-Pay withheld.	Denied	Unsafe condition created when he continued working w/o helper.
06-PN-0614	Goodhue County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	1 yr-u (c-3 yrs), 2006-2.5%-c (u-5%); Increase Hol. Vac. & Sick-no-c; inc. Hol premium & out of class pay-no-c.	2006 - 2.5%	Wages - internal pattern; benefit increases- Union failed its burden of proof. Duration-history, lack of data, and new BA.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Anderson, Richard	Clarification of August Award	EE signed up for early retirement before termination. Can he revoke that election due to make whole award?	Employer's position.	ER can honor earlier election in spite of EE's change of heart.

FMCS	Honeywell International, Inc. Teasmtrers, Local 1145	Daly, Joseph	Termination	EE under influence of alcohol at work	Denied	Long term employee, but with 4 major disciplines.
07-PA-1034	Metropolitan Council AFSCME Minnesota Council 5	Malamud,	Termination	Fradulent workers comp claim filed by ee who claimed she fell on ERs property.	Denied	Workers have been consistently fired for filing fradulent workers comp claims.
None listed	Minneapolis, City of Police Officers Fed. of Minneapolis	Befort, Stephen	Termination	Sgt. went drinking with another sgt.; allowed him to drive; failed to inform IA.	40 hour susp.	Main issue-on or off duty? He used comp time therefor discpl based on failure to report incident to I.A.
None listed	Minneapolis, City of Police Officers Fed. of Minneapolis	Lundberg, James	Termination	Officer guilty of carrying firearm while under influence of alcohol & barred from carrying firearm for 1 year.	Denied	He lost the ability to carry out an essential job requirement.
07-PA-1126	Minneapolis Public Housing Authority AFSCME Minnesota Council 5	Miller, Richard J.	Seniority Selection	Junior employee selected based on interview. Grievant claiming seniority	Denied	Relative ability clause in contract. Interview is appropriate tool for ranking candidates.
07-PA-0894	Minnesota, State of, Judicial Branch AFSCME Minnesota Council 65	Lundberg, James	Written Reprimand	Court clerk commented on woman's upcoming marriage in front of child who did not know about it.	Sustained	Union able to prove it could not happen as alledged due to layout of beauty parlor location.
07-PA-0788	Minnesota, State of, Dept of State Residential Schools Education	Bognanno, Mario	Arbitrability	Union sought arbitration on a written 4 requesting arbitration was sent to the	Denied	Contract language clear. Copying adequate.
06-PA-1191	Minnesota, State of AFSCME Minnesota Council 5	Flagler, John	Extending Medical Leave	State's refusal to extend 1 yr medical leave was unreasonable.	Denied	Unable to return to work due to permanent physical limitations.
07-PA-0917	Mower County AFSCME, Council 65	Bryant, Bernardine	Subcontracting	County subcontracted overflow child welfare case management.	Denied	Contract silent re sub-contracting. Union did not suffer harm.
07-PA-1091	Northfield, City of Operating Engineers Local 70	Miller, Richard J.	Holiday Pay for Part time ee	City failed to pay part-time bus driver claiming Recognition clause barred her from union.	Sustained	Exclusion of part-time employees refers to those under 14 hrs per week & not public employees.
FMCS	Prospect Foundry, Inc. Glass, Molders, Pottery, Plastics and	Lundberg, James	Termination	EE came to work sick, sent home by supervisor & charged for violating	Sustained	Employer should have allowed ee to use vacation day, since they sent ee
07-PA-0158	St. Louis County AFSCME Minnesota Council 5	Lundberg, James	5 shift susp.	Nurse supervisor refused to send nursing home patient to hospital.	Denied	Nurse failed to check patient before refusing request to send to hospital.
07-PN-0505	St. Paul, City of (Interest Award) St. Paul Police Federation	Lundberg, James	Interest	Wages: 2007-2.5%, Officers step B-10yrs additional .5% July 1-u (emplr 2.5%; u-step b-10y 3.25%)	2007 - 2.5%	Internal pattern 2.5%. Additional .5% for steps B-10y to maintain market position.
07-PA-1166	Scott, County of Operating Engineers, Local 49	Kircher, Andrea	Termination	Medical condition - mechanic was allergic to red dye used in diesel fuel.	Denied	Not considered a disability - not necessary to seek accommodation.
FMCS	Smurfit-Stone Container Corporation USW District 11, Local 1259	Lundberg, James	Termination	Machine helper was cited for an error and pushed another employee. Returned to work without backpay.	6 month susp.	Disparate treatment. Co-worker not disciplined for language that started incident.

FMCS	Walter G. Anderson, Inc. United Steelworkers, Local 1259	Lundberg, James	Termination	Repeated quality errors by operator of a package gluing machine.	Denied	Given warnings & training. Refused to bid less responsible position.
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November, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PN-0661	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Work release officers. 1 yr-u (e-3y); Wages-3% (e-2%, u-6%);merit-3% (e-2%, u-5%); shift-\$5-u; PTO me too language-e; OT-no change-u; stability calculation-no-e.	2007 - 3%	Duration-no internal pattern 08-09; wages/merit-internal (corrections); Language changes-party proposing must show need.
08-PA-0083	Duluth, City of Duluth Police Union	Flagler, John	Involuntary Transfer	Senior patrol sergeant transferred to to Family Crimes Unit.	Sustained	No persuasive, substantial facts that justify ingnoring seniority.
07-PA-0918	Fergus Falls, City of Teamsters, Local 320	Scoville, James	Termination	Liquor store ee violated policies re taking time off, use of breakroom, socializing.	Sustained	Repeated failures to discipline "muddled the waters."
FMCS	Immanuel St. Joseph's Hospital-Mayo AFSCME, Minnesota Council 5	Jacobs, Jeffrey	Termination	Employee on FMLA did not return on the	Sustained	Employer had been accomadating & not
None listed	ISD 318, Grand Rapids Education Minnesota	Latimer, George	Meet & Confer	Failure to meet and confer re online learning collaborative..	Sustained	Rejected arguments of statutory rights due to contract language.
07-PA-0016	ISD 622, North St. Paul-Oakdale- North St. Paul/Maplewood Education	Jacobs, Jeffrey	Involuntary	Teacher bid for a posted as 1 year.	Sustained	Nothing in contract re temporary
None listed	Minnesota, State of, Department of Minnesota Association of Professional	Miller, Richard J.	Weather based	Employee at Moose Lake seeking	Split	Determination of who is weather case by case..
FMCS	Lund's Food Holdings, Inc. UFCW, Local 789	Befort, Stephen	Termination	19 violations of attendance policy which calls for termination after 16.	10 day susp.	3 with more violations not fired. Has shown improvement.
07-PN-0824	New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Interest	07-08-e (u-3 yrs); Comp time for Capt-no-3; Admin Sergeant 6.5%-u (e-0%).	Union position	Council rejected neg settlement - main issue admin sgt.
07-PN-0824	New Hope, City of (Clarification) Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Interest	Administrative Sgt pay effective 1/1/2007	Union position	City sought clarification.
06-PN-0871	Orono, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	06-3%-e (u-5%); 07-4% (u-5%,e-3%); Insur-e; Comp incr 40 to 60 hrs-no-e; Premium pay-no-e; Severance incr-u.	2006 - 3% 2007 - 4%	06-internal, 07-market; Insur-intrnl; Severance-external.
FMCS	Paulson's Super Valu, Inc. UFCW, Local 116	Anderson, Richard	Failure to fill vacant position	Contract bar to filling full time position with 2 part-time.	Denied	Missed timeline by 7 months and no contract violation.
06-PN-0605	Ramsey County (Interest Award) Teasmters, Local 320	Miller, Richard J.	Interest	Sergeant's wages-counties position. Union 3.5% each yr plus adjustment to steps = to 10% above corrections	2006 - 2% 2007 - 2% 2008-1.5/1.5%	Internal pattern. Pay equity points suggest corrections should be frozen. Sgts compare to extnl mkt.

October, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Badger Equipment Company UAW, Local 633	Imes, Sharon	Out of title pay	Temporary transfers to higher class should receive higher pay.	Sustained	Not doing all duties of classification was rejected.
07-PA-0948	Becker County Teamsters, Local 320	Gallagher, Thomas	Seniority for promotion	Seniority language for full time, not part time employees.	Denied	Legal maxim - the expression of one thing excludes the other.
FMCS	Conagra Foods, Inc. Bakery Workers, Local 13G	Imes, Sharon	Discharge	Violated zero tolerance safety rule re locking out machine.	Sustained	Unilateral right to establish work rules but subject to just cause challenge.
07-PN-0383	Duluth, City of (Interest Award) Duluth Police Union	Bard, Stephen	Interest	Wages:2%,3%,3% (c-1,3,3; u-3,3,4); Eliminate retiree insurnace for new ees-e (\$12,000+1%/yr into HCSP) Health club- \$30 per mo-u.	2007 -2% 2008 -3% 2009 -3%	Wages-external plus CPI. Insurance internal pattern. Health club same as firefighters.
FMCS	Fairmont Medical Center Minnesota Nurses Association	Bognanno, Mario	Termination	Nurse went on vacation w/o finding a replacement as required for 5 shifts.	Denied	Contract considers such absences as job abandonment & resignation.
07-PA-0251	ISD 2168, New Richland Harland New Richland Hartland Geneve	Jacobs, Jeffrey	Weather based	2 teachers did not work make up day as required and were seeking pay.	Denied	District has the right to set schedule. dealing with this issue are listed.
07-PA-0912	Metro Transit Amalgamated Transit Union Lcal 1005	Boyer, John	Termination	Driver given 10 day susp for accident, then fired for lying about details.	Denied	Not a second discipline, but based on totality of record.
07-PA-0732	Minnesota, State of - Department of AFSCME Minnesota Council 5	Holmes, Barbara	Work Rules - class	State modified Snow & Ice call in plan so leave no pay for time missed.	Denied	Union denied ability to substitue vac

September, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-830	Community Action Partnership of Ramsey AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Teacher grabbed young child's arm in an teacher caught child who was jumping off a counter.	Sustained	Lack of evidence. Second teacher in room
07-PN-0021	Eagan, City of (Interest Award) Law Enforcement Labor Services, Inc.	Paull, David	Interest	Sgts; Wages: 06-3%-e (u-4%); 2007-3.75%-u (e-3% or 3/1 if cap on tuition) Tuition cap-no-u; 2 x major Hol-no-e; Vac accrual incr-no-e; longevity-no-e; 4% for Master's-no-e; 3 h crt call back -u; Waive Retiree Ins for \$.80/hr-no-u.	2006 - 3% 2007 - 3.75%	Wages: 2006-internal pattern; 2007; external. Vac - internal; Court call back same as officers;
FMCS	Honeywell, International Inc. Teamsters, Local 1145	Anderson, Richard	Termination	Violated time and attendance policy.	Denied	Prior discipline and clearly stated guidelines.

07-PA-0893	ISD 112, Chaska IUOE, Local 70	O'Toole, Carol Berg	Reorganization	Head Engineer title eliminated. All engineers then hired as Building Operations Coordinators - a supervisor position outside the union.	Sustained	They continued doing bargaining unit work.
07-PA-0639	ISD 318, Grand Rapids Education Minnesota, Grand Rapids	Bognanno, Mario	3 day suspension	Special needs teacher shouted at & grabbed 4 yr old's arm to stop him.	Denied	Prior discipline for similar incidents.
05-PA-0387	Minnesota, State of, Minnesota AFSCME Minnesota Council 5	Befort, Stephen	Unpaid leave	Health service worker put on unpaid check to establish min qualifications..	Denied	Contract requires paid admin leave for to determine eligibility for job.
07-PN-0695	New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kircher, Andrea	Interest	Uniforms-change from provide system to allowance-no-e; Incr sick leave into PRHCSP from 16 to 24 hrs-no-e; PTO plan for new ees-no-u; Specialty pay increase-u.	Split	No change to Officer's uniform despite Sgt's receiving allowance since 1980s. Sick to HCSP same as Sgts; PTO not ordered in 2 prior arbitrations; Specialty pay based on externals.
07-PA-0586	Saint Paul, City of Saint Paul Police Federation	Befort, Stephen	10 day susp. 30 day susp.	Investigator unable to manage her case load after repeated counseling. Ended up retiring.	Split	10 day grievance denied. 30 day reduced to 15 days. Demotion is the next step & 30 leads to termination.
07-PA-0586	Sibley County (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages: 2.5%, 2.5%-u (e-1%,1%); Shift diff-no-e; Increase comp-no-e; Holiday pay if called back-no-e; Xmas eve pay change-no-u.	2007 - 2.5% 2008 - 2.5%	Wages exceed internal pattern, used CPI and externals in award.
07-PA-0845	University of Minnesota Teamsters, Local 320	Latimer, George	Layoff	U claims 2 were laid off due to lack of work. EEs claim anti-union retaliation.	Sustained	Language in letters and timing of lay-offs support union's claim.
07-RA-0877	USEM, Inc. UAW, Local	Gallagher, Thomas	Layoff and Termination	Car dealership laid off a utility man, terminated him after 1 year, then hired someone else the following year.	Sustained	No time limit on recall rights. No provision for termination w/o just cause.

August, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Alliant Techsystems, Inc. Teamsters, Local 1145	Flagler, John	Termination	Insubordination in refusing to accept training for stockroom job.	Denied	Claimed conflict with trainer. Rule is "do the work first, grieve latter."
06-PN-0526	Blue Earth, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Police; wages-u (u-5%,5%; e-0%,0%) wage structure-n-e; comp accrual-n-e uniform incr-no-e; vac, eliminate 2 tier-no-e; insurance \$ amt vs %-no-u.	2006 - 3% 2007 - 2.4%	Wages internal pattern. Other issues denied due to failure of proposing party to provide compelling need for change.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Anderson, Richard	Termination	Company investigated collusion of Labor Relations & Union in arbitration cases. Union head lied to investgtrs.	Sustained	Grievant was on leave of absence & acting as Union head. (see case below).
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Befort, Stephen	Termination	Former head of Union lied during investigation re arbitration collusion.	Denied	Was back working for company when investigation took place. (see above).

FMCS	Honeywell International, Inc. Teamsters, Local 1145	Toenges, Rolland	Assigning work	Assembly workers doing inspections.	Denied	Not arbitrable based on earlier transfer of work agreement.
07-PA-0492	ISD 2687, Howard Lake Education Minnesota	Fogelberg, J.C.	Overload Pay	Middle school teachers denied pay for teaching 6th class that High School teachers receive.	Sustained	Middle school replaced junior high where the practice was to pay.
07-PA-1001	ISD 720, Shakopee SEIU, Local 284	Latimer, George	Seniority promotion	Cook manager position filled with outside candidate.	Denied	Contract exception for manager. Dropping grievance no bar to future g.
06-PN-0511	Lac qui Parle County (Interest Award) AFSCME Council 65	Miller, Richard	Interest	Deputies/Jailers. Duration-3 yrs-e; 2006-3%-u (e-2.5%), 07-08 not in dispute; wage structure-no-e; Insur-u; on call \$250 to \$282/m-u; Holiday premium - no-e.	2006 - 3% 2007 - 2% 2008 - 2%	Duration, Wages, Insurance-internal pattern. On call-external average. Holiday - no internal nor external support.
06-PA-0990	Metropolitan Council Amalgamated Transit Union Local 1005	Befort, Stephen	Pay rate	Cleaner 3 job class is discriminatory since job is harder v others paying more.	Denied	Not arbitrable. Union negotiated a grade 13 for the position.
07-PA-0832	Metro Transit Amalgamated Transit Union Local 1005	Gallagher, Thomas	Termination	Another employee took a parking space. He followed her into work making a major scene.	Sustained	Incident differed from earlier final wrng. Unusual behavior, not misconduct. Must pass a fitness for duty exam.
07-PA-0919	Metro Transit Amalgamated Transit Union Local 1005	Latimer, George	6 mo evaluation	Union - 6 month evaluation requires 6 mo before decision can be made.	Denied.	Employer can set job qualifications. No requirement to keep ee who can't do the job.
FMCS	St. Marks Lutheran Home UFCW, Local 789	Anderson, Richard	Termination	LPN gave resident insulin shot in a public area & failed to do a pain assessment for resident that fell.	Sustained	Acts were not egregious but moved her to discharge step of disciplinary policy. Failed to establish just cause.
07-PN-0555	Sherburne County (Interest Award) AFSCME, Minnesota Council 65	Holmes, Barbara	Interest	Asst Co Attorneys. 2007 reopener to consider job study recommendations. Union seeking 4%-no.	County's Position	Pay ranges moved up, but not current wages unless below minimum.
06-PA-0972	Special School District 1 Minneapolis Federation of Teachers	Befort, Stephen	21 week susp	Teacher accused of touching & hitting students with a yardstick.	5 day susp.	Hearsay evidence from 6 yr olds. She did touch with ruler.
July, 2007						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
04-PIR-1363	Alexandria HRA Independent Review Case	Daly, Joseph	Termination	HRA director kept pills scheduled for destruction intending to seek okay to keep them for her use.	Sustained	Nothing illegal, nor any policy violated. At Will ees are eligible for independent review through the BMS.
07-PN-0300	Bemidji, City of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	2 yrs-u (e3-yrs); 2007-3.5%, 08-3.5% (e-3%, 3%; u-6.5%, 6.5%); Ins-e Uniforms-+\$10, +\$10-u (no to provide system); Change standby-no-u.	2007 - 3.5% 2008 - 3.5%	Sgts - Duration-lack of data for 3rd yr. Wages-differential from patrol has shrunk; Insurance-internal pattern; Uniform & standby - changes should negotiated, not awarded.

FMCS	CenterPoint Energy - Minnesota Gas Gas Workers Union, Local 340	Frankman, Janice	Requiring use of computers	Union seeking additional pay for using computers to fill out forms.	Denied	Change in work was not significant & was reasonable.
FMCS	Fairview Lakes Regional Health Care Minnesota Nurses Association	Kapsch, Jr., Frank	Holiday OT	Employer did not pay holiday pay & OT for the same hours worked.	Sustained	Hol pay is incentive pay & not barred as duplication of OT payment.
FMCS	Falls Memorial Hospital AFSCME, Minnesota Council 65	Kircher, Andrea	1 day suspension	LPN allegedly discourteous to a RN.	Sustained	Failure to use progressive discipline and defective investigation.
06-PN-0486	Hastings, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Firefighter's final offer total package. Union seeking 19.6% for 2 yrs. based on pay equity with police.	2006 - 3% 2007 - 3.5%	City's position. History and internal pattern.
FMCS	Highland Chateau Health Care Center UFCW, Local 789	Anderson, Richard	Termination	Assistant accused of bruising a resident and insubordination.	Sustained	Flawed investigation. No acts worthy of discipline.
07-PA-0769	ISD 197, West St. Paul SEIU, Local 284	Scoville, James	Unit work	Para's serving breakfast at 2 schools which is food service work.	Denied	Practice is 9 years old. Grievance is untimely.
07-PA-0408	Maplewood, City of Law Enforcement Labor Services, Inc.	Befort, Stephen	Probation	Officer on medical leave for 1 yr, put on probation when allowed back to wk.	Denied	Not arbitrable. No bar to a 2nd probation in contract.
07-PN-0516	Maplewood, City of (Interest Award) Law Enforcement Labor Services, Inc.	Paull, David	Interest	Wages: 2007-3.5% (e-3%, u-4.5%).	2007 - 3%	External - maintains market ranking.
07-PN-0026	Olmstead County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Jail Sgts, 1st contract. Wages-2%-e (u-3.5%); 2 wk schedule posting-u; OT language-no-e; Call back-u; "Step" language-u; Probation language-e	2007 - 2%	Wages-internal; 2 wk posting, call back, step & probation-internal pattern. OT-FLSA exempt employees-issue being heard at Dept of Labor;
FMCS	Smead Manufacturing Company United Steelworkers of America, Local	Gallagher, Thomas	Termination	Took notebook ees put together to help setup machinery fearing loss of wk w	8 mo susp.	Mitigation - thought book belonged to employees who put it together &
06-PA-0971	Special School District 1 Minneapolis Federation of Teachers	Gallagher, Thomas	5 mo suspension	Teacher slapped students hand.	30 day susp.	Teacher under great stress. Not premeditated corporal punishment.
07-RA-0129	Super Valu, Inc. Teamsters, Local 120	Daly, Joseph	Termination	Excessive absences. Failed to provide FMLA documentation.	18 mo susp	He had a medical condition, but was his responsibility to document.

June, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	American Crystal Sugar Company Bakery Workers Local 372G	Anderson, Richard	Layoffs	Laid off some seasonal workers who were replaced with full time ees.	Denied	Union claimed past practice required laying off all or retaining all. Contract clear - no past practice established.
05-RA-0190	Immanuel St. Joseph's Hospital AFSCME Minnesota Council 65	Reynolds, James	Pager pay	Seeking pay if required to wear pagers or respond to calls during breaks	Denied	Mngmnt right to order wearing pagers, monitoring not compensable. Breaks must be reschedld/paid if interrupted.

07-PA-0137	ISD 413, Marshall Marshall Education Association	Anderson, Richard	Coaching Pay	Seeking coaching compensation while on sick leave (only worked 1 day)..	Sustained	Sick leave language does not exclude coaching pay.
FMCS	Johnson Brothers Liquor Company Teamsters, Local 792	Frankman, Janice	Restricting Vac usage.	Company barred vacations on short Holiday weeks due to increased bus.	Denied	Management right. No requirement to hire vac temporaries to allow vacs.
07-PA-0701	Metropolitan Council - Metro Transit Amalgamated Transit Union Local 1005	Holmes, Barbara	Termination	Bus mechanic injured on job was working at his auto repair business while receiving worker compensation.	Denied	Numerous misrepresentations over a 2 month period. Caught on video.
FMCS	Sauer Memorial Home UFCW, Local 789	Jacobs, Jeffrey	Minimum hours for insurance.	Volunteered to have hours reduced if necessary - fell below full-time and lost insurance coverage.	Sustained	Reduction was for employers purpose therefore this is an exception per contract.
06-PN-0882	Wright County (Interest Award) Teamster 320, Ess. Supervisory Unit	Ver Ploeg, Christine	Interest	3 yrs-e (u-2y); 2%, 2.75%, 2.75%-e (U-4.24%, 4%, 3%); 1 1/2 Hol pay-n-e Uniform-u; Leg funding wage freeze-no	2006 - 2% 2007 - 2.75% 2008 - 2.75%	Lt, group. Duration/Wages-internal. Hol pay- exempt ees & prior arb; Uniform-internal.
06-PN-0864	Wright County (Interest Award) Teamsters 320, Non-Licensed, Ess.	Ver Ploeg, Christine	Interest	Uniforms-u; Salary adjustment-n-e Severance for Comm ees-e (u-amount same as jailers); Shit differential-no-e.		Uniform-intnl; Salary-reclassification is a mangmnt right; Severance-new benefit same as courthouse.

May, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Electrolux Home Products IAMAW District Lodge 168, Local 165	Bognanno, Mario	Termination	No-fault absentee policy considers 3 consecutive days w/o calling in a resignation. EE was in jail.	Denied	Policy is valid, clear & enforced. Failure to call is required even if ER knew grievant was in jail.
06-PA-1255	ISD 623, Roseville Education Minnesota - Roseville	Fields, Bernice	Step Placement	Teacher lacking 15 required credits frozen at step for 2 yrs & only moved 1 step when achieving credits.	Denied.	Management right. Contract silent on issue. Ruling on merit in spite of timeline - issue may arise in future.
			Timeline	Union claims continuing violation.	Denied.	Continues to each paycheck only until Union is aware of violation.
None listed	Minnesota, State of, Natural Resources Middle Management Association	Jacobs, Jeffrey	Termination	Defrauding state claiming expenses for	Split-reinstate - (12 months).	Business purpose for trips. Guilty of lax perform personal errand.
06-RA-1240	Supervalu, Inc. Teamsters, Local 120	Bard, Stephen	Termination	Violation of attendance policy.	Denied	Attendance policy was applied reasonably and fairly.
06-PA-178	University of Minnesota AFSCME, Minnesota Council 5	Jay, Sara	Termination	Loud & threatening to supervisor. Arrested by police & charged w DOC.	Denied.	2 previous suspensions for similar behavior. Anger directed at suprvr.
07-PA-0610	Winona, City of AFSCME, Minnesota Council 65	Jay, Sara	Written Warning	Union president disciplined for using city computer to conduct Union bus.	Sustained	Award discusses Union protected activities.
06 PN 0904	Winona, City of (Interest Award) Firefighters, Local 575	Daly, Joseph	Interest	Firefighters; total package final offer. Wages identical. Union seeking incr. premiums for medics & specialists.	2006 - 2%/1% 2007 - 3%	City's position awarded. Insufficient evidence to support any increase to existing premiums.

April, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Befort, Stephen	Termination	Violation of Time and Attendance policy.	Denied.	Employer has right to establish reasonable work rules.
07-PA-0349	ISD 13, Columbia Heights Columbia Heights Federation of	Daly, Joseph	Step Placement	New hire placed in step 3 of expiring, but continuing contract. New contract step in new contract ignoring continuing	Sustained	Never worked in years covered by old contract. Current ees at step 3 of new hire.
07-PA-0004	ISD 316, Greenway Coleraine Education Minnesota - Greenway	Bognanno, Mario	Retiree Insurance	Missed timelines? - no. Change to retiree contribution	Denied.	Alleged violation is continuous. Contract language rules despite Union denying negotiating it.
07-PA-0395	ISD 911, Cambridge SEIU, Local 284	Jacobowski, Daniel	FLSA Overtime calculation.	Should paid non-work hours be used to calculate overtime? District gave notice it repudiated the practice.	Sustained	Hours worked means you must work the hours over 40 for OT. District's interpretation reduces other benefits.
07-PA-0544	Metro Transit Amalgamated Transit Union, #1005	Bognanno, Mario	Denied placement on Operator list.	Bus cleaner/p.t.driver went to light rail then came back as cleaner-not put on pt driver list due to safety concerns.	Denied	Contract gives employer right to determine who is on list and treated same as others.
FMCS	Minnesota Valley Electric Cooperative IBEW, Local 160	Frankman, Janice	Safety Policy	ER unilaterally changed discipline in the safety policy.	Sustained	Discipline is a mandatory subject of negotiations.
06-PA-1221 06-PA-1256	Northfield, City of Law Enforcement Labor Services, Inc.	Miller, Richard	Forcing use of Comp time	Officer ordered to reduce comp time to 80 hrs. Dept denied his choice of days & assigned days off.	Denied	Christensen v Harris US supreme ct allowed assigning time. Nothing in contract bars practice.
06-PA-0741	Prior Lake, City of Law Enforcement Labor Services, Inc.	Gallagher, Thomas	OT to less senior employee.	Union seeking seniority bidding on OT that is an extension of a shift.	Denied	Contract requires seniority for an OT shift - defined as having 3 breaks.
06-PA-1215	Roseville, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	Sgt working OT	Sergeants given Officer's OT work.	Denied	Past practice.
07-PA-0106	Sauk Centre, City of Teamsters, Local 320	Gallagher, Thomas	Termination	Officer accused of insubordination & theft of rifle and pistol from prop room.	10 mo. susp.	Lack of evidence or intent. Returned to wk with no backpay.
06-PA-0751	University of Minnesota Teamsters, Local 320	Holmes, Barbara	Termination - LC	Last chance agreement - absences.	Denied	Union argued absences were exempt chronic illness - lacked documentation.

March, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-0316	Baxter, City of AFSCME, Minnesota Council 65	Kircher, Andrea	Eliminating Job - laying off ee.	Brainerd ISD 181 took over admin of city's recreation fields - suprv laid off.	Sustained	Considered subcontracting. Contract bars job loss due to subcontracting.
FMCS	Goebel Fixture Company Carpenters, Joiners & Cabinetmakers,	Jacobs, Jeffrey	Attendance Policy	Reasonableness of no-fault policy. Award examines how arbitrators view	Denied	Reasonable if designed to further a legitimate interest & provides options for

06-PA-1283	ISD 31, Bemidji Bemidji Education Association	Gallagher, Thomas	Ltr of Reprimand involuntary transfer	Failure to cooperate in providing EBD service. Transfer due to conflict with other staff members.	Sustained	No evidence of being uncooperative. Transfer decision made prior to required meeting w teacher.
05-PN-0893 05-PN-0894	ISD 197, West St. Paul SEIU, Local 284	Frankman, Janice	Selection of Insurance carrier.	District Court ordered arbitration over Unfair Labor Practice claim unilateral selection of insurance carrier was allowed by contract language.	Union position	Contract does not supersede MS 471.6161 bar to reduction of aggregate value of insurance. Damages = amount of premium savings.
06-PA-0769	Metro Transit Amalgamated Transit Union Lcal 1005	Lundberg, James	Termination	Bus driver w 4 accidents in 2 1/2 yrs,	Denied	Violated valid, well understood policy. Received progressive discipline.
07-PA-0543	Metro Transit Amalgamated Transit Union Lcal 1005	O'Toole, Carol Berg	Termination	Bus driver; excessive absenteeism and accidents.	Denied	Clear policy and proper counseling. Short term employee.
07-PA-0328	Minnesota, State of, Department of AFSCME Minnesota Council 5	Lundberg, James	Termination	TV news crew caught maintenance Also left work w/o permission.	9 mos. susp.	27 yr employee w good work record. Joined AA. Returned w no back-pay.
07-VP-0442	Minnesota, State of, Department of Individual Grievant	Befort, Stephen	Termination - VP	DNR Lt failed to respond to call a man	Denied	A good long-term employee, but he responsibilities.
06-PA-0924 06-PA-1174	Oakdale, City of Law Enforcement Labor Services, Inc.	Befort, Stephen	Invest w/o Union 1 day suspension	Off claims Capt did disciplinary invest w/o a Union representative present. Disobeyed Sgts order not to conduct interview of girl using Hmong officer. Claims it was only a conversation.	Denied Denied	Officer initiated the meeting & since facts not disputed no prejudice results. Was insubordinate. Gathering info is an investigation.
06-PA-1074	Supervalu, Inc. Teamsters, Local 120	Gallagher, Thomas	Termination	Unexcused absences in violation of no-fault policy.	Denied	Just cause to discharge when conduct has significant adverse effect.
FMCS	University of St. Thomas Teamsters, Local 120	Jacobs, Jeffrey	Termination	Harassing and inappropriate language. 3 writtens-no prior suspensions.	Denied	Contract has lower standard than Just Cause.- Legitimate Business reason.

February, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Honeywell Teamsters, Local 1145	Jacobs, Jeffrey	Termination	Received "Blk History Month" text to slap 5 white co-workers, got black co- worker to join her slapping whites and lied about incident.	11 mo. susp.	Found mitigation that victims did not know racial intent of grievant. See Flagler below where co-worker's grievance was denied.
FMCS	Honeywell International Teamsters, Local 1145	Flagler, John	Termination	She took 2 vacation days when there were restriction-putting her over her negotiated level of absences.	Sustained	Company did not give sufficient notice that she could not take vacation off.
FMCS	Honeywell International Teamsters, Local 1145	Flagler, John	Termination	Black History month text message to slap 5 white co-workers was acted on by tapping them on check, & she lied about the text message.	Denied	Violation of Code of Conduct by creating racial discord & unrest in workplace. And lied about material aspect of incident. See Jacobs above.
06-PA-1220	ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota	Bard, Stephen	Pay for Extra- Curricular assign.	Extra-curricular assignment pay if working at multiple assignments.	Union	Based on Andover exception - never communicated to Union.

06-PA-1053	ISD 726, Becker Becker Education Association	Boyer, John	Overload Pay	Special Ed teacher seeking back-pay for prep time not taken	Denied	Teacher had freedom to set own schedule and should have included prep time.
???	Minneapolis, City of - Convention Teamster, Local 320	Befort, Stephen	Termination	Unauthorized smoking break.	Denied	17 coaching and disciplinary efforts over a 2 year span.
06-PA-1225	Minnesota, State of, Minneapolis AFSCME Minnesota Council 5	Toenges, Rolland	Termination	Violence towards a co-worker. Angry struggled with cart until she let go.	Denied	Although no priors, short term ee who employer's Violence Policy.
06-PA-0953	Minnesota, State of, DHS, MCOCS AFSCME Minnesota Council 5	Flagler, John	Termination	Aversive treatment procedures with a vulnerable adult.	Denied	Employment record reinforces the irremediability of her conduct
FMCS	St. Paul Pioneer Press Teamsters, Local 4	Daly, Joseph	Termination	Machine operator violated offensive behavior policy by harassing an assistant regarding his disability.	9 mo. susp.	Returned to work without back-pay (due to prior discipline). Case of lack of civility - not harassment.

January, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Abbott Northwestern Hospital SEIU, Local 113	Flagler, John	Termination	Falsifying timecard. Punched in, then took his daughter somewhere w/o punching out.	Sustained	Was on sick leave and volunteering for charity event. Punched in so he could use truck. Written rep re truck.
FMCS	Ecowater Systems, Inc. Teamsters, Local 120	Befort, Stephen	Termination	Two factory workers fired for pushing and shoving each other.	20 day susp.	Initial reports of a 3 minute fight with a knife present were not proven.
06-PA-0199	Hastings, City of Teamsters, Local 320	Jensen, Eugene	2 day suspension	Sgt told not to talk to officer being investigation. Borrowed a tow strap from the officer.	1 day susp.	Evidence did not support Sergeant interfered. Failure to investigate this suspension, while not fatal, allowed alternate explanation to be considered.
FMCS	Honeywell Teamsters, Local 1145	Jacobs, Jeffrey	Termination	Violated no-fault attendance policy. His Dr. failed to extend his medical for reasons unknown.	Split	Rigid no-fault policies are not a "one size fits all" standard for just cause. Returned w no back-pay.
FMCS	Intek Plastics, Inc. IBEW, Local 949	Toenges, Rolland	Reasonable Accommodation	Union seeking accommodation due to inability to use piece of equipment.	Denied	Not disabled per ADA. Offered other work, but rejected it.
07-PA-0075	ISD 622-N.St. Paul-Maplewood- IUOE, Local 70	Paull, David	Removal from	Driver had 2 accidents, 1 w injuries.	Sustained	Not discipline, but driving did not
07-PA-0169	ISD 2899, Plainview-Elgin-Millville Education Minnesota Plainview-Elgin-	Jensen, Eugene	Married eligible for 2 family insr.	Districts merged w new contract. Plainview only allowed 1 to receive	Sustained	Despite combined contract, ees will be governed by past practice of their
FMCS	Minnesota Electrical Cooperatives Electrical Workers, Local 160	Befort, Stephen	Premium Pay	Interplay between FLSA & CBA re premium pay obligations on Sat/Sun.	Sustained	On call added to regular for FLSA calculations then x2 per contract.
FMCS	Rainbow Foods UFCW, Local 789	Flagler, John	Termination	Clerk sold cigarettes to a minor after entering dob into register 3 times w "not for sale" message.	1 week susp.	Asked supervisor what message meant? She did not know - poor training by company.

02-PA-1107	St. Louis Park, City of Law Enforcement Labor Services, Inc.	Jensen, Eugene	Benefit accrual on workers comp.	Vacation and sick accrued at Workers Comp earning of 2/3 wages.	Sustained	Union not given chance to neg. change in policy.
FMCS	Spartech Plastics, Inc. Teamsters, Local 120	Jacobowski, Daniel	Termination	Excessive tardiness in violation of no fault policy.	Denied	Negotiated no fault policy therefore numerical penalty constitutes just cause. Prior discipline.
FMCS	Spartech Plastics, Inc. Teamsters, Local 120	Bognanno, Mario	Termination	Violated last chance agreement re absenteeism.	Sustained	Violation de minimus. Failed to notify BA of Last chance agreement.

2008 Arbitration Awards - Minnesota B.M.S.

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, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-PA-0022	Brooklyn Park, City of Brooklyn Park Police Federation	Latimer, George	24 hr. susp.	Police officer arrested for DUI & open bottle.	Denied.	Seeking credit for time served while license was revoked.
08-PN-0750	Buffalo, City of (Interest Award) Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Interest	Health Insurance reopener: Family 2008 - \$780-u, (City \$740.49)	Union position	Non-Union internal pattern rejected Based on external % average.
08-RA-0781	Duluth Dodge, Inc. UAW Local 241	Gallagher, Thomas	Lay off	Senior technician, who was also union steward.	Denied.	Past practice used to interpret contract. Skills trump seniority.
08-PA-1363	ISD 701, Hibbing AFSCME Council 65	Fogelberg, J.C.	Leap year pay	Salary calculated by dividing annual amount by 24 pay periods.	Denied.	Seeking additional amount for leap day. Past practice prevailed.
FMCS	Loram Maintenance of Way, Inc. Steelworkers 2002-09	Jacobs, Jeffrey	Performance appraisal	Union wanted to remove items and bar as basis for discipline.	Denied. Sustained.	Mngmt right to document, but not basis for discipline.
FMCS	McQuay International Sheetmetal Workers Local 480	Flagler, John	Termination	Defaced an air conditioner case by writing a message on it.	Sustained.	Damage wasn't permanent. No back pay (off for 8 months.).
08-PA-1394	Minnesota State of, Human Rights AFSCME Minnesota Council 5	Flagler, John	Termination	Swore at patients and staff, bumped a patient (18 year employee).	Sustained.	Demoted from lead counselor, no back pay (off for 11 months.).
08-PA-4358	Minnesota, State of, Lottery AFSCME Minnesota Council 5	Imes, Sharon	Termination	Lottery warehouse worker harassing co-worker.	Sustained.	Due process flaws. Made whole.
09-PA-0064	Minnesota, State of, Tenth Judicial AFSCME Minnesota Council 5	Miller, Richard J.	Timelines Termination	Request for arbitration 2 days late. Court employee failed to quash wrnt., amend charges & other errors.	Sustained Denied	History of lax enforcement. Behavior so egregious so as not to be restricted by progressive discipline.
None Listed	Minnesota State of, Transportation MN Assoc. of Professional Employees	Fogelberg, J.C.	Layoff/Recall	Laid off as an ITS 3, not recalled when new position posted.	Denied.	Resume did not meet minimums.
08-PN-0453	Owatonna, City of (Interest Award) Teamsters Local 320	Bryant, Bernadine	Interest	Sgts group; wage reopener 2008. City offered 2.75%.	3.25%	No internal pattern.

November, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PN-0303	Apple Valley, City of (Interest Award)	Kircher, Andrea	Interest	2007-2009, City 3%,3%,2.5%	3%, 3%, 3.25%	First 2 yrs. Based on pattern. No

	Law Enforcement Labor Services, Inc.					internal pattern for 2009.
08-PN-0926	Dakota Communications Center Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	First contract, 2 years 2008-2009.	3%, 3%	Main issue of a salary step matrix or merit pay left unanswered.
FMCS	Department of Labor (Mine Safety & National Council of Field Labor Locals	Anderson, Richard	Performance evaluation	Denied performance based cash as a result of poor evaluation.	Dismissed.	Evaluation from previous supervisor do not prove new ratings wrong.
FMCS	Graphic Communications International Graphic Communications International	McCoy, Arthur Ray	Cost of Retiree health insurance.	1991 arbitration ordered retirees to pay pay full cost. How to calculate?	Can't combine with actives.	Combining active and retiree costs results in a subsidy for retirees.
FMCS	Group Health d/b/a Health Partners OPEIU Local 12	Bognanno, Mario	10 day susp. Termination	Receptionist at eye clinic-scheduling errors; rudeness to patients.	Denied. Sustained.	Grievant has bi-polar disorder. Will return to work if cured within 1 yr.
09-PN-0048	Metropolitan Council Metropolitan Council Management	Gallagher, Thomas	Interest	ER offered 2.5%, 2.5%. ER won Ins. & duration change from June to Dec.	2.7%, 2.7%	Added .2% saved by not awarding ER's merit request.
08-VP-1069	Minnesota, State of, Arts Board Individual Grievant	Jacobs, Jeffrey	Lay-off	Reorganization due to budget.	Denied.	Managements' right to reorganize.
None listed	Minnesota State Colleges & Minnesota State College Faculty	Befort, Steven	Project payment	Award for excellence project was not	Split decision.	Awarded \$2,500 and parties to go back
08-PN-0266	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Interest	Court time incr. to 3 hrs; investigator	2007 - 3% 2008 - 3% 2009-3%, July.25%	Wages internal, ct time external.

October, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Allstate Sales Corporation IAMAW District Lodge 77	Gallagher, Thomas	Termination	Didn't get along with other Bodyshop workers, reluctant to do some work.	7 mo. Susp.	Insubordinate, others threatened to quit-but no progressive discipline.
08-PN-1039	Apple Valley, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	City offered 2.5% for 2009. Awarded uniform request of +\$25 for 08 & 09.	3.25%	Wages same as 2009 sergeant's arbitration award.
08-PN-0816	Brainerd, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	City's duration 1yr and wages 3.0% Union won longevity incr. at top .5%.	3.00%	Internal pattern. Longevity equals top administrators.
FMCS	Ferguson Enterprises, Inc. Teamsters Local 346	Gallagher, Thomas	Pay steps	Step progression shortened, but only applied to new hires.	Denied	Parole evidence & plain meaning of the contract language.
07-PA-0717	Grant County AFSCME Council 65	Tonges, Rolland	Termination	Mechanic lost CDL due to DUI. Given 5 day susp then terminated when learned of CDL loss of 18 months.	Denied	U claimed double jeopardy. Discp. Can be increased if "more serious than it looked at first". CDL required for job.
08-PA-1070	ISD 115, Cass Lake Minnesota School Employees	Lundberg, James	Scheduled hours	Bus monitoring duties part of paras regular schedule instead of adding hr.	Sustained	Issue previously led to a mediated agreement. Must neg. change.

08-PA-1107	ISD 775, Kerkhoven-Murdock Kerkhoven-Murdock Education Assn.	Fogelberg, J.C.	Prep time	Special Ed teacher lost prep time when given more students.	Denied	Contra proferentem-language construed against party drafting.
FMCS	Methodist Hospital Minnesota Nurses Association	Befort, Steven	Termination	Nurse failed to report medication error.	Denied	Error was concealed, which trumped no priors discipline.
None listed	Metropolitan Council Individual Grievant	Toenges, Roland	Termination V.P.	Accidents, rider complaints, poor judgment & absences from work,	Denied	Limits on acceptability of sub- standard performance.
08-PA-0145	Paynesville, City of (Interest Award) AFSCME Council 65	Jacobs, Jeffrey	Interest	First contract, 2007-2009. Awarded mngmt rghts, OT, reduced retiree ins.	2007-5.3% 2008-2.25% 2009-2.5%	2007 schedule adjusted 5.3% vs. city offer of 1% - pattern for 08-09.
08-PA-1081	Stillwater, City of Operating Engineers Local 49	Fields, Bernice	3 day	Unable to answer call to plow snow - cited for insubordination.	Sustained	Contract did not have mandatory language.
08-PN-0127	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Bryant, Bernardine	Interest	2007 - 1% above city's offer; 08 & 09 city pattern.	2007-4% 2008-3% 2009-3% +.25%	Market 2007, pattern 08, 09.
07-RA-0130	Supervalu Teamsters Local 320	McCoy, Arthur Ray	Termination	Violation of attendance policy - 11 unexcused absences.	Denied.	Union argued he was covered by the FMLA.

September, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	American Crystal Sugar Company Bakery Workers Local	Reynolds, James	9 day	Insubordination for failing to turn off a tape recorder in a meeting as ordered	Denied	Arb did not reduce susp, because no claim it was excessive.
08-PN-0349	Becker County (Interest Award) Teamsters' Local 320	Daly, Joseph	Interest	24 hr funeral leave, longevity, shift diff increase-pattern; zipper clause-no.	2008-3% 2009-3%	Pattern for 2008-2009..
08-PA-0614	Corcoran, City of Teamsters Local 320	Wallin, Gerald	4 hr. suspension Assignments	Mishandled DUI. Removed from FTO and range officer assignments.	Denied	Removal from assignments is not considered discipline.
FMCS	DCI, Inc. Boilermakers Local Lodge 647	Jacobs, Jeffrey	Termination	Interpretation of no fault attendance language-points that fall off after 1 yr.	1 day susp.	Contra proferentem-lanugage construed against party drafting.
07-PA-0857	Dakota County Dakota County Comm. Corrections	Kircher, Andrea	Return from	Probation officer assigned to a different job upon return to work.	Denied	Employers failure to exercise a right not create a practice.
FMCS	Electrolux IAMAW District Lodge 165	Bognanno, Mario	Safety Policy	Plant policy requiring safety sleeves and gloves to & from work stations.	Split	Some provisions unreasonable.
08-PA-0275	ISD 186, Pequot Lakes School Service Employees Local 284	Wallin, Gerald	Substitute Empl. Benefits	Substitute employee worked full time for 1 year and is seeking benefits.	Denied	No contract language. Bar from negotiating for non-public employee.
08-PA-0964	Mille Lacs County AFSCME 65	Jacobs, Jeffrey	Senior Qualified	New empl hired who knew software vs.senior employee who scored better.	Denied	Process reasonable and related. Contract requires relative ability.

08-PN-1091	Mound, City of (Interest Award) Law Enforcement Labor Services, Inc.	O'Toole, Carol Berg	Interest	U-4%+\$.75, 4%+\$.25; E-2.5%, 2,5% Insur: \$25, \$25-E.	2008-3% 2009-3%	External avg. and city suggested it was reasonable.
FMCS	R. R. Donnelly & Sons Company GCC/IBT Local 1M	Gallagher, Thomas	Job Bidding	Temporary quality inspector position created, sought by laid-off proofreaders	Denied	Different duties-temporary position
08-PA-0277	Saint Cloud, City of AFSCME Council 65	Wallin, Gerald	Civil Service Testing	Utilities maintenance mechanic job.	Denied	Civil service rules referenced in contract- mandatory v permissive.
FMCS	Sappi – Cloquet LLC United Steel Workers Local 11-63	Frankman, Janice	Termination	Threatened and harassed co-worker refused to enter EAP-"fire me".	Denied	Thoroughly investigated, followed progressive discipline.
08-PN-0547	Scott County (Interest Award) Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Interest	County changed salary matrix that had just been negotiated in 2007.	2008-1% 2009-1%	Wages & other issues based on internal pattern.
07-PA-0220	Steele County Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Deputy pulled out his penis. Hearsay and non appearance of complaining party discussed.	Denied	Off-duty conduct has a nexus to job as police officer.

August, 2008						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-0724	Blaine, City of Law Enforcement Labor Services, Inc.	Scoville, James	Termination	Officer took leave due to stress - failed fitness for duty recertification.	Sustained	Test flawed, must be given new test in order to return to work.
07-PA-0990	Brainerd, City of IBEW, Local 31	Bognanno, Mario	1 & 4 shift susp.	Firefighter rude & threatening to co-workers.	Denied.	4 shift reduced to 3 shift. His wife calling should not be added to days.
08 PA-0886	ISD 138, North Branch Teamsters Local 320	Latimer, George	Termination	School bus driver fainted - her CDL was revoked. She took medical leave after CDL reinstated she was fired.	Sustained	District can restrict her driving but must offer another job.
08-PA-0562	ISD 194, Lakeville Education Minnesota Lakeville	Gallagher, Thomas	Written	Student threw carrot in lunch room, teacher grabbed & turned his head.	Oral Reprmd	Infraction did not warrant jumping first step in grievance process.
08-PA-0243	ISD 316, Greenway-Coleraine Education Minnesota	Jacobs, Jeffrey	Sick buy back	\$5,000 available if family coverage is waived at retirement.	Sustained	Not necessary to have family coverage prior to retirement.
08-PA-1013	ISD 719, Prior Lake, Savage Prior Lake-Savage Education Assn.	Lundberg, James	30 minute lunch	District counted 5 minute passing before & after 20 minute lunch.	Sustained	5 minute passing time not duty free.
???	MN State Colleges & Universities Minnesota State College Faculty	Gallagher, Thomas	5 day	College early childhood development coordinator entered into agrmnt with White Earth tribe for similar duties.	Denied	Conflict of interest, if in doubt she should have cleared it with her supervisor.
FMCS	Red Wing Shoe Company UFCW, Local 427	Befort, Stephen	Mandatory OT (failure to offer).	Employee not notified of OT. Union wants pay without need to work OT.	Denied	Make up opportunity-appropriate remedy.
08 PN 0912	Richfield, City of (Interest Award)	Toenges, Rolland	Interest	City's pattern 3% Jan; .5% July.	2008-3.6%	Internal & external averaged. .6%

	Law Enforcement Labor Services, Inc.			Award 3% Jan; .6% Aug.		in Aug.- same cost as .5% in July
08 PA 0597	Rochester, City of, Public Utilities IBEW, Local 949	Imes, Sharon	Promotion to Shift Foreman	Relative ability clause. Junior ees promoted on two occasions.	Sustained	Plant manager bias.
06-PA-1306	St. Louis County Teamsters Local 320	Befort, Stephen	Arbitrability Seniority Bidding	Class action grievance allowable? Eligibility definitions.	Sustained Denied	Representational role of Union. Past practice gives meaning to definitions.
FMCS	St. Paul Pioneer Press Newspaper Guild Local 37002	Befort, Stephen	Health Insurance Eligibility.	New employee injured after 9 days. Insurance requires 90 days.	Denied	Definition of continuous service vs, continuous employment.
AAA	Xcel Energy Electrical Workers Local 160	Daly, Joseph	Overtime	ER selected ee who lived closest to cite vs equal distribution requirement.	Sustained	ER claimed 1st responder exception, but none listed in contract.

July, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Fairview Medical Center AFSCME, Minnesota Council 5	Jacobs, Jeffrey	Reasonable Accommodations	Employer failed to accommodate disabilities & find suitable work. Job postings changed retroactively.	Split	Arbitrator refused to order an ADA type policy or where to place ee. Job postings must be accurate.
08-PA-0278	Hibbing Public Utilities Commission AFSCME, Council 65	Jacobs, Jeffrey	Apprenticeship Standards	ER changed minimums for lineman. Contract requires negotiating Standards apprenticeship standards.	Denied	Management's right to establish minimum requirements for entry.
08-RA-0745	Human Development Center AFSCME, Minnesota Council 5	Bognanno, Mario	Termination	Rude and disrespectful behavior towards supervisors.	Denied.	Progressive discipline and due process followed.
08-PA-1150	ISD 2534, Bird Island-Lake Lillian Minnesota School Employees	Bryant, Bernardine	Longevity Increases	New contract; 3% longevity each yr, does it compound? - No.	Denied	Contract ambiguity should be construed against drafting party.
None listed	Minneapolis, City of IBEW, Local 292	Befort, Stephen	Termination	Electrician with bad back discharged due to inability to lift over 50 pounds.	Denied	ADA accommodation required only if injury limits a major life activity.
08-PN-0114	Minnesota, State of (Interest Award) Minnesota Nurses Association	Miller, Richard J.	Interest	Union seeking 10%, 10%; shift dif. from \$.65 to \$.70-e; mandatory OT-u; attach MOAs to contract-u; on-call-u. vacation accrual new hires-u.	2007-3.25% 2008-3.25%	Budget constraints & internal pattern.
FMCS	Northern Management Corporation Bakery Workers, Local 22	Jacobs, Jeffrey	Severance Pay	Should time with previous owner be used to calculate severance.	Sustained	Contract language rather than impact.
08-RA-0575	Rainbow Foods, Inc. UFCW Local 653	Gallagher, Thomas	Termination	Grievant claimed his pay check was short 2 hours - video rebutted claim.	Sustained	No fraudulent intent. Only 75% back pay - ee to blame for claim.
08 PN 0862	Traverse County (Interest Award) Traverse Cty Highway Employee	Toenges, Rolland	Interest	Non-essential, agreed to final offer arbitration. Dispute re mkt adj. Co. 3 yr w mrkt adj 2008; Union 1 yr-4%.	2008-mkt adj 2009-3.15% 2010-3.25%	County position. Union was less expensive for 2008, but County was consistent w internal pattern.

June, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Aggregate Industries Operating Engineers, Local 49	McCoy, Arthur Ray	Termination	False time card. Claimed he was at training but did not attend.	Denied.	There was progressive discipline, act was intentional.
07-PN-1013	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Fogelberg, J.C	Interest	2 yrs.-u; Wages 2%, 2%-e; Perf pay 2%, 2%-e; PP eff Jan-u; spec pay-no;	2007-2% 2008-2%	Investigative Unit, award matches other internal LELS units.
FMCS	Interplastic Corporation United Steelworkers, Local 11-409	Flagler, John	Termination	Attendance and performance.	Denied	Arbitrator used seven steps to just cause approach in his analysis.
08-PA-0952	Martin County - Step Adjustment AFSCME, Council 65	Jacobs, Jeffrey	Step Adjustment	15 step pay schedule, but requires board approval beyond step 12.	Denied	Contract must be applied in accordance with its terms despite the equities.
08-PA-1211	Martin County - Part Time AFSCME, Council 65	Jacobs, Jeffrey	Part Time Merit Increases	Contract-eligible employees receive a step increase on Jan.1. County held PT increases until 2080 hrs. earned.	Sustained.	PT eligible on Jan 1 regardless of hours, but arb cannot order step - they are subject to board approval.
08-PA-0901	Metropolitan Council Amalgamated Transit, Local 1005	Before, Stephen	Termination	Disciplined numerous times-triggering event - late start when bus didn't start	Sustained.	Named event did not merit term. Reinstated w/o backpay (8 mos.). Placed on "last chance".
08-PA-0900	Metropolitan Council Amalgamated Transit, Local 1005	Jacobs, Jeffrey	Last Chance Agreement.	Terminated for exceeding 5 absences in a rolling year.	Denied	Very specific Last Change Agreement.
None listed	Minnesota, State of Minnesota Assn of Professional Empls.	Jacobs, Jeffrey	Extension of Medical Leave	Job related injury; seeking extension of one year medical leave.	Denied.	State was granted full discretion in contract re extension of leave.
None listed	Minnesota State Colleges & Inter-Faculty Organization	Gallagher, Thomas	Meet & Confer	Union not allowed to appoint reps to assistant V.P. selection committee.	Sustained	Analysis of Meet & Confer. Ok to exclude fair share frm rep duties.
08-PA-0790	MN, Department of Transportation Minnesota Government Engineers	Lundberg, James	Termination	Computer tech filled out timesheet claimed 10 hr days - only wrkd 7 hrs.	Denied.	State documented 67 claimed, but unworked hours.
07-HIN-1058	Monticello-Big Lake Community Minnesota Nurses Association	Miller, Richard J. Tripartite Panel	Interest	Wages-u; Differentials-u; Diff retro-er; Weekend defined-er; STO/STC-er; 1 hr pay to meet new members-u; 457 plan-er; Provisional hires-er	2007 - 4% 2008 - 4% 2009 - 3%	Wages & differentials - external market. Status quo on most language items.
FMCS	Polar Tank Trailer, LLC IAM&AW, District Lodge 165	Kapsch, Frank	Termination	Welder threw washers at co-worker. Bad attitude.	Denied	Progressive discipline.
FMCS	Prospect Foundry GMP Local 63B	McCoy, Arthur Ray	Termination	Foundry worker fell asleep under a while zero tolerance policy.	Sustained	Rules warn of discipline up to & including termination - inadequate notice for zero tolerance.

08-PN-0187	St. James, City of Law Enforcement Labor Services, Inc.	Latimer, George	Interest	Wages: City \$.66 across the board both year = to 3%, u 08-7%, 09-4%. Comp incr: no-e; Insurance change % to fixed \$: no-u; Sick leave change: no - union position.	2008-5% 2009-4%	External market, CPI & \$.66/hour = 4% for other city employees.
FMCS	3M Company USW, Local 11-75	Jacobowski, Daniel	Subcontracted Work	Safety inspections subcontracted out at Maplewood plant.	Sustained	Inspections done by Union at St. Paul plant until it closed-union wk.
04-PA-1416	University of Minnesota AFSCME Minnesota Council 5	McCoy, Arthur Ray	Lay Off	Sr word processing specialist laid off due to budget. Questions re process.	Denied	Budget & obsolete title supported move. U failed to propose options.

May, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-0931	ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota	Gallagher, Thomas	Staff	Pay for training that extends beyond regular school day.	Sustained	Specific language prevails over general language.
07-PA-0711	Lakeville, City of Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Combining ECC Severance Pay	Dispatchers merged into Dakota Co. seeking sick leave severance.	Denied	Rollover of accrued leave was negotiated.
08-PA-0312	Minnesota, State of, Department of AFSCME, Minnesota Council 5	Bognanno, Mario	Shift Exchange	Can employer define reasonable basis	Denied	Employer can establish work rules but decided case by case.
08-VP-0612	Minnesota, State of, Department of Individual Grievant	VerPloeg, Christine	Termination	Violation of travel and cell phone policies.	Denied	Although no prior discipline, she was a high level manager.
08-PA-0650	Minnesota, State of, Department of Minnesota Government Engineers	Flagler, John	Over Time for	Allowed to take off hours worked over	Denied	No violation of contract or FLSA.
FMCS	Pan-O-Gold Baking Company Teamsters, Local 289	Befort, Stephen	Unit Work	Part-time non-union employees stocking shelves.	Denied	Practice in place for over 20 yrs.
07-PN-0791	Red Wing, City of (Interest Award) Teamsters, Local 320	Laitmer, George	Interest	New pay scale; Sgts placed in step above current pay, seeking same placement as Fire Captains.	City's position	Capt's base higher since 1999 due to OT exempt status. Reversing would abrogate negotiations.
07-PA-0461	St. Cloud, City of Law Enforcement Labor Services, Inc.	Bognanno, Mario	Holiday Premium Pay	Should Labor day 12 hour shifts be paid OT in addition to holiday pay?	Sustained	No bar to pyramiding in contract.
FMCS	Weyerhaeuser Company UFCW, Local 9	Befort, Stephen	Termination	Employee fired when cardboard bailing machine jammed.	Sustained	Lack of investigation. Ee was on different assignment that day.

April, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Aggregate Industries Teamsters, Local 120	Toenges, Rolland	Work Rules	Must employer negotiate work rules more restrictive than existing rules?	Sustained	Must negotiate due to contract protection vs more restrictive rules

None listed	Consolidated Telephone Company Communication Workers,Dst 7, Local 7212	Jacobs, Jeffrey	Termination	Confrontational at an ee meeting & previously counseled on behavior.	Sustained	Prior discipl. may never be used to determine if grievant is guilty.
07-PN-1174	Freeborn County (Interest Award) Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Wage reopener for 2007; u-3.5%, c-2.5%	2007-2.5%	Internal pattern and consistent with cost of living.
08-PA-0857	ISD 482, Little Falls Minnesota School Employees	Bryant, Bernardine	Uniform Change	District historically required uniform color. Change to uniform style shirt.	Denied	Clear & unambiguous language. Not bound by practice.
07-PA-1072	ISD 2859, Glencoe-Silver Lake School Service Employees, Local 284	Anderson, Richard	Subcontracting	Challenge to subcontracting bus operations.	Denied	Arbitrator lacks jurisdiction to resolve issues raised.
07-PA-1071	ISD 2859, Glencoe-Silver Lake School Service Employees, Local 284	Jacobowski, Daniel	Termination vs. Resignation.	Bus driver's vacation denied, taken anyway - said it was his last day.	Denied	Not terminated, he quit his job.
None listed	Minneapolis, City of Police Officers' Federation of	Gallagher, Thomas	Out of Title Pay	Sergeant claimed she was doing lieutenants work.	Denied	Contract requires doing 40% of work for 5 consecutive days.
07-PA-0900	Minnesota, State of, Department of AFSCME, Minnesota Council 5	Holmes, Barbara	Termination	LPN deviated from treatment plan for a	Denied.	Cannot substitute judgment for the plan and did not admit error.
None listed	Minnesota, State of, Department of AFSCME, Minnesota Council 5	Befort, Stephen	Out of Class Pay	Firefighter assigned 2nd seat which is	Denied	Did not substantially perform all of the
09-PA-0064	Minnesota, State of, Tenth Judicial AFSCME Minnesota Council 5	Miller, Richard J.	Termination	Judicial clerk made numerous errors in Request for arbitration was late.	Denied	Egregious conduct does not require Lax enforcement practice.
FMCS	Park Nicollet Hospital, Inc. SEIU Local 113	Gallagher, Thomas	Timeliness Work Plan	Nursing asst. got DUI and was forced to agree to a return to work plan.	Arbitrable Sustained	Considered discipline and no just cause demonstrated need for it.
FMCS	Progress Castings Group, Inc. Glass Molders Pottery Plastic Wrks 63B	Jacobs, Jeffrey	Termination	Factory wrkr asked to fill time card accurately-got into shouting match.	30 day susp.	Could not prove he pushed sprvsr. Suprvs also at fault, losing temper

March, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-1179	Apple Valley-Lakeville-Farmington (ALF) J AFSCME Minnesota Council 5	Gallagher, Thomas	160 hr. susp.	Medic declined 911 call & told clinic to call	Denied	Advised not to leave area due to to make 1st hand evaluation.
FMCS	Ely Bloomingson Community Hospital ASFCME, Council 65	Orman, Tony	Termination	Exhausted Family Med Leave, offered extended med leave if documented	Denied	Failed to provide documentation required by last chance agreement
08-RA-0368	Fairview Range Regional Health AFSCME, Council 65	Jacobs, Jeffrey	Termination	Cook accused of stealing 2 chicken	Denied	Theft is an offense justifying termination even for a relatively small amount
08-PA-0423	ISD 77, Mankato	Jacobs, Jeffrey	Out of Title Pay	Para w LPN license assgn LPN wrk.	Sustained	Pay at higher rate for all hours.

	Minnesota School Employees		Timeliness	U argued clock starts when Union discovers violation, not employee.	Denied	Starts when ee discovers. On-going, backpay starts at filing .
08 PN 0262	ISD 241, Albert Lea (Interest Award) Albert Lea Education Association	Toenges, Rolland	Interest	D - 2%,2%; U - 2.3%, 2.4%.	2008-2% 2009-2%	Total package. District's position based on internal pattern.
03-PA-0652	ISD 728, Elk River School Service Employees, Local 284	Remington, John	Elimination of Bus Service	2004 arb ruled district failed to neg in good faith re subcontracting. Dispute regarding remedy.	Sustained	Backpay improperly deducted workers compensation. District not required to reinstate as drivers
FMCS	Jefferson Lines Amalgamated Transit Union Local 1498	Gallagher, Thomas	Termination	Driver left w/o checking to see if there were any passengers.	Denied	U acknowledged ground for discl. argued for reversal for failure to put charges in writing.
FMCS	U.S. Department of Veterans Affairs American Federation of Gov't	Frankman, Janice	Termination	Failure to immediately respond to a call and sleeping on duty.	Denied	Respiratory Therapist responsible for patient safety.
07-PA-0380	University of Minnesota AFSCME, Minnesota Council 5	Holmes, Barbara	Termination	Survey interviewer accused of falsifying report.	3 day susp.	Could not establish intent, only proved mistakes were made.

February, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Abbott Northwestern Hospital SEIU, Local 113	Jacobs, Jeffrey	Written Warning	Attendance - 7th violation of policy.	Denied	Union asked for an oral; overall record supports discipline.
			Final Warning	Head on desk sleeping, in an office not designated for breaks.	Sustained	Stretching injured back - not sleeping sleeping. Lax enforcement of rule on using office for breaks.
07-PA-1026	Anoka County Education Minnesota Anoka County	Gallagher, Thomas	Failure to Post for Positions	Co. failed to post for para positions.	Denied	Contract requirement written prior to para's being added to unit.
07 PN 0285	Bemidji, City of (Interest Award) Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Duration: 3yrs (u-2y, e-3y); W.3%/yr. (u-5.5%, e-3%); Insur: internal patrn. (u position, e offered less due to u moving to PIEP).	2007-3% 2008-3% 2009-3%	Duration, wages and insur based on internal pattern. Shift diff incr \$.5 in 08 & 09. 1 yr bar to discl. invest removed.
FMCS	Children's Hospitals and Clinics SEIU Local 113	Gallagher, Thomas	Change in Work Rules	Stopped practice of checking out 1 to 7 minutes early - arb said no.	Sustained	Protected by a Maintenance of Benefits article for contract duration
07-PA-1127	Hastings, City of Law Enforcement Labor Services, Inc.	Frankman, Janice	Termination	Officer pursued drunken man running from him and hit him with squad car.	30 day susp.	Faulty investigation, failure to prove charges.
FMCS	Hickory Tech Corporation IBEW Local 949	Jacobs, Jeffrey	Overtime	Can employer change one day of a shift w/o incurring OT?	Denied	Even if employer always changed a whole week in past - not limited.

07-PA-0726	Metropolitan Council/Met Transit Amalgamated Transit Union Local 1005	Miller, Richard J.	Bargaining Unit Work	Payroll work transferred from ATU to St. Paul AFSCME employees	Sustained	Efficiency does not trump contract language. ATU retains work.
RCDC	Metropolitan Council/Met Transit Amalgamated Transit Union Local 1005	Ramsey County	Arbitration Award	BMS ruled payroll wrk was AFSCME.	Vacated -Arb	BMS representation ruling trumps
Court of	Metropolitan Council/Met Transit (Court Amalgamated Transit, Local 1005	State of Minnesota	District Court	ATU Union challenged District Court	Reversed and	BMS ruling not in conflict, contract
08-RA-0067	Northern Communities Credit Union AFSCME, Minnesota Council 65	Jacobs, Jeffrey	Pay for Severe Weather	Paid if open, then sent home, Were sent home upon arrival & not paid.	Sustained	Memo - would open if buses ran. Failed to notify they were closed.
FMCS	Progress Castings Group, Inc Glass Molders Pottery Plastic Wrks	Jacobs, Jeffrey	Elimination of 10 hour shifts. Timeliness	Contract states shift are 8 or 10 hrs. Grievance not filed when policy posted.	Sustained Arbitrable	Specific language trumps the general. Can be filed immediately or upon implementation.
05-PA-0532	SSD 1, Minneapolis Education Minnesota	Toenges, Rolland	Continuing Pay Pending Appeal of Lay Off.	Are teachers entitled to be paid under M.S.21A.41 pending recall or final Board Action?	Denied	Issue alleges violation of statue - not grievable.
07-PA-0044	Wright County Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Termination	Off-duty deputy served underage girls alcohol. Tried, found not guilty.	Denied	Failure to stop illegal activity sufficient just cause.

January, 2008

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Ainsworth Engineered United Steelworkers of Amer, Local	Bognanno, Mario	Outside Contracting	Plant is shut down. Sub contracted work vs. calling laid-off workers.	Sustained	Not an emergency exception. Failed to even call a laid-off worker.
FMCS	Ainsworth Engineered United Steelworkers of Amer, Local	Flagler, John	Supervisor doing Unit Work	Supervisors doing work considered common sense efficiency	Remanded for Vol. Resolutn	De minimus wrk to avoid delays in work don't qualify for wage remedy
FMCS	Ainsworth Engineered United Steelworkers of Amer, Local	Reynolds, James	Recall from	Can senior employees decline recall?	Sustained.	Can decline temporary or partial recall - not permanent recall..
			Recall	Union wants phone call in addition to certified mail - no mail sufficient.	Denied	No contract prohibition, mail creates paper trail.
07-PN-0910	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Wages: 2%, 2% - e (u-5%, 5%); change Retiree Ins-no-u.	2007-2% 2008-2%	Wages internal pattern. Retiree Insurance awarded in arbitration.
08-PA-0053	Hibbing, City of International Assn of Firefighters 173	Kapsch, Frank	Call Back	Chief change practice of releasing called back firefighters immediately/	Denied	Union claimed 20 yr practice, but contract language is clear.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Toenges, Rolland	Termination	Failed to attend fitness for duty exam leading to violation of time and attendance policy.	Denied	Won Worker's Comp appeal 1 yr after termination - just cause determined by facts known at time

08-PA-0082	ISD 94, Cloquet AFSCME Council 65	Gallagher, Thomas	Bumping Rights	Union claims bumping rights if a position or assignment is eliminated.	Denied	Contract right to assign continues even if bumping allowed in past.
07-PA-1203	ISD 319, Nashwauk-Keewatin Education Minnesota, Local 1444	Bognanno, Mario	Retiree Health Benefits	Retiree with 2 yrs sought insurance. District seeking definition in new contract is not dispositive.	Denied	Past practice gives meaning to definition of eligible retiree.
08-PA-0052	LaCrescent, City of IUOE, Local 49	Daly, Joseph	Recall Rights	Was golf course employee laid off or terminated each year?	Sustained	Laid off - duties not description determined recall rights.
None listed	MN State Colleges and Universities Inter Faculty Organization	Befort, Stephen	Tuition Waiver	Does waiver apply to new high cost doctoral program created mid contract.	Sustained	Economic need does not provide a basis for repudiating contract.
None listed	MN State Colleges and Universities Minnesota State College Faculty	Befort, Stephen	Tuition Waiver	Tech & community college faculty. Same issue as above	Sustained	Same award as above.
08-PA-0157	Mower County UFCW, Local 9	Anderson, Richard	Short Term Disability Leave	Grievant failed to comply with policy requirements.	Denied	Contract references policy - policy determinative.
07-PA-1041	Northfield, City of IUOE, Local 70	Daly, Joseph	Continuing Contract	Contract expired Dec 2005, New pay study called for reductions. Union would not negotiate new contract.	Sustained	Continuing contract statue. Steps & COLAs awarded for 2006 2007 and 2008.
07-PA-0903	Redwood County - Payscales Law Enforcement Labor Services, Inc.	Scoville, James	Pay Scales vs. Steps	Salary increases occur on anniver, so new schedule not used until anniver.	Sustained	Contract refers to step movement not schedule implementation.
07-PA-0540	Redwood County - Uniform Allowance Law Enforcement Labor Services, Inc.	Scoville, James	Uniform Allowance	How retroactive uniform increase was handled.	Denied	Union sought cash payout, but contract has voucher system.
06-PN-0946	St. Louis County (Interest Award) Law Enforcement Labor Services, Inc.	Remington, John	Interest	Union 5%, 5%; County 2%, 2% On call-no; Sick leave def of child-yes	2006-2.5% 2007-2.5%	Wages exceed 2% pattern - based on CPI & externals.
07-PA-506	University of Minnesota AFSCME, Minnesota Council 5	Jacobs, Jeffrey	Termination	Created a fraudulent parking card for her boyfriend. Lied at hearing.	6 mo. Susp.	Depts lax enforcement of rules. Returned to work with no backpay.
07-PA-0879	University of Minnesota, Crookston University Education Association	Moeller, Lon	Merit Increase	Increase was a fixed dollar amount rather than a percentage of base.	Sustained.	Past practice - percentage incr.
FMCS	University of St. Thomas Teamsters, Local 120	Jacobs, Jeffrey	Termination	Punching timecards for her children.	Sustained.	Weingarten violation and children claimed they committed fraud.
FMCS	University of St. Thomas Teamsters, Local 120	Jacobs, Jeffrey	Back Pay	Does make whole remedy require pay for OT not worked?	Denied.	Voluntary OT is different than mandatory OT.
07-PN-1161	Wayzata, City of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	County 3%, 3%; Union 4%, 4%. Reduce IOD-no; FTO-no; Tuition -no.	2007-3.3% 2008-3.4%	Wages - external average.
07-PN-0602	Wilkin County (Interest Award) Teamsters, Local 320	Powers, Nancy	Interest	County 3%, 3%; Union 5%, 5%. Union, comp time carry over - no.	2007-3% 2008-3%	Wages - internal pattern.

2009 Arbitration Awards - Minnesota B.M.S.

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, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	CUB Foods United Food & Commercial Wrkrs 789	Daly, Joseph	Unit Work	Store manager cut meat. Contract clauses are in conflict.	Sustained	Specific vs. general language.
09-PA-0945	Dakota County Teamsters Local 160	Jacobs, Jeffrey	Termination	Created hostile work environment.	Sustained	Lack of notice. Discrepancy of witness statements.
None Listed	Hennepin County Hennepin Cty Sheriffs Deputies Assn	Befort, Stephen	Premium Pay	6/3 schedule required 1.5% premium. Schedule changed - premium ended.	Denied	Contract language specified 6/3.
09-PA-1051	Hennepin County Medical Center Hennepin County Assn of Paramedics	Gallagher, Thomas	5 day susp.	Paramedic referred to patient as a crazy bitch.	3 day susp.	Based on similar discp. Admin pay does not have to include premium.
FMCS	Honeywell Teamsters Local 1145	Jacobs, Jeffrey	Termination	Unexcused absences.	Denied	No fault policy in contract that calls for termination after 60 hours.
None listed	Minneapolis, City of Police Officers Federation of	Reynolds, James	Termination	Domestic abuse - wife obtained restraining order against police officer	Denied	Sustained pattern of abuse toward women in his life.
FMCS	US Dept of Justice, Federal Bureau of Council of Prisons, American Fed. of	Daly, Joseph	Assignment of OT; Detail needed in	OT in prison factory denied to Union in Employer challenged lack of detail.	Denied Denied	Based on qualifications. Article violated and basic nature is
09-PA-0178	Winona, City of Law Enforcement Labor Services, Inc.	Fields, Bernice	Shift Differential	Should officers called in to work shift receive differential + overtime.	Sustained	Contract does not bar payment.
09-PA-0933	Wright County AFSCME Minnesota Council 65	Jacobs, Jeffrey	Probationary Employee?	County argued 6 mo probation = 1 yr for part-time per past practice.	Sustained	Practice not clearly articulated. Good discussion on past practice.

November, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-PA-0991	Cloquet, City of Teamsters Local 346	Kircher, Andrea	Termination	Police investigator started dating girl-friend of suspect he was investigating.	Sustained	Double jeopardy, he was reduced to patrol officer 16 mos. earlier.
FMCS	Grand Itasca Clinic and Hospital Minnesota Nurses Association	Gallagher, Thomas	Termination	Nurse failed to fill out reporting off duty form and discourteous behavior.	35 days	Nurse left w/o filling form, but had talked to other nurses re patient.
09-PA-0561	ISD 186, Pequot Lakes School Service Employees 284	Jacobs, Jeffrey	Termination	Comptr Tech hrs cut 50% & other duties added. Grievant did not report.	Denied	Grievant considered this a layoff & did not report-"do work,then grieve"
09-PA-0919	ISD 2860, Blue Earth Blue Earth Area Education Assoc.	Anderson, Richard	Sick Leave	Teacher wished to use sick leave to be with husband in hospital.	Denied	Sick is for employee and or child.

None listed	Minneapolis, City of Police Officers Federation of	Fogelberg, J.C.	Working out of Class	Union filed grievance on behalf of 3 members working out of class, 2 as	Denied	Procedurally flawed. Union was the grievant. Contract states ee must
07-PA-0439	Jordan, City of Law Enforcement Labor Services, Inc.	Lundberg, James	Termination	Police officer accused of improperly touching an unlicensed female driver.	Denied	Credibility at issue. Failed to document stop. Found not guilty in court.
09-RA-1128	People's Cooperative Power Services of IBEW 949	Jensen, Eugene	Bargaining unit	Purchasing agent was given superv.	Sustained	Majority of duties did not change. Duties
FMCS	Vanguard Car Rental USA, Inc. Teamsters Local 926	Frankman, Janice	Termination	Hostile work environment - swearing, abusive language	Denied	Discipline does not require specific policy re abusive behavior
October, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
10-PA-0107	Andover, City of Teamsters Local 320	Jacobs, Jeffrey	Layoff	Street dept maintenance worker laid off instead of junior park or utility worker.	Sustained	Contract calls for title seniority, not department seniority.
09-PA-0415	Benton County Law Enforcement Labor Services, Inc.	Befort, Stephen	Time line	Arbitrability of 1 day suspension due to exceeding time line.	Denied	Contract calls for selecting Arb. In 90 days - over 90 not arbitrable.
FMCS	Jefferson Lines ATU Local 1498	Flagler, John	Termination	3 accidents; failed to pick up at stops, tried to negotiate kickback with restaurant		Short term employee; cavalier attitude towards rules.
09-PA-1019	Metropolitan Council Pipefitters Local 455	Jacobs, Jeffrey	Reducing Hours	Pipefitters required to take off 1 day per pay period.	Denied	No guarantee of hours. Employer can manage its budget.
09-PA-0461	Minnesota, State of, Moose Lake AFSCME Minnesota Council 5	Jacobs, Jeffrey	5 & 7 day susp.	Clerical performance issues.	Sustained	5 day susp reduced to 3; 7 day overturned; given another state job.
???	Minnesota, State of Individual Grievant	Befort, Stephen	Termination	DNR employee's work as chair for a & State DNR.	Sustained	Ultimate decisions were made by her
FMCS	Nilfisk-Advance, Inc. IAMAW District Lodge 77	Gallagher, Thomas	Termination	Grievant stole pain pill from co-worker.	Denied	Work rules call for discharge. Not interviewing grievant not critical.
09-PA-0836	Oakdale, City of Law Enforcement Labor Services, Inc.	Orman, Anthony	Termination	Accused of lying about improperly filled out auto theft report.	40 hr susp.	Sgts testimony questioned due to past conflicts with grievant.
10-PA-0024	Ramsey County AFSCME MN Council 5	O'Toole, Carol Berg	Termination	Nursing assistant abused Alzheimer's patient by twisting hand & pushing.	Denied	Serious offense. A long time empl. with no previous discipline.
09-PA-0588	Roseua County Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Termination	Deputy Sergeant's excessive force, & sexual harassment.	Denied	Force not excessive, but caught in numerous lies.

09-PA-0528	Watonwan County AFSCME Council 65	Remington, John	Termination	Light equipment operator lost license due to 2nd DUI.	Denied	Job requires CDL.
FMCS	Xcel Energy IBEW Locals, 23, 160, 949, 953, 1426	Anderson, Richard	Subcontracting	Meter readers in rural areas worked subcontract on piecemeal rate.	Sustained	Must hire as temporary employees and pay back pay.
September, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-RA-0636	Homeward Bound, Inc. AFSCME Council 65	Anderson, Richard	Termination	Staff person at care facility caught sleeping.	Denied	Zero tolerance for sleeping. 25 fired in past.
09-PA-0165	ISD 191, Burnsville Service Employees, #284	Jacobs, Jeffrey	Seniority	Junior employee selected to work as a summer cook.	Denied	Seniority only has to be considered as one of many factors.
09-PA-0174	ISD 316, Coleraine AFSCME Council 65	Fogelberg, J.C.	Longevity Pay	Are longevity steps compounded?	Sustained	Contract, Union testimony and negotiation notes support award.
09-PA-0527	ISD 861, Winona Winona Education Association	Martin, William	Staff Development	Principal denied 2 of 4 teachers request for a conference	Denied	Contract & Statutory Staff Devlpmt lost to management rights.
09-PA-0006	Lincoln, Lyon, Murray Counties Human AFSCME Council 65	Imes, Sharon	5 day susp. Termination	Insubordination Violated last chance agreement.	Sustained Sustained	Due process rights violated. Due process rights violated.
09-PA-1066	Metropolitan Council Amalgamated Transit Union #1005	Befort, Steven	Termination	Last chance agreement. Driver used snow scraper to chase rider.	10 day susp	LCA covered different situation. New LCA ordered.
09-PA-0951	Metropolitan Council dba Metro Transit Amalgamated Transit Union #1005	Anderson, Richard	Record of Warning	An accident after 3 warning is grounds for termination. Had 2 priors.	Denied	Bus spun out, while turning in a snow covered parking lot.
08-PA-0766	Metropolitan Council d/b/a Metro Transit Law Enforcement Labor Services, Inc.	Anderson, Richard	Termination	Part-time officer missed mandatory training without an excuse.	Sustained	Suspended from 11/07 until spring 2008 training. Back pay forward.
09-PN-0698	Minnetonka, City of Clarification of Award Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Union asked for 2009-2.75%, 2010-1%; City offered 1%, 1%.	2009 - 2.75% 2010 - 1.0%	Internal pattern.
FMCS	Robbinsdale Rehabilitation&Care Clinic, Service Employees Healthcare #113	Gallagher, Thomas	Timelines	Arbitrability in termination case	Denied	Notification of steward same as notifying
09-PA-0748	Steele County Law Enforcement Labor Services, Inc.	McGilligan, Dennis	Termination	Corrections deputy lied in hearings to protect a fellow deputy.	Denied	Seriousness of main charge in spite of lack of prior discipline.
FMCS	Upper River Services, Inc. IUOE Local 49	Bognanno, Mario	Termination	Barge worker on winter layoff failed drug test & wasn't called back.	Sustained	Laid off worker is an employee & protected by MN drug statue.

August, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1183	Benton County AFSCME Council 65	Jacobs, Jeffrey	Work Schedule	Employer changed schedule raising issues of flexing, vacation & seniority.	Denied	Management rights.
09-PN-0540	Crookston, City of Law Enforcement Labor Services, Inc.	McGilligan, Dennis	Interest	Only issue, wages for 2009. Union asked for 4%, City offered 0%.	2009 - 2.75%	Internal pattern. City wanted to deviate frm pattern due to economy.
FMCS	Hertz Corporation Teamsters Local 974	Daly, Joseph	Termination	Employee left work early without seeking management approval	Denied	Testimony deemed untruthful. Poor work record.
FMCS	Honeywell, Inc. Teamsters Local 1145	Daly, Joseph	Termination	Falsifying time clock records. Punching in then leaving work.	2 yr. susp.	Lack of progressive discipline & personal crisis.
09-TL-12	ISD 191, Burnsville Individual Grievant	VerPloeg, Christine	Termination	Principal had kindergarten child who plugged toilet, remove paper towels.	15 day susp.	Remediability standard.
09-PA-0214	ISD 656, Faribault (Award)	Paull, David	Job Consolidation	Union clerical duties moved to a confidential employee.	Sustained	Majority of duties were clerical.
Dist. Ct.	District Court Decision (Faribault Arb.)	3rd Judicial District	Vacating Award	School District asked court to overturn arbitration.	Vacated	Not a grievance-no ee injured. Not arbitrable-management right.
Appeals Ct.	Court of Appeals Decision (Upholding Operating Engineers Local 70	Court of Appeals	Arbitrator	District Ct vacated award. Union	Denied	Reorganization vs sub-contracting.
09-TD-14	ISD 742, St. Cloud Individual Grievant	VerPloeg, Christine	Termination	Abuse of sick leave and falsifying duty day hours.	Denied	Violations sufficiently serious as not to require progressive discipline.
09-PA-0844	Metro Transit Amalgamated Transit Union Local 1005	Toenges, Rolland	20 day susp.	Bus driver at layover stop refused to let passengers on - below 0 temp.	10 day susp.	20 days excessive compared to other passenger boarding incidents.
None listed	Minnesota State Colleges & Universities MN Colleges Faculty Association	Befort, Stephen	Layoffs	Layoff of 3 cosmetology teachers. Laid-off, hired as temporary, then LO	Sustained	Manipulation of contract language.
???	Minnesota, State of, Department of AFSCME Minnesota Council 5	Miller, Richard J.	Termination	DL required for job, lost license due to	Denied	Third DWI.
09-PA-0801	Ramsey County Teamsters Local 320	Jacobs, Jeffrey	Assigning OT	Grievant not guaranteed OT would be in control room per 2007 MOA.	Sustained	County gave up its right in MOA.
09-PA-0140	University of Minnesota AFSCME Minnesota Council 5	Miller, Richard J.	Termination	Released medical records to police.	Split	4 month suspension. Good work record.
July, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
None listed	Allina Hospitals and Clinics SEIU Healthcare Minnesota	Jacobs, Jeffrey	Subcontracting	Agreement allows for changes under extraordinary circumstances	Sustained	40% saving alone did not meet test loss of 17 jobs was key factor.

08-PA-0247	Grant County Teamsters Local 320	Jacobs, Jeffrey	Public employee	Employee hired as hourly with no benefits. Is she eligible for benefits?	Sustained	Met 67 day and over 14 hour standards.
09-VP-1011	ISD 721, New Prague Individual Grievant	Frankman, Janice	Termination	Custodian put plastic glove with dog feces on teachers desk.	15 day susp.	No progressive discipline.
09-PA-0459	MN, Silver Bay Veterans Home AFSCME Council 5	Fogelber, J.C.	Termination	Violent verbal outbursts to co-workers.	Denied	Attempts at anger counseling failed. Co-workers feared for their safety.
09-PA-0004	Three Rivers Parks District Law Enforcement Labor Services, Inc.	Holmes, Barbara	4 day suspension	Officer drunk & had sexual activity in a horse barn after dept. training. Police Discipline Act, formal statement w/o complaint.	1 day susp.	Unable to prove sexual activity. Violation has penalty-not reversal.
FMCS	Xcel IBEW Local 1426	Remington, John	Termination	Falsified meter readings	Denied	Long term employee, no discipline but company practice to terminate.

June, 2009 BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-PA-0638	Belle Plaine, City of Law Enforcement Labor Services, Inc.	Paull, David	Termination	Police Sergeant pressured officer to release DUI suspect	Denied.	A number of actions brought discredit to his department.
FMCS	Gopher Resources Teamsters Local 120	Jacobs, Jeffrey	Termination	Time card fraud.	Denied	Work rules called for termination.
09-PA-0562	Hennepin County AFSCME Council 5, Local 34	Anderson, Richard	Termination	Computer used to view sexual images and for personal business,	Denied.	Violated policy on computer use - 24 yr employee, no discipline.
FMCS	Honeywell, Inc. Teamsters, 1145	Befort, Stephen	Subcontracting	Subcontracted work is to be called back if an employee is laid off.	Denied	Employee accepted a lower level position therefore was not laid off.
08-PA-1115	Itasca County Itasca County Employees Association	Jacobs, Jeffrey	5 day susp.	Land commissioner's bad relationships with employees and other agencies.	3 day susp.	Politics mitigated some charges.
09-PA-0749	Metropolitan Council Amalgamated Transit Union Local 1005	Befort, Stephen	Termination	Bus driver wearing an earphone.	Denied	Last chance agreement.
09-PA-0845	Metro Transit Amalgamated Transit Union Local 1005	Holmes, Barbara	Final warning	Third accident for bus driver. 4th results in termination.	Denied	No other buses had accidents.
09-PN-0267	Morrison County (Interest Award) Law Enforcement Labor Services, Inc.	Holmes, Barbara	Interest	Union seeking 4%, County 1% FTO-no; 1yr- co. position; Co. insur.	2009-1%	Ability to pay and internal pattern.
07-PA-1084	Roseville, City of Law Enforcement Labor Services, Inc.	Fogelberg, J. C	OT for Training	Regular schedule was changed to avoid overtime for training days.	Sustained	Contract language and practice.
09-RA-0637	Safe Haven Shelter for Battered Women AFSCME Minnesota Council 5	McCoy, Arthur Ray	Termination	Insubordination. Failure to transport a client as requested.	Sustained	Request was bogus, intended to provoke or punish grievant.

09-PA-0027	Washington County Law Enforcement Labor Services, Inc.	Bognanno, Mario	Unit Work	Bailiff's working after hours court-house security	Denied.	Low on policing continuum.
May, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	ABM Janitorial Services, Inc. SEIU Local 26	Holmes, Barbara	Termination	Inappropriate sexual behavior. Is just cause needed, or was he "at will"?	Denied.	Progressive discipline requirement and listing types of misconduct amount to a just cause standard.
FMCS	Ambassador Press, Inc. GCC/IBT Local 1B	Gallagher, Thomas	Termination	Failed to give proper notice of leave needed for surgery.	Sustained	Lack of just cause. Mgmt knew of surgery - no wrtn notice of penalty
FMCS	American Spirit Graphics Corporation GCC/IBT Local 1M	Befort, Stephen	Bumping	Entitled to higher pay at lower spot.	Sustained	Contract & past practice
09-PA-0001	Arrowhead Regional Corrections AFSCME, Council 5	Anderson, Richard	75 day susp.	Mistreatment of juvenile client.	Sustained	Reduced to 30 days.
09-PA-0126	Benton County AFSCME Council 65	Imes, Sharon	Longevity	Eligible at start or completion of year?	Denied.	Past practice.
FMCS	Federal Bureau of Prisons-Waseca American Fed of Gov't Empls 801	Holmes, Barbara	Pay for Union Training seminar	Training for Union finance officer - for internal union or mutual benefit?	Sustained	Mutual benefit. How to file IRS & DOL reports.
09-PA-0428	ISD 241, Albert Lea Albert Lea Education Minnesota	Jensen, Eugene	Matching Contributions	Statute on 403b max contributions increased - contract sites statute.	Sustained	Contract language does not list a maximum amount.
09-PA-0495	ISD 700, Hermantown Education Minnesota Hermantown	Lundberg, James	Out of Title Pay	Janitor job description changed to include maintenance duties.	Sustained	Change in duties and pay must be negotiated.
08-PA-1360	ISD 2364, Belgrade, Broten, Elrosa AFSCME, Council 65	Holmes, Barbara	Termination	School bus driver accident.	Denied.	Severity of accident
09-PA-0709	Moorhead Public Service Commission IBEW Local 1426	Jacobs, Jeffrey	Termination	Meter reader for non performance	Letter of reprimand.	Due to procedural errors
09-PA-0086	Ramsey County AFSCME Council 5	Holmes, Barbara	Termination	Boiler operator doing part time work on county time.	Denied.	Phone calls, emails and meetings amount to theft-only 3 yrs.service.
April, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1165	Bloomington, City of Bloomington Police Federation	Befort, Stephen	Termination	3 issues: 20 day suspension, re-assignment; and termination.	Denied	5 years of progressive discipline.
FMCS	CUB Foods UFCW Local 789	Jacobs, Jeffrey	Termination	Swearing at supervisor: being tardy over 90 times.	20 day susp.	Tardiness not basis for termination no one else heard swearing.

08-PN-0677	Faribault County (Interest Award) Teamsters Local 320	Befort, Stephen	Interest	2008-2009; County argued against their established pattern	Union	2008-2.9%, 2009-3%.. Co. did not try to reduce others due to budget.
FMCS	Gilleland Chevrolet/Cadillac Int'l Assn of Machinists, Dist. 165	Remington, John	Demotion	3 mechanics demoted due to lack of higher level work.	Split	Can demote, but not by 2 grades.
09-TD-3	ISD 111, Watertown-Mayer Individual Grievant	Miller, Richard J.	Termination	Elementary principal having an affair with a teacher.	5 day susp.	Conduct is remediable.
09-VP-0041	ISD 279, Osseo Individual Grievant	Lundberg, James	Termination	Threatening student	Sustained	Lack of evidence and due process.
None listed	ISD 625, St. Paul AFSCME Council 5	Gallagher, Thomas	Termination	Theft by food delivery driver	Denied	Only assurance theft will not be repeated.
None listed	Tri-County Community Action, Inc. AFSCME Council 65	Miller, Richard J.	Lay offs	Child care center forced to close due to funding. Notice of layoff timeline?	Denied	Arbitrability of class action-allowed limit by doctrine of latches-denied.
FMCS	U.S. Department of Justice, Federal American Federation of Govt. Emples	Lundberg, James	Reassignment	Wife of administrator bumped secretary	Sustained	Union has right under contract to transfers.
None listed	WCCO NABET – CWA Local 411	Lundberg, James	3 day suspension	Cameraman pushing & shoving in a crowd & swearing at a coworker.	Denied	Aggressive behavior when other options available.

March, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-0806	Community Action Programs of Ramsey AFSCME Council 5	Befort, Stephen	Termination	H&R driver hit her school bus. She did school drop area.	Sustained	No progressive discipline. No back pay to not recognizing wrongdoing.
08-VP-1432	ISD 279, Osseo Individual Grievant	Gallagher, Thomas	Termination	Para wrestling with EBD students.	30 day susp.	Clarification of backpay awarded.
08-PA-0954	ISD 2609, Erskine Win-E-Mac Teachers United	Martin, William	Broken promise.	Teacher claimed hiring contract error in 2005 placed him at wrong step.	Denied.	School board, not the principal have authority to offer contract.
Veterans P.	Metropolitan Council Individual Grievant	Jacobs, Jeffrey	Demotion V.P. Hearing	Failed to obtain required license.	Denied.	Lack of license constitutes incompetency for the position.
08-PN-1141	Metropolitan Council Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	2008 U 4%, E 2%; 09 U 4%, E 2.5% Insurance - E position.	2008-2% 2009-2.5%	Internal patterns. Ignored old settlements neg in better times.
08-PA-0791	Minnesota, State of, Department of Minnesota Government Engineers	Kircher, Andrea	Termination	5 day susp for a # of minor issues & then meeting as ordered.	Denied	Insubordination. Violated work now,
08-PA-0791	Minnesota, State of, Department of Minnesota Government Engineers	Kircher, Andrea	Arbitrability Timeliness	Timelines followed?	Arbitrable	Timelines for arbitration start when the Union receives the answer letter.
FMCS	Owatonna Public Utilities IBEW Local 949	Befort, Stephen	Unit work.	Duties split, half remained in unit, half went to another unit.	Denied.	Another position was also created, change was therefore deminimus.

None listed	Twin City Hospitals Minnesota Nurses Association	Gallagher, Thomas	Language vs. Practice.	Pension plan language when new benefits should be paid if reemployed.	Denied.	Language trumps practice.
08-PA-0398	University of Minnesota AFSCME Council 5	Imes, Sharon	Oral Reprimand	Employees shouting at each other.	Sustained	Disparate treatment, one only received counseling.
09-PA-0142 0143-0146	University of Minnesota, Crookston AFSCME Council 5	Jacobs, Jeffrey	Online Class Assignment	Required to consult re assignment. Meet & confer re change - no change.	Denied.	Requirement to consult does not restrict management's rights.
Merit				Merit pay not grievable. Policy used to determine merit questioned.	Denied.	No change in criteria from past.
FMCS	VA Illiana Health Care System Am Fed of Govnmt Employees 1963	Toenges, Rolland	Break mobility	Requirement to remain in boiler plant 15 minute breaks challenged.	Denied.	Contract allows for restriction.
February, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1361	Benson, City of AFSCME Council 65	Toenges, Rolland	Layoff	Qualified to bump less senior ees?	Denied.	Based on qualifications.
08-PN-0472	Blue Earth County (Interest Award) Teamsters Local 320	VerPloeg, Christine	Interest	2008-2010, 2%Jan, 2%July each yr.	Union position	Internal pattern. Lead pay, shift differential and HCSP denied.
08-RA-0552	Brown-Wilbert Teamsters Local 120	Scoville, James	Reduction of Insurance benefit	Unilateral change to deductibles and co-pays in mid-contract.	Sustained.	Minor adjustments, might be allowed-but these were major.
09-PA-0287	Duluth, City of AFSCME Council 65	Remington, John	Right to reclaim job.	Took job in another division, did not make probation; denied old job.	Sustained.	Under city policy has 30 days to return to old job.
FMCS	Hertz Corporation, Minneapolis/St. Paul Airport Teamsters 947	Jacoboswki, Daniel	Discharge	Time card fraud. See Befort's Jan, 2009 Hertz case-different result.	27 day susp.	Termination came after request for Union representation.
08-PA-0314	ISD 621, Mounds View School Services Employees Local 284	Imes, Sharon	Transfers	12 custodians transferred due to budget.	Denied.	Discusses limitations of past practice.
08-PA-1284	ISD 2853 Lac Qui Parle Education Minnesota	Fogelberg, J.C.	FMLA	Use of paid leave while on FMLA.	Sustained.	Not supported by contract, but authorized by school board.
FMCS	Methodist Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Vacation accrual	Full time/part time accrual amounts pro-rated accrual or anniversary dump?	Denied.	Union issue on part-time pro-rating was sustained but results in a loss.
09-PA-0271	Metro Transit Amalgamated Transit Union 1005	Wallin, Gerald	Termination	Transit bus driver hit female rider with ice scraper.	Denied.	There was provocation but force used was excessive.
08-PA-1446	Minnesota, State of, Department of AFSCME Minnesota Council 5	Malamud, Sherwood	1 day suspension	LPN made 10 transcription errors.	Denied.	Counseled and received training prior to
???	Minnesota State Colleges & Universities MN College Faculty Association	Befort, Stephen	Layoff rights	Laid off professor claimed right to teach a	Denied.	Management and contract right to assign

08-PA-0452	Pennington County Law Enforcement Labor Services, Inc.	Scoville, James	Termination	Corrections officer threatened co-worker; insubordination	Sustained.	Grievant off work for 15 months - no back pay awarded.
08-PA-0806	Stearns County Law Enforcement Labor Services, Inc.	Befort, Stephen	Demotion	Failure to review officers reports thus failed to supervise.	Denied.	Progressive discipline not required if nonperformance is material to job.
08-PA-1218	University of Minnesota AFSCME Council 5	Jacobs, Jeffrey	Layoff Failure to negotiate new Classification.	Junior employee laid off.	Denied. Denied.	Lay offs based on work location. New position created - not classif.

January, 2009						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	AMPCO Parking Teamsters Local 120	Befort, Stephen	Termination.	Parking lot accident that approached \$1,650 threshold for termination.	Verbal Wrning	Threshold reached by including owners rental costs.
FMCS	Cutler Magner Company United Steelworkers 1028	Jacobs, Jeffrey	Termination.	Failed to move salt pile inside out of rain. Third incident in 9 months.	6 months	31 years of service. Problems only in past 9 months.
08-PN-0828	Fridley, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Union 4%, City 2%-3%; insur-pattern; Ct standby 2 to 3 hrs-u; incr prem-no.	2008-3% 2009-3%	3% internal pattern. Sgts sought 3 hrs for standby same as officers..
FMCS	Hertz Corporation Teamsters Local 947	Befort, Stephen	Termination.	See Jacobowski's February Hertz case - different result.	Denied.	Timecard fraud.
09-VP-0076	ISD 281, Robbinsdale Individual Grievant	Toenges, Rolland	Termination.	School bus driver. Failure to safety checks/bad driving habits.	Denied.	Action reasonable due to safety risk inherent in his driving conduct.
08-PA-1178	ISD 706, Virginia AFSCME Council 65	Anderson, Richard	Bad Faith Bargaining.	Monthly rate calculated incorrectly since 1980. Hourly rate negotiated.	Denied.	No indication employer was hiding ramification of change during neg.
FMCS	Kellogg Snacks Company Teamsters Local 471	Bognanno, Mario	Termination.	Delivery driver; barred from two stores due to his attitude.	Denied.	Grievant compromised Company-customer relationship.
08-PA-1439	Minnesota, State of AFSCME Council 5	Bard, Stephen	Termination.	Residential treatment employee who was verbally abusive w vulnerable adults.	Denied.	Welfare & safety of extremely vulnerable adults-potentially dangerous setting.
05-RA-0845	Minnesota State of, Ninth Judicial AFSCME Council 65	Fogelberg, J.C.	Termination.	Court clerk read confidential court file &	Denied.	Serious breach of code of ethics and
08-PN-0751	Murray County Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	U 4%+steps; E 3% w/o steps-A 2.5% with steps; co's insurance pattern.	2008-2.5%	Arbitrator combined wages & insr. in market comparison.
FMCS	Red Wing Shoe Company UFCW, Boot & Shoe Workers # 527	Remington, John	Pension Contrbtn.	No contribution made on vacation, holiday, OT, etc.	Sustained	Ordered to pay, back to 2007.
09-PA-0239	St. Paul, City of Professional Employees	Befort, Stephen	Insurance.	Failure to sign up for flexible spending account to qualify for \$1,200.	Denied.	City gave adequate notice.

FMCS	Star Tribune Company Teamsters Local 120	Gallagher, Thomas	Termination.	Light duty employee left for therapy, but did not attend, nor return to work.	Denied.	Lied re. therapy-gross misconduct not requiring progressive discipline.
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2010 Arbitration Awards - Minnesota B.M.S.

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, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Radisson Hotel Chicago and Midwest Regional Joint	McCoy, Arthur Ray	Seniority based shift bidding	Restaurant claimed business reason for ignoring seniority for dinner shift.	Sustained	Reasonable consideration language requires a performance deficiency to ignore seniority.
10-PN-0956	Blaine, City of (Interest Award) Law Enforcement Labor Services Inc.	Miller, Richard J.	Interest	1yr-u (c-2yr); Insur. eff. 12/21/10 \$940 (u-\$990, e-\$870); Wages 2010-1% (u-3%, e-1%); Comp time-no-e; Increase Call Back from 2 to 3 hours.-no-e;	2010 - 1%	Duration-lack of data. Insur.- \$70 avg. increase in past (eff. for 2011); Wages- fund balance 43% & avg. increase for Stanton V. Call Back-no, even though officers receive 3 years.
10-PA-1569	Duluth, City of International Assn of Firefighters Local	Kapsch, Frank	Retiree Health Insurance	Do retirees keep insurance coverage in place at time of retirement? Yes. New contract language distinguishes this from Savela v Duluth Dist. Crt. case.	Sustained	Arbitrator's ruling is prospective. No violation occurred - Union sought interpretation of language.
10-PN-1183	Edina, City of (Interest Award) Teamsters Local 320	Frankman, Janice	Interest	Wages: 3%, 3% -u (e-.5% 7/10, .5% 7/11); Insurance: 2010-\$775, 2011- same as other ees-e; Shift diff.-no-e.	2010 - 3% 2011 - 3%	Wages - based on city's financial shape. Insurance-internal pattern.
10-PA-1612	Forest Lake, City of Law Enforcement Labor Services, Inc.	Moeller, Lon	10 day susp.	Officer made humorous Star Wars video about labor negotiations while at work & put it on a Dept. computer	7 day susp.	Sergeant received 10 days & a senior officer received 5 days - this fell between those suspensions.
10-PA-0085	Hibbing, City of AFSCME Minnesota Council 65	Gallgher, Thomas	Bargaining Unit Work	AFSCME & MAPE titles combined into a Parks Maintenance Supervisor who continued to do AFSCME work.	Sustained	Award defines AFSCME work vs. management work appropriate to new title.
10-PN-1058	Inver Grove Heights, City of (Interest Aw Law Enforcement Labor Services, Inc.	Schiavoni, Mary Jo	Interest	Wages: 1.5%-u (e-0%). Insurance- City's position: high ded. single +\$57.32; freeze most expensive (ee cost \$25.06), Ed Assistant (Korean Club advisor)	2010 - 1.5%	Maintains relationship to Stanton V average. Ignores Sergeants taking 0%. Insurance-equitable cost sharing.
???	ISD 625, St. Paul St. Paul Federation of Teachers	Miller, Richard J.	Termination	took students on field trip to LA for Korean music festival w/o telling school. Seeking removal of record of warning for an accident.	Suspended without pay.	Failed to seek School permission & boundary issues with students. Suspended until there is an opening. Video showed bus did not signal when moving to left lane.
10-PA-1428	Metro Transit Amalgamated Transit Union Local 1005	Paull, David	Bus Accident	Manager accused of threatening and yelling at a subordinate.	Denied	Evidence was equivoiced. Investigator did not talk to all witnesses.
10-PA-1545	Metropolitan Council Metropolitan Council Management Assn	Bognanno, Mario	Ltr of Reprimand		Sustained	
10-PA-1594	Minnesota, State of, Department of AFSCME Minnesota Council 5	Beens, Richard	Termination	Corrections Sgt. Convicted of GM for	Sustained	Discharge unduly harsh. Returned to
10-PA-1594	Minnesota State of Department of AFSCME Minnesota Council 5	Beens, Richard	Termination	Right to bear arms not restored in	Sustained in	Assigned to a position that does not
10-PN-0141	Rice County (Interest Award) Teamsters Local 320	Fogelberg, J.C.	Interest	Deputies seeking step movement for 2010 - accepted 0% for wages.	2010 no steps	Internal pattern; have fewer steps than other counties.
FMCS	Rochester City Lines Company, Inc. Amalgamated Transit Union Local 1005	Daly, Joseph	Termination	Bus driver didn't let female off bus unless she gave him a hug? He claims	9 month susp.	Video not working. He said, she said, situation. His asking who she lived with
10-PA-0796	St. Paul, City of	Bard, Stephen	Failure to Back	Firefighter assigned to rescue squad	Sustained	Contract guarantees 3 firefighters

	Firefighters Local 21		Fill a Position	detailed to work as a paramedic for 1 shift-no one called to back fill rescue sqd.		on each rescue squad.
10-PA-1634	Special School District No. 1 Minneapolis Federation of Teachers	Befort, Stephen	Unpaid Leave	Teacher on unpaid leave after being charged criminally seeking paid status.	Denied	Neither Teacher Tenure Act nor Contract cover situation. Past practice governs.
November, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Cargill Salt Division Internat Chemical Workers Local 188C	McCoy, Arthur Ray	Termination	Accused of lying about whether a coding machine was working at start of his shift.	Sustained	Others also incorrectly thought codes were printed, but did not receive discipline.
FMCS	Electrolux Home Products IAMAW District Lodge 165	Reynolds, James	Attendance Policy	Deduction of attendance points for absence from work.	Denied	Grievance was untimely, but ER asked for ruling on merit.
10-PA-1611	Forest Lake, City of Law Enforcement Labor Services, Inc.	Beens, Richard	5 day susp.	Officer made humorous video about negotiations & put it on the dept computer.	Denied	Spent 5.7 hours on duty working on the video. Punishment is "lenient".
10-PN-0932	Hennepin County (Interest Award) Hennepin County Supervisors Assn	Fogelberg, J.C	Interest	Correction supervisors accreted into Suprvsr. Assn. seeking to retain Holiday & Officer in Charge pay.	Denied	Existing benefits not in Master Agreement viewed as new benefits.
10-PA-1585	ISD 625, St. Paul AFSCME Minnesota 5	Kapsch, Francis	Termination	School clerk failed to deposit cash receipts - about \$2,100 missing.	Denied	Preponderance of evidence test. Good discussion of Just Cause.
10-PA-1536	Metro Transit Amalgamated Transit Union, Local	Fields, Bernice	20 day susp.	Bus driver using a cell phone while driving.	Denied	Policy calls for 20 day suspension for first offense.
08-PA-0900	Metro Transit Amalgamated Transit Union, Local	Jacobs, Jeffrey	20 day susp.	Bus driver failed to turn cell phone off & failed to stop after hitting a parked	Split	Reduced from 30 days to 20 days. Violation of cell phone policy was minor -
10-PA-0810	Mille Lacs County AFSCME Minnesota Council 65	McCoy, Arthur	Funeral Leave	Does the word grandparents include coverage for great-grandparents.	Denied	By defining immediate family, those not listed are excluded.
10-PA-1297	Minnesota, Departmnt of Corrections AFSCME Minnesota Council 5	Scoville, James	Termination	Corrections sergeant failed to follow Segregation Unit rules.	Denied.	4 security or safety breaches all on camera.
10-PA-0386	Prior Lake, City of Law Enforcement Labor Services, Inc.	Martin, William	Termination	Officer broke into bedroom of former girlfriend confronting her & boyfriend.	Denied	Actions occurred while on-duty & in uniform - serious policy & legal violations.
10-PA-0387	Ramsey County Law Enforcement Labor Services, Inc.	Kircher, Andrea	5 day susp.	ECC dispatcher claimed co-worker offered her a sport drink that contained alcohol.	Sustained	Numerous discrepancies: drink not tasted by complainant; happened in February, reported in June.
10-RA-0514	Supervalu, Inc. Teamsters Local 120	Gallagher, Thomas	Termination	Stole returned merchandise from dock area over a period of years.	Denied	2 other ees received suspensions 10-RA-512 & 513. They consumed stolen items at work - this involved taking non-food items home.
FMCS	Turso Companies, Inc. GCIU - Teamsters Local 1B	Gallagher, Thomas	Subcontracting	Subcontract work fixed in-house with 2 office staff doing bookbinders work.	Sustained	Union workers paid 12 hours OT for the time in question.

10-PA-0058	Wright County Wright County Deputys' Association	Befort, Stephen	Travel Time	Should travel time outside city for training & court be compensable.	Sustained	Ruling relies on F.L.S.A.
October, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Culligan Soft Water Company Machinists Lodge 77	Befort, Stephen	Termination	Failed to note vehicle damage on inspection report.	Denied	20 performance issues led to this last chance agreement violation..
09-PA-1127	Fridley, City of Law Enforcement Labor Services, Inc.	Bognanno, Mario	Termination	Officer convicted of DUI, LSA and 3 violations of probation for alcohol use.	Denied	Off-duty behavior not protected by drug testing statute.
FMCS	Good Samaritan Society Woodworkers Lodge W-33	Bognanno, Mario	Reduction of hrs.	Across the board reduction vs. Union preference to reduce based on seniority.	Denied	Contract provides that, "needs of residents" trumps seniority.
10-PN-0623	Hennepin County Teamsters Local 320	Neigh, Charlotte	Interest	Comp time: ee option to select pay or time off-no-e. Seniority bidding for days off-no-e. Penalty if less than 10 day notice of schedule change-n-e.	Co. Position	Union has burden to demonstrate need for change. Some of the issues rejected in prior arbitrations. Wage & step freezes negotiated for 2011.
FMCS	Honeywell International, Inc. Teamsters Local 1145	Toenges, Rolland	Job Selection	Denied photographer position due to lack of experience.	Denied	Management right to set education & experience requirements for jobs.
10-PA-0695	ISD 690, Warroad Education Minnesota - Warroad	Malamud, Sherwood	Coaches Pay	Asst. coaches eliminated; hired back as lower paid middle school coaches.	Sustained	Duties were not limited to middle school - must be paid as asstnts.
None listed	Minnesota, Department of Health Middle Management Association	Jacobs, Jeffrey	Termination	Issuing birth certificates w/o payment or tangible interest.	Sustained	Evidence did not support charges.
			Due Process	Failure to notify nature of allegations prior to investigation.	Sustained	Case rested in part on interview - subsequent grievance steps can't "unring the bell".
10-PN-1107	Plymouth, City of Law Enforcement Labor Services, Inc.	Latimer, George	Interest	Wages only issue. U seeking 3%, AFSCME received 2%. E offered 0%.	2010 - 0%	Economy; no internal pattern, Union vs AFSCME-raises of 37% to 30% in 8 yrs. & 5% v 2% in 2009. Market rank should include longevity.
10-PA-1259	Rice County Teamsters Local 320	Miller, Richard J.	Termination	Incompetence, 75 data entry errors since her 2008 work improvement plan.	7 month susp.	Returned to work w/o backpay. Long term ee, no discipline - errors serious but can be corrected.
10-PN-0959	Shakopee, City of (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Duration: 1yr-u; Wages: 1% (u-3%, e-0%); Uniform-\$800 (u-\$815, e-\$775) Longevity: no change-u; Performance pay: no change-u.	2010 - 1%	Duration-only 1 internal & lack of data; Wages: 67% fund balance; Longevity & Performance Pay: city burden to prove need for change.
10-PA-0859	Special School District No. 1 Minneapolis Federation of Teachers	Imes, Sharon	Step movement	District failed to pay step increases to teachers when contract expired.	Sustained	CBA states steps & lanes earned are to be paid at start of new year. Leaves open question of what happens in 2nd year if not settled.
10-PA-1133	Special School District No. 1 Minneapolis Federation of Teachers	Jacobs, Jeffrey	Step movement	District failed to pay step increases to ESPs when contract expired.	Sustained	PELRA's continuing contract provision & practice of honoring steps.
10-PA-1133	Special School District No. 1	Jacobs, Jeffrey	Step movement:	Do steps vested in expired contract	Union's	Vested benefits continue until

AAA	(Clarification of award above) Minneapolis Federation of Teachers -		2nd year	continue for the second year?.	Position	replaced by a new contract.
	Xcel Energy IBEW Local 23	Daly, Joseph	Termination	While Investigating copper theft, ee lied about his past record.	Sustained	Failed to clearly and specifically articulate charges. Interview other terms of contract.
September, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-1258	Aitkin County Teamsters Local 346	Gallagher, Thomas	Volunteers	"Posse" members called to assist in search for lost hunter before all available	Denied	No contract distinction between external volunteers or internal who are
FMCS	Associated Milk Producers, Inc. Teamsters Local 120	Befort, Stephen	Arbitrability	Termination grievance filed 9 vs 7 days as required.	Sustained	Union presented evidence that clock starts after informal steps.
10-PA-1089	Champlin, City of Law Enforcement Labor Services, Inc.	Miller, Richard J.	Demotion	Sgt. demoted for dating an officer in violation of fraternization policy.	Denied	Policy reasonable to protect city from favoritism or harassment claims.
10-PA-0976	Corcoran, City of Teamsters Local 320	Fields, Bernice	Termination	Officer submitted claim for sunglass reimbursement w/o deducting discount & accused of theft.	Sustained	Opportunity to be heard, required before discharge.
10-PN-0776	Hennepin County Hennepin County Deputy Sheriff's Assn	Jacobs, Jeffrey	Interest	Wages: 0%, 0%-e (u-3%,3%); Steps: 10 yes, 11 no-e; Shift incr-no-e; Uniform increase-no-e; FTO, Latent Print, Firearm increase-no-e; Seniority-no-e; Pay for 28 day schdl-no-e; Penalty for schdl chng & definition of emergency-no-e;Lght duty-no-e.	2010 - 0% 2011 - 0%	Internal pattern; or failure to provide compelling reason for change; or inherent management right (create light duty position).
FMCS	Horizon Milling LLC, A Cargill Foods Company Bakery, Confectionery, Tobacco Wkrs	McCoy, Arthur Ray	Seniority Selection.	Senior ee not selected because of lower evaluator ratings. Supervisor rated senior ee higher.	Sustained	Unreliability of raters who did not supervise the applicants.
10-PN-1306	Isanti, City of (Interest Award) Law Enforcement Labor Services Inc.	Miller, Richard J.	Interest	Duration: 1 year-u; Wages-0%-e (u-3%); Insurance: high deductible plan?-no-u; Sick cap increase?-no-e.	2010 - 0%	1 yr. - lack of 2011 data; Wages - economy; Insurance-can't change until 2011 - so negotiate.
10-PA-0794	ISD 482, Little Falls Minnesota School Employees	Martin, William	Professional Development Training	Food service workers denied approval to attend a summer conference.	Sustained	Contract language & past practice. Approval ordered in future, no compensation for those not allowed to attend.
10-PA-1271	ISD 748, Sartell School Service Employees Local 284	Kircher, Andrea	Reinstatement from disability leave	Bus drive wanted route w more hours.	Denied	Not entitled to bid when off & not able to work.
10-VP-1553	ISD 855, St. Michael-Albertville Individual Grievant	Latimer, George	Termination V.P. Hearing	Custodian stole dominoes and failed to admit when questioned.	Denied	Breach of trust. No extenuating circumstances to reduce penalty.
10-PA-0012	Itasca County AFSCME Council 65	Fields, Bernice	Minimum Qualifications	Can items outside posted criteria count as equivalent to requirements.	Denied	Fairness requires eliminating subjectivity. Management right to set qualifications.
10-PA-0319	Lakeville, City of Teamsters Local 320	Befort, Stephen	Termination	Public works driver failed 2 drug tests.	Denied	Safety sensitive position. City policy and CDL allow termination.

10-PA-1284	Metro Council/Metro Transit Amalgamated Transit Union Local 1005	Toenges, Rolland	Termination	Violated a last chance agreement re unexcused absences.	Denied	Claim he was misled by supervisor does not absolve responsibility.
10-PN-0957	Mounds View, City of (Interest Award) Law Enforcement Labor Services Inc.	Miller, Richard J.	Interest	Duration: 1 yr.-u; Insurance: \$867.33-u (e-\$842.20); Wages: 0%-e (u-2%).	2010 - 0%	1 yr. due to lack of 2011 data; Wages - economy; Insurance - offset 0% wages.
10-PA-0322	Olmstead County Olmstead County Employees Assn	Kircher, Andrea	Termination	Female maintenance worker slapped supervisor's arm during argument.	6 mos susp.	Co. failure to address complaints vs supervisor may have led to incident EE had no prior discipline.
08-PA-1338	St. Joseph, City of Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Holiday Pay	Officer on sick leave denied holiday pay based on policy barring pay if employee is on leave.	Sustained	Policy appears to be for unpaid leave situations. Contract does not limit pay.
09-RA-0714	Supervalu, Inc. Teamsters Local 120	Bognanno, Mario	Termination	Took a break 13 minutes too long. 6 prior warnings. Returned w/o backpay.	2 years	Infraction low level in nature. No backpay & a last chance agreement.
10-RA-0512	Supervalu, Inc. Teamsters Local 120	Lundberg, James	Termination	Theft - grazing, eating expired food returned to the warehouse.	30 day susp.	Grazing had been common, new policy not clearly communicated. Less egregious than 10-RA-0513.
10-RA-0104	Supervalu, Inc. Teamsters Local 120	Scoville, James	Termination	Dock worker accused of shoving supervisor	Sustained	Video evidence was neither clear nor convincing re what happened.
August, 2010 BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-VP-1227	Brooklyn Park, City of Individual Grievant	Kircher, Andrea	Termination	2 use of force incidents & 3 for being discourteous to the public; given 3 day suspension, and a Fitness for Duty Exam - fired for failing exam.	Sustained	No progressive discipline. Fitness for Duty can't be used alone as just cause. 2 psychologists had different opinions of test results.
10-PN-0861	Coon Rapids, City of (Interest Award) Law Enforcement Labor Services, Inc.	Bard, Stephen	Interest	Insur: no change-e; Vac: add 1 day/year 21yr to 25yr -u; Incr. Prem Pay: no-e; Unifrms:+\$35-u; Wages:1% (u-3%,e-0%)	2010 - 1%	Benefits-internal (public works vaccs.) Uniforms-incr'd cost of "Buy American" Wages-external (maintains rank).
10-PA-0913	Ely, City of Ely Supervisory Employees Association	Miller, Richard J.	Termination	Deputy Clerk stole city funds. Claimed due process deficiencies.	Denied.	Any procedural defect was "cured" by the arbitration.
10-PA-1081	ISD 51, Foley Individual Grievant	Gallagher, Thomas	Termination V.P. Hearing	Threatening to kill coworkers, sexual comments, rudeness.	Denied	Conduct so adverse to operations not requiring progressive discipline.
10-PA-0935	ISD 276, Minnetonka Education Minnesota	Jacobs, Jeffrey	Filling New Position	Union grieved probationary hire vs. sr. teacher based on arbitrary qualifications	Denied	Management right to establish qualifications & license requirements.
10-PA-1102	ISD 742, St. Cloud St. Cloud Education Association	Imes, Sharon	Time lines	District's step 3 response was late - grant grievance on that basis?	Denied	Union also had a technical error & there was no harm.
			Overload Pay	OPay due if exceeding avg # of mods	Sustained	Is resource time teaching time to be used in computing average - no.
FMCS	Lutheran Care Center Bridgeway United Steelworkers Local 9230	Frankman, Janice	Bargaining Unit Work	LPN on night shift replaced by RN. Management rights vs. past practice?	Denied	No ambiguity or void in Contract which past practice clarifies/fills.
10-PA-1037	Metro Transit	Imes, Sharon	Bus Accident	Driver charged with accident with	Sustained	Witness did not leave name. Bus

	Amalgamated Transit Union, Local			parked van - he denied involvement.		camera does not indicate accident.
10-PA-0692	MN, Department. of Human Services AFSCME Minnesota Council 5	Daly, Joseph	10 day susp.	Human service tech at Ham Lake made a racist comment.	5 day susp.	Admits making it to co-worker, no other staff or patients around.
10-VP-0948	MN, Department of Human Services Individual Grievant	Befort, Stephen	Termination	Administrator - sub par performance & computer.	30 day susp.	No progressive discipline to support
10-PA-0159	MN, Department of Veterans Affairs AFSCME Minnesota Council 5	Fogelbert, J.C	Termination	Second instance of improper cleaning of dishwasher (1st cost \$18,000).	Denied	Poor work record. Warnings and training provided.
10-PA-0287	Mower County Law Enforcement Labor Services, Inc.	Ogata, Harley	1 day susp.	Dispatcher failed to forward info to deputy stopped vehicle was stolen	Denied	Failed to follow procedures. Officer safety jeopardized.
10-PA-0838 10-PA-0839	Ramsey County Law Enforcement Labor Services, Inc.	Powers, Nancy	3 day susp. for Insubordination	2 deputies working State Fair were asked to move a car and refused.	Denied	Deputies felt it was beneath them. Constituted insubordination.
09-PA-0952	Woodbury, City of Woodbury Police Officers Association	Bognanno, Mario	Timeliness	Union waited 18 mo. before arbitration. City argued doctrine of latches.	Denied	Union waited for criminal charges to be cleared. Latches untimely since not raised until hearing.
			15 day susp.	Officer accidently fired weapon in a St. Cloud hotel room while practicing.	Denied	Failed to notify supervisor & did not check to see if anyone injured.
			Last Chance	Last chance notice part of discipline.	Sustained	Good record must be considered.
July, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Health Systems/United Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Timeliness Termination	Union claimed did not receive email. Time theft - punched in before parking car.	Arbitrable 20 day susp.	Credible testimony. Same as Befort's June United Hospital award. Attendance vs. theft issue.
10-PA-0577	ISD 13, Columbia Heights Education Minnesota	Daly, Joseph	Ltr. of Deficiency	4 week suspension w/o pay for verbal confrontations with students	Sustained	Did not meet just cause standard. Student had problems with others.
FMCS	Cytec Engineered Materials, Inc. Teamsters 160	Befort, Stephen	Health Benefits	Greater benefits listed in Blue Cross plan document than in contract.	Denied	Contract prevails. Also notes employer can correct mistakes.
09-PN-0833	Metropolitan Council (Interest Award) Teamsters Local 320	Fogelberg, J.C	Interest	2009 0%-e (u-3%); 2010-0% (u-2%); Steps=yes-u; Longevity-no change-u (e- freeze steps & long., sunset longevity).	2009 - 0% 2010 - 0%	Ability to pay more important than external market.
10-PA-1034	Metro Transit Amalgamated Transit Union 1005	Neigh, Charlotte	Termination	4 accidents in 36 month period and record of absenteeism and tardiness.	Denied	Discretion to fire after 4 at fault accidents plus 9 attendance warnings
None listed	MN, Department of Revenue MN Association of Professional Employees	Imes, Sharon	Termination	Tax department employee failed to file her taxes & lied about it.	Denied	Ample notice of policy and consequence of violation.
None listed	MN, Department of Revenue MN Association of Professional Employees	Befort, Stephen	Termination	Sent 25 anonymous letters critical of management. Deceptive during invest.	Denied	Letters considered threatening, so return to work would be disruptive.
10-PA-0870	Pope County Teamsters Local 320	Gallagher, Thomas	Furlough	Union challenged county wide 1 hour per week furlough.	Sustained	Contract lists normal work week + layoff language provides seniority based method for reduction of hours.

10-PA-0172	Richfield, City of Law Enforcement Labor Services, Inc.	Ogata, Harley	Failure to End Car Chase	Multi-jurisdiction car chase; failed to end when other Depts. called off.	Written Warning	Reduced from 1 day susp. Policy- judgment to pursue rests with officer. Discussion on Garrity warning.
FMCS	St. Paul Pioneer Press Minnesota Newspaper Guild/ Typographical Union Local 37001	Remington, John	Timeliness	Filed 180 days after violation.	Arbitrable	Ongoing and failure to challenge prior to arb. is considered a waiver Long term temps made union ees. Short term pay differential given to U.
			Outsourcing	Temporary warehouse workers used in excess of contract limits.	Sustained	
10-PA-0513	SuperValu Teamsters Local 120	Anderson, Richard	Termination	Theft - grazing, eating expired food returned to the warehouse.	90 day susp.+ restitution.	Grazing had been common, new policy not clearly communicated.
10-PA-0126	University of Minnesota AFSCME Minnesota Council 5	Jacobs, Jeffrey	Timeliness Termination	Failure to file for Arb. within 90 days Abuse of sick leave & insubordinate, some mitigation (he was a steward).	Arbitrable Split	Parties lax timeliness in past. Reinstated without backpay, was off for 26 months since May 2008.
AAA Case	Xcel Energy Teamsters Local 160	Jacobs, Jeffrey	Termination	Brought a large hunting knife to work and was seen waving it around.	Denied	Violated workplace violence policy.

June, 2010

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-0817	ISD 93, Carlton Education Minnesota - Carlton	Befort, Stephen	Steps & Lanes	Arbitration barred by: 2 year contract limit; filing after expiration; & right to strike maturing? Arbitrator separated arbitrability vs. merits of case.	Arbitrable	Continuing contract provision applies. Dispute "arises under the contract" since service & credits earned prior to expiration.
10 PA 0676	ISD 138, North Branch North Branch Education Association	Toenges, Rolland	Prep Time - Travel	Drive time between schools eats into prep time & should be compensated.	Denied	Difference in prep time vs. other teachers is de minimus.
10-PA-1174	Metro Transit Amalgamated Transit Union Local 1005	Beens, Richard	Logged Complaint	Handicapped passenger wanted off where there was no stop.	Sustained	Driver did not see who was asking question.
None listed	Metro Transit Individual Grievant	Frankman, Janice	Termination VP Hearing	Bus accident. Driver previously fired but allowed back under a LCA.	Denied	Last chance agreement.
10-PA-1030	Metro Transit Amalgamated Transit Union Local 1005	O'Toole, Carol	Cell Phone Policy	Is Policy arbitrable? Policy bars bus drivers having phones while driving.	Denied	Policy not arbitrable. Can't decide issue on what might happen.
09-PA-1132	Owatonna, City of Teamsters Local 320	Neigh, Charlotte	Election of Remedies Demotion	Does contract bar grievance if EEOC age discrimination suit is filed?	Sustained	"Board of Governors" case allows filing in both venues. Unnecessary to suspend first.
				Sgt. demoted due to performance.	Denied	
FMCS	Regions Hospital Service Employees International Union	Toenges, Rolland	Seniority Job Assignment	Pharmacist assignment posted & tested. Senior employee not chosen.	Denied	Senior qualified language does not limit candidates to union members.
10-PA-1021 10-PA-1024	St. Francis, City of Law Enforcement Labor Services, Inc.	Wallin, Gerald	Holiday Pay	5 grievances re how paid if scheduled to work vs. pay for day off.	Denied	Schedule posted monthly.
10-PA-0237	Special School District No. 1 Electrical Workers Local 292	Befort, Stephen	Layoff	2 Electronic technicians laid off yet ER continued using temp electricians.	Denied	"Class" refers to job not Civil Service status. ER can reassign duties.
10-PA-0783	Spring Lake Park, City of Teamsters Local 320	Fogelberg, J.C	Arbitrability, Seniority Layoff	Challenged due to filing at step 2. Full time liquor store position dropped	Sustained	Principle of efficiency-step 1 had no authority to resolve grievance.

				ee not allowed to bump part-timer.	Sustained	Department seniority vs. position.
FMCS	United Hospital SEIU Healthcare Minnesota	Befort, Stephen	Termination	Punched time clock, before parking car. Terminated for theft of time.	20 day susp.	Considered attendance vs. theft problem.
10-PA-1025	University of Minnesota AFSCME Minnesota Council 5	Gallagher, Thomas	Abuse of Sick Leave	Written reprimand re abuse of sick leave.	Split	Found there was sick leave abuse on 2 days, but pattern not proved.
May, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
09-PN-0550	Brainerd, City of Law Enforcement Labor Services, Inc.	Boldt, Charles	Interest	2 yrs-e; 2009 u-3%, e-0%. 2010 u-no position, e-reopener.	2009 - 3% 2010-reopen.	2009 based on market average. 2 years w 2010 reopener-city pattern;
10 PA 0650	ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota	Imes, Sharon	Coaches Pay Timeliness	Union sought credit for time as asst. ISD - grievance is stale by 3 years.	Denied Denied	30 years past practice. Ongoing grievance each pay period.
10-PA-0346	ISD 535, Rochester Education Minnesota	Jacobs, Jeffrey	Summer Position Seniority	ALC classes exempt from seniority. ISD claims all summer classes are ALC.	Sustained	Neither location nor funding source defined ALC classes.
10-PA-1057	Lexington, City of AFSCME Minnesota Council 5	Latimer, George	Retroactivity vs. Continuing contract	Did MOU of April 2009 re continuing contract, bar city from collecting amount overpaid on insurance obligation in new contract?	Denied	New contract supersedes MOU.
None listed	Metro Transit Amalgamated Transit Union Local 1005	Ogata, Harley	Transfer	Light rail operator returned to bus driver for 2 policy violations.	Sustained	Use of cell phone overturned - due to his admission & it was for business.
None listed	Minneapolis, City of Police Officers Federation of	Gallagher, Thomas	Promotional Test	Posting restricted advancement to top 18, but then changed to top 23.	Denied	Contract language & management right.
None listed	Minneapolis, City of Police Officers Federation of	Jacobs, Jeffrey	Termination	Pulled ex-girlfriend's hair and ripped out hoop earring.	Sustained	Victim was drunk, tried to jump out of car on hwy.-pulled back into car.
10-PA-0523	Minnesota, State of AFSCME Minnesota Council 5	Befort, Stephen	Termination	LPN at Carlton addiction rec. facility allowed patient to retain 3 mos. Of drugs when released from facility.	Denied	Violated specific instructions re 3 mos. supply; narcotics that could cause addiction or death.
None listed	MN, Department of Revenue Minnesota Association of Professional	Jacobs, Jeffrey	Timeliness 3 day susp.	Was suspension & discharge bundled? Poor performance.	Sustained Denied	Request for extension & answer were vague. 3 day supported by prior discipline. and attempt to train.
			Termination	Failure to call in sick or return.	Sustained	Extenuating circumstance due to medical condition. No back pay.
10-PA-0522	MN, Department of Transportation AFSCME Minnesota Council 5	Bard, Stephen	Termination	Indirect threat to beat up a fellow employee.	Denied	Zero tolerance provision does not require progressive discipline.
09-PA-1140	Ramsey, County of Law Enforcement Labor Services, Inc.	Fogelberg, J.C	Termination	Police dispatcher performance issues. Union cited lack of progressive discipline.	Denied	Discipline vs. Performance. Not competent to do job.
10 PA 0859	Special School District 1, Minneapolis Minneapolis Federation of Teachers	Imes, Sharon	Arbitrability	Does continuing contract provision expire when ability to strike matures?	Arbitrable	Issue is about step pay. Steps earned during existing contract, so arbitrable under contract.
FMCS	SYSCO Minnesota, Inc.	Bognanno, Mario	Ability to Change	Work compliance rate changed from	Denied	Duty to bargain waived by contract.

Teamsters Local 120

Work Rules

95% to 100% to impose discipline.

Also, at impasse ER can impose.

April, 2010

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospital, Buffalo SEIU Healthcare Minnesota	Fogelberg, J.C	Termination	Hospital entry clerk accessed a patient's records in violation of policy.	Sustained	Failed to prove there was no business purpose and disparate treatment.
FMCS	Axis MN, Inc. SEIU Healthcare Minnesota	Daly, Joseph	Termination	Employee left 15 minutes early w/o punching out or notifying suprv.	1 day susp.	Mitigating circumstances. Worked 33 hours, was exhausted.
09-PN-0840	Centennial Lakes Police Department Law Enforcement Labor Services, Inc.	Daly, Joseph	Interest	Wages-e; Insur. 09-\$900-u, 10-\$900 (u-1,000, e-800); performance pay-u.	2009 - 3.5% 2010 - 0.0%	Hard economic times. Insurance & performance pay based on internals.
10-PA-0235	Coon Rapids, City of Teamsters Local 320	Gallagher, Thomas	Termination	Maintenance worker lost CDL due to DUI & could not reclaim it within 60 day grace period in contract.	Sustained	Termination after 60 day MOU in conflict with just cause standard. Suspended until he gets his CDL.
10-PA-0235	Coon Rapids, City of- Supplemental Teamsters Local 320	Gallagher, Thomas	Termination	Original award stated CDL must be but not eligible till 2/4/11.	Sustained	Deadline extended to 90 days from benefits until reinstatement.
FMCS	Honeywell International Teamsters Local 1145	Jacobs, Jeffrey	Subcontracting	Work to build a testing fixture. How to end a past practice discussed.	Denied	Practice properly ended.
10-PA-0286	ISD 197, West St. Paul West St. Paul Federation of Teachers	Fogelberg, J.C	Mandatory Report Times	Contract calls for 15 min. before & 30 minutes after class. Principal set mandatory start and end times.	Sustained	Language allowing district to schedule meeting suggested Union waived some rights.
09-PA-1139	ISD 279, Osseo Education Minnesota-Osseo	Schiavoni, Mary Jo	Termination	School Para fired for incompetence. Challenged on lack of progressive	Denied	Repeated letters of expectation constituted notice & working one on one
09 PA 0947	ISD 423, Hutchinson Hutchinson Education Association	Toenges, Rolland	Leave of absence	5 year leave-can you come back early?	Denied.	Contract language & districts right to plan for replacement.
09-PA-0653	ISD 547, Parkers Prairie Education Minnesota-Parkers Prairie	Jensen, Eugene	Overload Pay	Should newly negotiated pay apply going back to earlier schedule?	Sustained	Arbitration is best served when awards make sense & avoid punitive
None listed	Minnesota, State of AFSCME Minnesota Council 5	Jacobs, Jeffrey	Phone use	1 day suspension for accepting call from son in jail billed at \$2.09.	Wrtn Reprmd	Failed to notify supervisor of call. Award is non precedential.
FMCS	St. Francis Regional Medical Center SEIU Healthcare Minnesota	Flagler, John	Termination	Falsifying initials on Medicare doc. that provided hospital release info.	Ref Employee Assistance.	Hosp. alleged forgery vs. violation of work rule. Arbitrator found lack of intent or gain to employee.
09-PA-0654	St. Louis County Law Enforcement Labor Services, Inc.	Latimer, George	28 day susp. 5 day suspension	Tagged man dating ex-girlfriend. Failed to renew POST license.	Denied Denied	Used power of office for gain. Equalled # days w/o license.
09-PA-0646	St. Paul, City of St. Paul Police Federation	Anderson, Richard	Merit Steps vs. Longevity Steps	7 yr. step denied due to performance. Does longevity trump performance?	Denied	Union's unsuccessful attempt to clarify in negotiation supports city's pos.
09-PA-0546	SuperValu Teamsters Local 120	Befort, Stephen	Last Chance Agreement	Termination. Swearing at supervisors.	Denied	Only "shop talk" defense doesn't work when directed at supervisors.

10-PA-0124	University of Minnesota AFSCME Minnesota Council 5	McCoy, Arthur Ray	Written Warning	Employee notified co-worker vs supvr. re sick leave contrary to work rule.	Denied	Union's past practice argument rejected.
09-PA-1012	Wright County Wright County Deputies Association	Wallin, Gerald	Last Chance Agreement	Termination. Based on LCA for DUI & conduct unbecoming.	Denied	LCA not restricted to alcohol nor does it automatically sunset.
March, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
09-PA-0912	Beltrami, County of Teamsters Local 320	Bognanno, Mario	FTO O.T. Pay	Officers claimed 1 hour of OT for work as an FTO. County stopped practice.	Denied	Where there is mutual willingness to vary from CBA, either party may withdraw from practice.
FMCS	Boise Cascade Corporation International Assn of Machinists and Aerospace Workers Local W-33	Beens, Richard	Termination	Last chance agreement re drug use. Employer violated contract re testing procedure.	Sustained.	Contract calls for 5 panel test. Nurse failed to mark form, & a 9 panel test was conducted.
09-PN-0806	Carver County (Deputies' Unit) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wage reopener MOU to negotiate results of a job study. U-9.12%, e-0%	2009 - 0%	No market adjustment based on county's finances.
09-PN-0424	Carver County (Sergeants' Unit) Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	Wage reopener MOU to negotiate results of a job study. U-10%, e-0%	2009 - 2%	Based on market & sergeants underpayment vs. pay equity.
09-PA-0907	Dayton, City of AFSCME Minnesota Council 5	Reynolds, James	Vacation Accrual	Calculating years of service for ees. who worked part time and full time.	Sustained.	Past practice crediting years vs. pro-rating based on hours.
10-PA-0170	Hennepin County (NPHWC) AFSCME Minnesota Council 5	Jacobs, Jeffrey	Lay Off	Junior dental hygienist retained over more senior employees.	Denied.	Junior employees had REM license.
10-PN-0265	ISD 77, Mankato Mankato Teachers Association	Bard, Stephen	Interest	Final offer total package.	District's position.	Ability to pay. 1st yr.- hard freeze; 2nd yr. - steps & lanes.
09 TD 6	ISD 625, St. Paul Individual Grievant	Toenges, Rolland	Termination	Teacher discharge-insubordination & inefficiency.	Denied	Rejected numerous attempts at coaching to improve performance.
09-PA-0608	Maple Grove, City of Law Enforcement Labor Services, Inc.	Reynolds, James	Comp Time	Are hours carried over from prior year considered in 50 hr/yr. accrual? - yes.	Denied.	50 hr. per year cap does not allow for replenishment.
10-RA-0056	Rainbow Foods UFCW Local 653	Gallagher, Thomas	Termination	Meat cutter ground beef after pork without cleaning grinder.	30 day susp.	Not deliberate. No prior discipline.
None listed	Rosen Industries/Long Prairie Packing UFCW Local 789	Jacobs, Jeffrey	3 day suspension Termination	Failure to punch out for an apptmnt. Put hand in sanitizer against rules.	Sustained Sustained	Progressive discipline. Credible witness, 4th discipline.
FMCS	Sodexo, Inc. HERE Local 17	Flagler, John	Termination	7 grievants fired for failing to correct mismatched SSN information.	Sustained	Company not responsible for correcting SSN data, only trying.
February, 2010						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-0516	Adams Health Care Center Teamsters Local 160	Jacobs, Jeffrey	Termination	Nursing home resident left unattended in a lift, while in the bathroom.	5 day susp.	Lack of clear policy, consistent enforcement or prior discipline.

NLRB	Axis Minnesota, Inc. Healthcare SEIU Minnesota	Flagler, John	Termination	Left work area to do union business while caring for vulnerable adults.	3 week susp.	Counseled previously but was not told consequence of repeat.
10-PA-0029	Champlin, City of Teamsters Local 320	Befort, Stephen	Termination	CDL suspended for 1 year due to DUI	Denied.	Both job description and contract say CDL is required.
FMCS	Elk River Machine Company United Steelworkers Local 2002-1	Kircher, Andrea	Recall, Seniority	A junior welder with specialty skills was recalled for a project.	Sustained.	Senior welders should have been trained first. 2 weeks pay to Sr. ee.
09-PA-0943	Hennepin County Medical Center Hennepin County Association of	Flagler, John	Overtime Pay	Do PTO hours count as time worked? No - it was a quid pro quo for the PTO.	Denied	Listing items in a contract means similar non listed items are excluded
09-PA-0941	ISD 255, Pine Island Pine Island Education Association	Martin, William	Coach Selection	Outside candidate selected.	Denied.	District operated in good faith, unbiased selection committee.
10-PA-0042	ISD 361, International Falls AFSCME Council 65	McCoy, Arthur Ray	Job Posting	Does employee on sick leave create a vacancy requiring posting?	Sustained	Contract requires posting for temp jobs over 30 days.
10-PN-0659	ISD 2143, Waterville-Elysian- Education Minnesota - Waterville-	Miller, Richard J.	Interest	Joint submission of issues. Accepted by	1st y-delayed	Step on 137th day; extra-curricular
09-PN-0924	Lake County Lake Co. Superv. Empl. Association	Paull, David	Interest	County VEBA insurance awarded; plan takes effect in 2010-Union argued	2008 - 2% 2009 - 2%	County was willing to accept Union's wages if VEBA awarded.
10PA0108	Minneapolis Park and Recreation Board AFSCME Minnesota Council 5	Torosian, Herman	Termination	Customer service clerk failed to make timely deposits & secure money.	Denied.	Ignored direct orders- seriousness trumps lack of progressive discipline.
10PA0071	Paynesville, City of AFSCME Council 65	Jensen, Eugene	8 hr. suspension	Liquor clerk disciplined for behavior seen in surveillance video	Written Rprmd	Can't use video w/o notice. Letter result of info developed from invest
FMCS	St. Catherine, College of Operating Engineers Local 70	Daly, Joseph	Layoff	Seniority issue: sufficient vs. relative ability to determine layoff order.	Sustained	Qualifications refers to eligibility not ability.
07PA1040	St. Cloud, City of Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Working out of Class	PD reorganized eliminating Captains. Lts. want Capt's pay for new duties	Split	Out of class pay awarded during 3 year transition period.
FMCS	United States Department of Justice, Counsel of Prisons Locals (AFL-CIO)	Daly, Joseph	FLSA work w/o	Pre & post shift responsibilities. Employer challenged timeliness and	Sustained Arbitrable	Employer to pay 15 minutes for pre work, Ongoing grievance. Union can file class
FMCS	University of St. Thomas Teamsters Local 120	Beens, Richard	Disability Leave	Removed from seniority list and replaced-unable to do work after 6mo.	Denied.	Disability insurance plans referenced in contract allows action.

January, 2010

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-0145	Duluth Housing & Redevelopment Authority Teamsters Local 346	Lundberg, James	Class of Pay	Property Manager position created due	Sustained	Moved from class 11 to class 12 due to

09 PA 0942	ISD 745, Albany Albany Federation of Teachers	Imes, Sharon	Extra-curricular if on sick leave	Prorated pay, hired replacement.	Denied	Was not arbitrary, capricious nor covered by contract language.
09-PN-0221	ISD 2149, Minnewaska Teamsters Local 320	Jacobs, Jeffrey	Interest-Total Package	New contract - 10 issues certified.	Employer's position	Union's wage proposal would put district in S.O.D.
No Case #	Ruling on Request for Modification of Teamsters Local 320	Jacobs, Jeffrey	Continuing	Can't change or reduce obligations-not of negotiations.	Employer's	Benefits could be the subject of new
FMCS	Knife River, Inc. Teamsters Local 120	Jacobs, Jeffrey	3 day suspension	Truck drivers failed to wear seat belts as required in yard.	Denied.	Adequate notice. Policy listed 3 day suspension for violation.
09-PA-0820	Princeton, City of Individual Grievant	Anderson, Richard	Termination Vets 60 day pay	Veteran failed random drug test. Pay reduced during appeal because he	Denied Sustained	Progressive - 3rd failure. Contrary to statute. Paid at higher rate
09-PA-0847	Plymouth, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	20 day susp.	Police officer 8 minutes tardy for roll call.	Denied	Progressive discipline including a prior 15 day suspension.
None listed	Minnesota, State of Middle Management Association	Jacobs, Jeffrey	Early Retirement Incentive	Early retrimnt benefit to be declared at age 55. Ee over 55 when assigned.	Denied	Contract did not anticipate one over 55 being assigned to unit.
10-PA-0025	Ramsey County AFSCME Minnesota Council 5	Miller, Richard J.	Termination	Program manager responsible for paying fostercare providers authorized double payment of \$952 to herself as "respite" pay for watching children.	17 mo. susp.	She received ok for double payments so county shares blame. Reinstated without backpay due to prior discipline.
09-PA-0628	Minnesota, State of, Department of AFSCME Minnesota Council 5	Daly, Joseph	3 day suspension	Called co-worker to talk about her tan	Denied	Violated sexual harassment policy,
FMCS	St. Francis Regional Medical Center SEIU Local 113	Gallagher, Thomas	Termination	Pharmacy employee took 4 pills after receiving permission from supervisor.	Sustained	Supervisor did not have authority, but grievant assumed she did.
09 TD 16	Special School District 1, Minneapolis Minneapolis Federation of Teachers	Toenges, Rolland	Termination	Teacher threatened to tape student to his chair. Conduct unbecoming.	Denied	Disciplined 4 times previously.
08-PA-0019	University of Minnesota AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Threatened to have boyfriend take care of co-worker.	10 day susp.	Threat made to supervisor not coworker Continued working another week.
09-PN-1062	West St. Paul, City of Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	2009-3%+steps-u(u-4%+steps; e-0% +steps); 2010-0%+steps-e(u-4%+stp; e-0% no steps); Xmas eve premium-u.	2009 - 3% 2010 - 0%	Steps both years - city has 54% fund balance. Xmas eve premium=pattern.

2011 Arbitration Awards - Minnesota B.M.S.

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	DeZurick Incorporated	Remington, John	Termination	Low productivity in a factory setting.	Sustained	Insufficient evidence to prove low productivity & procedural deficiencies.
FMCS	Int Assn of Machinists District 165	Jacobs, Jeffrey	Sick leave	Policy denies use of sick leave on Saturdays.	Sustained	No such restriction in contract.
11-PA-0939	Dotson Company GMPIU	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	Duluth, City of AFSCME Minnesota Council 5	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	FMS Corporation	Fogelberg, J.C.	Termination	Medical assistant - loud threatening abusive language.	Denied	Pattern of anger, loud outbursts, justified firing w/o prior suspension.
FMCS	Hennepin County Medical Center AFSCME Minnesota Council 5	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	Hilton Hotels Minneapolis UNITE HERE Local 17	Latimer, George	Termination	Food monitor filed false and fraudulent monitor logs.	Denied	Seriousness of offense justifies termination regardless of past record.
10-PN-1606	ISD 625, St. Paul Teamsters Local 320	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	Little Falls, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	Termination VP Hearing	Corrections officer convicted of 5 charges involving breaking into ex-girlfriend's apt. Failed to notify employer. Lts. not allowed to work Holidays so city saves 1 1/2 premium pay.	Denied	Serious criminal charges; barred from carrying a gun. Attempt to conceal details from employer.
09-PA-0887	Minnesota, State of Individual Grievant	Beens, Richard	Right to work a Holiday.	Failed to call for snowplowing OT. Offered employee future OT but no pay.	Denied	Management right to schedule. Discussion on past practice.
11-PA-0875	Shakopee, City of Teamsters Local 320	Wallin, Gerald	Over Time 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	Dakota County (Interest Case) 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	Crystal, City of 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	Edina, City of 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	ISD 624, White Bear Lake 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	Hennepin County Medical Center 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	Hibbing, City of (Interest Award) 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	Honeywell International, Inc. 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	Isanti County (Interest Case) 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	Minnesota Epilepsy Group 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-	MN State of, Dept of Public Safety 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	St. Cloud, City of 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	St. Louis County 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	St. Louis County (Interest Case) 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	South St. Paul, City of 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.
October, 2011						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Aspen Medical Group 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	FMS Corporation 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	ISD 152, Moorhead 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	ISD 197, West St. Paul 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	ISD 299, Caledonia 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	Lyon County (Interest Award) 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	Minnesota, State of, Department of 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	Minnesota, State of, Department of 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	Mounds View, City of 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	North Memorial Medical Center 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	Virginia Regional Medical Center 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	Dakota County (Interest Award) 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	Metro Transit 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	Prior Lake, City of (Interest Award) 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	Shakopee, City of 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	Stearns County 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	Stearns County (Implementation) 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	Xcel Energy 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	Brainerd, City of (Interest Award) 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	Carver County 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	Capitol Beverage Sales, LLP 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	Cohasset, City of AFSCME Minnesota Council 65	Befort, 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	CUB Foods, Duluth 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	East Metro Integration District 6067 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	Federal Bureau of Prisons - Federal Council of Prison Locals (AFL-CIO)	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	Goodhue County (Interest Award) 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	Hennepin County 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	Metro Transit 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	Metro Transit 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	Metro Transit 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	Metro Transit 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.
???	Minneapolis, City of 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.
???	MN State Colleges and Universities 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	MN, Department of Human Services 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	New River Medical Center 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	St. Louis County 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	South St. Paul, City of (Interest Award) 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	Star Tribune Company 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	Stearns County 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	SYSCO Minnesota 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	University of Minnesota 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	Wright County 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	Duluth, City of 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	Human Development Center 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	ISD 191, Burnsville 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	Metropolitan Council Amalgamated Transit Union Local 1005	Bognanno, Mario	Termination	Fraudulent workers comp claim.	Denied	Video playing soccer yet claiming permanent disability.
None listed	Minneapolis, City of 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	Minneapolis Convention Center 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	MN Department of Transportation 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	Mower County 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	Range Regional Health Services - 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	St. Michael's Hospital and Nursing	Paull, David	Termination	Nurse violated HIPPA regulations.	Sustained	Looked up a name - not "critical".

FMCS	SEIU Healthcare Minnesota Thermo King Corporation United Steelworkers of America 2175	Gallagher, Thomas	Evaluation of a combined job	Tube bender & Fabricator duties were combined. Dispute re classification.	Denied	Reduced to a final written reprimand. Reasoned explanation of classification process. Current duties of new position vs combining previous pts.
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11-RA-0788	Useum Chevrolet 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.
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June, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Abbott Northwestern Hospital Alliana Health System 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	Brooklyn Park, City of (Interest Award) 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	Champlin, City of (Interest Award) 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	Douglas County Hospital 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	Fairview Southdale Hospital 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	Hennepin County Medical Center AFSCME Minnesota Council 5	Jensen, Eugene	Termination	Interpretive Service scheduler's - performance issues.	Denied	Interpersonal communications problems primary reason.
11-PA-0385	ISD 911, Cambridge-Isanti School Service Employees Local 284	Lundberg, James	Reorganization	Reorganized & duties shifted outside bargaining unit - employee laid off.	Denied	Inherent management right.
11-PA-0018	ISD 750, Ricori 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	Joseph T. Ryerson & Son, Inc. 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	Metropolitan Council (Interest Award) 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	Peoples Cooperative Services IBEW Local 949	Jacobs, Jeffrey	Job Requirements	Company changed job description so meter readers can change non-self contained meters.	Sustained	Position negotiated with specific limitations, therefore that change must be negotiated.
FMCS	Rainbow Foods 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	Ramsey County 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	Shakopee, City of 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	SYSCO Minnesota 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	Anoka, City of 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	Hennepin Healthcare System, Inc. 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	Heritage Living Center 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	ISD 138, North Branch 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	ISD 728, Elk River 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	Metro Transit 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	Metro Transit 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	Polar Tank Trailer 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	Saint Louis County (Interest Award) AFSCME Minnesota Council 5	Remington, John	Interest	Dispatch/Corrections unit. OT will not use sick or comp hrs. as time worked- e. Health Insurance: ee to pay \$37.72 for 2010 & 2011-u.	Co. Position	Award based on county pattern. Union sought insurance w/o OT change. Claimed others who agreed did not regularly receive overtime.
FMCS	Sappi Fine Paper-Cloquet Paper LLC 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	SSD 1, Minneapolis 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	Washington County (Interest Award) 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	Wirtz Beverage Minnesota Beer 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	Duluth, City of (Interest Award) 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	Hennepin Healthcare System, Inc. 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	ISD 700, Hermantown 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	ISD 911, Cambridge-Isanti 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	Janesville, City of 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	Lyon County (Interest Award) 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	Metro Transit 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	Minneapolis Park Board 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	Roseville, City of (Interest Award) 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	United Hospital 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	Electrolux Home Products IAMAW District Lodge 165	Bognanno, Mario	Holiday Pay Timelines	Need to work before & after to receive holiday pay? Union-no. Union late in filing for arbitration.	Sustained Arbitrable	ER repudiated longstanding practice but Arbitrator relied on parties history, Continuing violation, pay not awarded for incident missed by timeliness.
10-PN-1600	Hopkins, City of (Interest Award) 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	ISD 741, Paynesville 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	Metro Transit 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	Metro Transit 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	Metro Transit 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	Ameripride Services, Inc. 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	Cottage Grove, City of 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	Honeywell International, Inc. 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	Human Development Center AFSCME Minnesota Council 5	Remington, John	Termination	Performance issues due to data entry errors.	Sustained	Failure to establish objective performance standards.
10-PA-1207	ISD 316, Coleraine 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	ISD 625, St. Paul 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	Hibbing Public Utilities Commission 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	McQuay International 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	Metro Transit 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	Moorhead, City of Law Enforcement Labor Services, Inc.	Jacos, 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	Rice County Teamsters Local 320	Befort, 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	SMDC Health System 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	Waite Park, City of 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	Alexandria, City of 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	Anoka County (Interest Award) 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	Dakota Communications Center 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	Douglas County Hospital 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	Forest Lake, City of (Interest Award) 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	Freeborn County (Interest Award) 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	Great Western Recycling 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	Hennepin County (Interest Award) Hennepin County Sheriffs Supervisors	Miller, Richard J.	Interest	OT: for Cpts. & 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 Cpts. & Lieutenants	Contract provided for OT in rare & unusual circumstances. Award changes to, "if obligated". FLSA reference is removed.
10-PA-1365	ISD 728, Elk River 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	Metro Transit 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	Minneapolis Parks & Recreation Bd Teamsters Local 320	Bognanno, Mario	Arbitrability due to missing time lines.	Grievance denied, notice sent by e-mail. Union did not receive e-mail & filed for arbitration 3 months later.	Sustained	No follow-up letter nor fax was sent per parties practice. No timelines to move to next step if no response.
11-PA-0315	Plymouth, City of 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	Princeton, City of AFSCME Council 65	Paull, David	3 day suspension 5 day suspension	Didn't notify suprvsr. re disabled vehicle. Used obscene language at drug test.	Writn Rpmnd Denied	Investigation took 5 months. Other members of public present.

2013 Arbitration Awards - Minnesota B.M.S.

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, 2013						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals & Clinics d/b/a/ Mercy Hospital SEIU Healthcare Minnesota	Beens, Richard	Termination	Hospital registrar violated protected health info when checking a friends record for accuracy (ee listed as her friends emergency contact).	Sustained	Legitimate business reason to access file. Detailed discussion of zero tolerance rules vs. just cause standard..
13-PN-0350	Faribault County (Interest Award) Minnesota Public Employees	Kircher, Andrea	Interest	Jail & Dispatch. Wages:'12-1.25%-e (u-3%+3% adj),'13-0% (u-1.5%+1.5%). Insur-mandatory single participation-e.	2012 - 1.25% 2013 - 0%	Lowest fund balance in state. Internal pattern. April arbitration award for deputies awarded same amounts.
13-VP-0770	ISD 402, Henricks(Award August) ISD 402, Henricks(Award August) ISD 403, Ivanhoe	O'Toole, Carol	Breach of Contract	Hendricks & Ivanhoe school districts had a contract to divide elementary & Secondary classes.	Ivanhoe ISD breached contract	Contract renewed every 2 yrs unless noticed by Jan 1. Ivanhoe opted out in June. Hendricks awarded \$1.2 m.
14-PA-0135	ISD 696, Ely Ely Education Association	Frankman, Janice	Severance Pay	What is daily rate of pay to calculate service? 190 days used since 1976. 180 duty dates +10 holidays? -Union no.	Sustained	Ely principal arbitrated issue Nov.2012 Arb Orman denied citing past practice Practice, unkn & unchallenged by the Union doesn't defeat contract language
13-PN-0672	Lyon County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Jail Sgts. Add vacation step at 7 years of 17d/yr.-u. (Current 15d until 15yrs.)	Union position	Internal pattern is egregiously below market. Max accrual not increased.
14-VP-0164	Metro Transit Individual Grievant	Bognanno, Mario	Termination - V.P.	Probationary bus driver received 9 customer complaints for running late.	Denied	Received counseling after each event. Probationary ees normally fired after 2.
14-PA-0142	Oakdale, City of Law Enforcement Labor Services, Inc.	Scoville, James	I.O.D. pay.	Officer sprained ankle in February had surgery in June.	Sustained	Treatment consistent with injury and doctors advice.
13-PA-0756	Prior Lake, City of Teamsters Local 320	Johnson, John	Educational Incentive Pay	Was Sgts eligibility for Ed pay based on date of promotion into Sgt's Union or initial hire as an officer? - initial hire.	Sustained	Ambiguous language is less favorable to party supplying language. Similar issue diffrent results Northfield Oct '12,Kirchner..
13-RA-0533	SuperValu, Inc. Teamsters Local 120	VerPloeg, Christine	Termination	Warehouse worker used racial slur vs co-worker & possessed marijuana.	Denied	2 policies call for discharge. Witnesses did not testify. Statements sufficient.
November, 2013						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PN-0584	Aitkin County Teamsters Local 346	Frankman, Janice	Interest	Jailer/Dispatcher wage reopener. 2013 wages-1.8% (e-0%, u-3%) Reduce # years between steps-n-e. Shift diff. from \$.20 to \$.68-u. (e-\$.20).	2013 - 1.8%	U pattern 0%+steps; non-union merit plans received 1.8%. No rationale to compare merit&steps so 1.8% awarded Shift diff = avg of comparison group.
13-PN-0704	Forest Lake, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Officers. Change Discipline lang-n-u; Chng Med Leave-no-u; Unifrms'13-900 14-325-u (e-875,900), '15-no incr-e; Insurance-'13 no incr-e,'14,'15-reopener-u exclude new ees from 100% plan-n-u; HCSP-15m,20m, 25m-u (e-\$10m); Ed incentive-n-e; Wages-0, 1.5, 2.5-e (u-2,2,2).	2013 - 0% 2014 - 1.5% 2015 - 2.5%	Discipline/Med leave/New ees bar from 100% plan/Ed incent-failure to show problem or offer quid pro quo. Uniforms/ HCSP-history of incrs justified awarding more than Sgts. Insur '13-pattern, '14 & . 15 deviate from pattern-only minority of unions settled. Wages-pattern.
12-PA-1165	ISD 283, St. Louis Park St. Louis Park Principals Association	Gallagher, Thomas	10 day susp. & Transfer or demote	Principal failed to follow up complaints re teachers; invstge student misconduct; failure to communicate w staff & parents.	3 day susp.	No prior discipline. Most performance problems due to inexperience. Transfer to Principal on Sp Assgnmt was allowed.

13-PN-0704	ISD 309, Lake of the Woods (Interest Award) AFSCME Minnesota Council 65	Miller, Richard J.	Interest	Supervisory-1st contract. Normal work week-comb of proposals; Pay for mtgs-no-e; Inclement weather-e; Longevity-u; Vac-e; Sick-combination; Severance-from indiv contracts; Insurance-e, but ees will get their current amts; Dental-no-e. Paydays-e; Salary schedule-no award; wages 2%, 2% based on current pay.	2013 - 2% 2014 - 2%	1st contract. No award on salary schedule-positions too diverse-should be negotiated in future. Wages-more than amt offered to teachers due to no increases for 6 yrs. Wages, Insurance & Severance amounts from employees previous individual contracts.
13-PA-1004	ISD 2859, Glencoe-Silver Lake Education Minn.- Glencoe-Silver Lake	Jensen, Eugene	Advisor/Advisee Period limits	State mandated anti-bullying training given during expanded 4th period to Advisor/Advisee class twice a month. A/A period training limited to once/mo.	Sustained	A/A period defined by participants, not when scheduled. Teaching, despite no required prep or testing. No remedy in contract. Parties told to negotiate.
13-PA-0936	Mooheard Public Svs Commission Electrical Workers Local 1426	Reynolds, James	In-Charge Pay	If only 2 ees, is one paid for being in charge of "2 or more employees"?-yes.	Sustained	Language doesn't say "two other employees".
11-PA-0933	North St. Paul, City of Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Overtime vs. 2080 time	E would not pay OT for training since officer fell short of his 2080 hr. obligation.	Sustained	Work authorized by ER in excess of regular scheduled shift= OT per contract.
FMCS	Red Wing Shoe Company UFCW Local 527	Daly, Joseph	Termination	Violated no-fault Attendance Policy by taking 1 day vacation w/o approval.	Sustained	Company allows supervisory discretion which led to unequal treatment
13-PA-0880	St. Paul, City of St. Paul Police Federation	Kircher, Andrea	Termination	Officer fired pistol in his backyard, 10 times at 2:45am while drinking w friends.	Denied	5 yr. officer w no discipline, but violation of law, dangerous situation & lied to IA.
October, 2013						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
None listed	Aikin County AFSCME Minnesota Council 5	Kircher, Andrea	Change FT into 2 PT positions.	Can ER convert full time position to 2 part-time positions?-Yes, mgmt. right.	Denied	Arbitrable-y-u. Need to bargain-n-e (positions vacant; PT already in contract)
13-PN-0331	Albert Lea, City of (Interest Award) Minnesota Public Employees Assn	Flagler, John	Interest	Wages: 1.75%-e (u-2%+1.5% market adjustment)	2013 - 1.75%	Internal pattern.
FMCS	Allina Health d/b/a St. Francis Regional SEIU Healthcare Minnesota	McCoy, Arthur Ray	Termination	Medical records were redacted, then given to Union showing breach of contract.	Sustained	Protected union activity.
12-PA-1239	Crystal, City of Law Enforcement Labor Services, Inc.	Wallin, Gerald	12 hr. suspension	Officer made 4 inappropriate DVS searches. 12 hrs. = 1 day.	Denied	Violation of State & Federal law. Received training prior to violations.
None listed	Dakota County Teamsters Local 320	Jacos, Jeffrey	1 day suspension	Program service asst. failed to notify jail to prepare prisoners for transport.	Denied	Failed to follow proper procedure & there was negative impact.
FMCS	G4S Regulated Security Solutions United Government Security Officers	Beens, Richard	Written Reprimand	Armed guard's partner failed to "sling" rifle when she told him. Failed to coach.	Sustained	ER failed to conduct a through invest. No face-to-face opportunity to explain.
12-PA-0659	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	4 day suspension	Officer's chronic complaints on female officer violated City's harassment policy.	2.5 day susp.	Retaliation claimed by 2nd officer not supported by evidence.
13-PA-0845	Metropolitan Council Amalgamated Transit Union Local 1005	Orman, Anthony	Termination	Bus driver charged w criminal sexual conduct & barred from contact w children. Restriction modified allowing contact if bus is video monitored.	Sustained	ER claimed monitoring ability was overstated. But Arbitrator faulted lack of investigation over bail restrictions. Ordered return to work w back-pay.
FMCS	Mille Lacs Energy Cooperative Electrical Workers Local 31	Bognanno, Mario	401(K) Plan	Contribution not given to probationary ees. Contract says "each ee & "every" pay period.	Denied	401(K) plan defines eligibility, and the Contract references the "plan offered by the Cooperative".

13-PA-0232	Minnesota, State of, Board of ASFCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Spotty attendance, failing to call in sick prior to start of shift, using leave after FMLA exhausted..	Split	Insufficient cause, can return to work upon showing she is medically able. No back pay. 16 month off considered medical leave due to her Doctor's note.
13-PA-0469	Ramsey County Teamsters Local 320	Fields, Bernice	Lateral Transfer Contract vs Policy	ER did not like candidates for position. ER's Policy was waived; person without the minimum qualifications selected.	Sustained	CBA is the master document. Policies written to interpret & implement CBA are subordinate. Position vacated.
13-PA-0846	University of Minnesota Painters, Allied Trades Local 61	Moeller, Lon	Voluntary Quit	Painter requested leave for surgery. ER claims he abandoned job by not filing proper forms.	Sustained	No proof he was given policy manual on long term leave requirements. As shop steward protected from lay off.
13-PN-0513	Wadena County (Interest Award) Teamsters Local 320	Befort, Stephen	Interest	Deputies: 3yrs-e (u-1yr), '13-2%-e (u-3%+\$1.50), '14-3%-e (u-3%+\$1.50), 2015-2.5% (e-2%, u-3%). New mgmt. rights & maintenance of standards lang-n-u; Eliminate "me too"-y-e. Uniform increase-u. Insurance-e. Shift diff-change hrs.-n-e, +\$.10 to \$.50 hr.-u. POST training-n-e.	2013 - 2% 2014 - 2% 2015 - 2.5%	Duration & wages-internal pattern; 3rd yr. 2.5%-market. Language changes-lack of compelling need. Insurance & "me too"-internal pattern. U wanted ER to pay for PIEP if ees leave Co. insurance plan - no, contrary to plan objectives.

September, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PN-0482	Arrowhead Regional Corrections Board Minnesota Public Employees Assn	Flagler, John	Interest	Corrections. 1.5%,1.5% (e-1%,1%; u-2%,2%). Shift diff-no incr-e (u-\$.30/h) Sick leave bank-no-e. Create Sr. Shift position-no-e. Bar using reprmd after 2y.	2012 - 1.5% 2013 - 1.5%	Wages external avg+.5% 2012 due to prior wage freeze. Creating position-arbitrator has no authority. Reprimand language written by arbitrator.
13-PN-0553	Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Corrections. Wages-e (u-2%,2%); Holiday hours = to shift hours-n-e; IOD language-y-u.	2012 - 0% 2013 - 0%	Wages internal (with 4 settlmt models) Hol:2 of 5 sheriff groups have benefit didn't show need. IOD-intrnl & need.
13-PN-0590	Dakota County (Interest Award) Dakota Co. Attorney Employees Assn.	Gallagher, Thomas	Interest	General increase-2%-agree; Merit-e, Salary range-4.5%-u (e-2%).	2013 - 2%	General & Merit-internal. 4.5%Salary range:(2.5% behind market (e at 2%))
13-PN-0305	Eveleth, City of (Interest Award) Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Officers: 3yr-e (u-2); Wages-e (u-3% 2.5%.2.5%); Longevity-\$10m (neither side requested this); Vac carry over to end of following yr.-u (e-April); Insur & VEBA contribution-e; Requiring note for Dr visits-no-u; Semi-annual VEBA contrb-e	2013 - 2.5% 2014 - 2% 2015 - 2%	Duration internal pattern & eliminates whipsaw bargaining. Wages VEBA and insurance-internal pattern. Longevity not certified or requested, but a subset of wages. U argued low pay in market if longevity considered.
13-PA-0536	Hopkins, City of Hopkins Police Officers' Association	Miller, Richard J.	1 day suspension	Insubordinate by viewing Dept video security to see what Chief was doing re IA on another officer & telling others.	Wrtn reprmd	No prior discipline. Infraction similar to another officer who received reprimand.
13-PA-0562	ISD 316, Greenway AFSCME Minnesota Council 65	Paull, David	O.T. Pay	ER changed calculating OT based on hours paid (vac etc.) to FLSA standard.	Sustained	Binding past practice. "Mutuality" and not "knowledge," is what is required
13-PA-0605	Inver Grove Heights, City of AFSCME Minnesota Council 5	Bognanno, Mario	Lay-Off	Senior building inspector laid off; "relative ability" seniority clause.	Denied	Inferior work performance undermined better technical knowledge.
12-PA-1055	Lakeville, City of Minnesota Public Employees	Kapsch, Frank	O.T. on Holiday	Officer called in for Holiday, paid OT + Holiday pay. Seeking OT on Hol. Pay.	Denied	No contract language re: holiday premium & 20 years past practice.
IT-11-02	Minnesota State Colleges and Minnesota State College Faculty	Jensen, Eugene	Layoff Job reclassification	Laid off from teaching Computer Tech - not hired to teach Computer Science.	Denied	ER has credentialing authority. EE did not have qualifications for new position.
None listed	Minnesota, State of, Department of Minnesota Conservation Officers	Fogelberg, J.C.	Demotion	DNR pilot falsified bird collar telemetry locations.	Wrtn Reprmd	Was careless in performance of duties deliberate falsification not established.

13-PA-0776	Minnesota, State of, Board of Public Teamsters Local 320	Jacobs, Jeffrey	Termination	Public defender representing family. Violation of ethics & direct orders.	7 mo susp.	Returned to work - no back pay. Mitigation - 13 yrs. service, no discipline.
13-PA-0594 13-PA-0550	North St. Paul, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Demotion 18 day suspension	Sgt said he was going AWOL & left a few minutes before end of shift.	Sustained Wrtn warning	AWOL comment was a joke. 6 times left early no intent (clocks not in sync)
13-PN-0068	Owatonna, City of (Interest Award) Teamsters Local 320	Befort, Stephen	Interest	Officers. 2yrs-e (u-3y); '12-1%; '13-Jan 1%, July 0.5% (e-0%, u-3% both yrs.). Grievance mediation step-n-u; Allow for 12h shift-n-u; Call back/court 2 to 4h-n-e; FLSA OT-n-u; Comp time-n; Seniority vac-no-u; Holiday-same as Sgts; Insur-e Uniform-n-e;Shift pay-n-e;Wrk comp-n-u	2012 - 1% 2013 - 1.5%	Internal pattern. Lack of compelling reasons for proposed changes. Allowing for 12h shift puts 10h at risk. Comp time-both seeking change-no change, Holiday-sgts benefit awarded even though neither side proposed it.
13-PA-0706	Pequot Lakes, City of Teamsters Local 346	Fogelberg, J.C.	15 day suspension	Officer turned off squad recordings; no permission for ride along; and Facebook posting denigrating the president.	10 days	Common sense does not need to be codified in a policy to find misconduct. Suspension reduced due to Dept.errors.
13-PA-0824	Ramsey County AFSCME Minnesota Council 5	Anderson, Richard	40 hr. suspension	Welfare worker refused order to remove child from unlicensed foster home as ordred by suprv. Judge later barred removal.	Sustained	Refusal to remove child insubordinate but protected activity due to fear for child's safety.
FMCS	Sappi-Cloquet LLC United Steelworkers Local 11-63	Daly, Joseph	Lunch break	Ees have been paid for working .5 hr. unpaid lunch 34% of time.	Sustained	ER ordered to insure ees given .5 hr. unpaid lunch.

August, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
???	Kemp's, LLC Teamsters Local 160	Befort, Stephen	Termination	Lab tech failed to reject milk that tested positive for antibiotics.	Denied	24 yrs. service, no prior discipline, but act threatened public safety.
FMCS	Liberty Carton Company Teamstres Local 970	Gallagher, Thomas	Absences	No-fault attendance policy. Charged 8 hrs for not working mandatory OT on weekend	Denied	Approved vac for Fri. exempt EEs from weekend off. Same day vac controlled by EE doesn't trump mandatory OT.
13-PA 0789	Metro Transit Amalgamated Transit Union Local 1005	Bognanno, Mario	2 day susp. & Final Warning	Intoxicated female standing over and screaming at driver was pushed away.	Verbal Wrng	ER did not prove unnecessary force. Driver could have given pass more info.
13-PA-0639	Metro Transit Amalgamated Transit Union Local 1005	Neigh, Charlotte	Termination	4 responsible accidents & lack of improvement after retraining.	Denied	Action reasonable despite Union claim accidents were minor & the standard was unilaterally imposed.
FMCS	Ohly Americas Teamsters Local 471	Flagler, John	Cell Phone Ban	Union challenged banning cell phones from lockers and break areas.	Sustained	Ban is unreasonable. Contract provides for reasonable use on breaks.
13-PN-0496	Pine County (Interest Award) Teamsters Local 320	Miller, Richard J	Interest	Deputies. Wages-reached agreement. Uniform:'12-\$725-u (+\$25), '13-\$750-u. Shift diff- update dates-y-u (e-not certified). \$200 bi-weekly Travel Stipend n-e;	2012 - 1.5% 2013 - 1.5%	Uniform-external comparisons & a new uniforms. Shift diff-same benefit, but dates changed (ER-properly certified?) Travel stipend-compensation for losing take home cars-no justification provided.
13-PA-0152	Rochester, City of Operating Engineers, Local 49	Jacobs, Jeffrey	Pay-Temp wrkrs who are Pub ees.	Back pay due re April 2013 arb award. CBA wages for seasonal/temp, part-time or students if considered public ees.	Back pay-date of grievance	Award based on CBA grievance limits not PELRA nor Statutes. Discussion of student exemption as public ee.
13-PA-0699	Wright County Wright County Assistant County	Anderson, Richard	Reclassification Adjustments	Contract silent on County Attorneys reclassification adjustment date. Union seeking Jan 1st in each of contracts 3 yrs.	Denied	Tentative agreement listed July 1st. ER did not put date in contract. Intent of parties clear.

FMCS	Xcel Energy, Inc. Electrical Workers Local 953	Toenges, Rolland	Rest Time	8hrs rest time paid if 2 call outs 8.5 h before scheduled shift. Is scheduled early start OT a call out? - No.	Denied	Unscheduled call outs & pre-scheduled early reports are not the same so a common meaning is not applicable.
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July, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	3M Company United Steelworkers Local 11-00418	Imes, Sharon	Termination	Electrical working under a last chance agreement wired a machine improperly.	Denied	No prints nor engineer available. Like on like wiring but should have caught initial wiring was wrong.
FMCS	Allina Health, d/b/a Saint Francis Minnesota Nurses Association	Jensen, Eugene	Termination	HIPA violation. Nurse accessed & disclosed a minor patient's test results.	Denied	Excellent ee, no prior discipline, yet w clear rules ee didn't admit wrongdoing.
13-PA-0107	Austin, City of Law Enforcement Labor Services, Inc.	Jensen, Eugene	Oral Reprimand	Officer did not grieve in 2010. Prepared letter asking for review/removal in 2012.	Denied	Letter did not extend timeline, nor was it binding on anyone.
13-PA-0665	ISD 347, Willmar Education Minnesota - Willmar	Ogata, Harley	Teaching load for part-time Teachers	U-testing & progress monitoring part of teaching load vs general duty time.	Sustained	"Teaching time" are required duties vs "general duty" availability standard.
13-PA-0418	Maplewood, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	Termination	Officer sexually harassed 19 yr. old crime victim, while seeking to date her.	Denied	10 yr. w no prior discipline, but may move to immediate termination when behavior is egregious.
12-PA-0286	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Kapsch, Frank	1 day suspension	Officer failed to fill out a traffic log. He was confused if it applied to "dog watch".	Denied	Insubordination - 2 priors in past yr. His responsibility to seek clarification.
13-PA-0713	Metro Transit Amalgamated Transit Union Local 1005	Powers, Nancy	Written Warning	Red signal overrun. Train entered cross-walk on red, but stopped immediately.	Denied	U argued temporary inattention - no one injured. ER consistent in applying discipl.
None listed	Minnesota State Colleges and Minnesota State College Faculty	Wallin, Gerald	Sabbatical Leave	Chief Admn officer rejected plan "to observe basketball related activities" for his 2 credit coaching basketball class.	Sustained	His Dean approved plan, Same plan approved in 2005. Elimination of BB team in 2009 not relevant.
???	Minnesota, State of, Department of Minnesota Association of Professional	Fogelberg, J.C	Termination	Security casewrkr violated boundaries with prisoners.	6 mo susp.	10 yrs. good work history provided mitigation.
13-PA-0022	Roseville, City of Law Enforcement Labor Services, Inc.	Schiavoni, Mary Jo	Education Pay Timeliness	Officer with BA & JD degree credited w only 56.24 quarter credits. A 1.33 vs. 1.5 semester conversion formula used.	Sustained	Timeliness - firm action not notice triggers grievance. Job related criteria too restrictive. 30 semester c=45 (1.5x).
12-PN-0813	Washington County (Interest Award) Minnesota Public Employees	Miller, Richard J.	Interest	Jail/Dispatch. Wages-e (u-.5%,.5%). Salary range:'12-1.5%,'13-1.5%-e (u-3%, 3%). Sgts at least 4% above any supervised ee-n-e. Change Shift pay amount & requirement-no-e. Unifrm \$425 to \$530-u Damaged unifrm reimbrsmnt grievable-u. Allow Hol. pyramiding-n-e.	2012 - 0% 2013 - 0%	Unsustainable to use fund balance to pay for operating expenses. Wages deviate from Dep arb of 12/28/12, but follow internal pattern. (Dep. on steps vs salary ranges for jail/dispatchers). Unifrm amnt historical ratio w Dep amnt. (No increase to Deputies in arbitration.)
12-PN-0878	Winona County (Interest Award) AFSMCE Minnesota Council 65 (Assistant County Attorneys)	Paull, David	Interest	Wages:'11-0%-e,'12-Jan1%, July1%-e, 13-Jan1%, July1%, Oct1%-e. Add steps-n-e. Insurance: 95%, 85%f-n-u. Discpl hearing representation lang-n-e. Provide legal counsel to defend ee-n-e. Attempt to amend wage position-n-e	2011 - 0% 2012 - 2% 2013 - 3%	Wages:internal settlemnts & economy. Insur: internal pattern doesn't fit group profile (all on single at 100% so no need to subsidize families). Language items-no compelling reason for change. Final positions may not be amended except by written mutual consent.

June, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals and Clinics - United Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Termination	Care asst. filled out her prescription so she restricted pain pill.	Sustained	Dr. failed to fill out prescription. He told grievant her no refills. Dr. not disciplined.

FMCS	Centerpoint Energy Gas Workers Union Local 340	Kapsch, Francis	Work Schedule	Crew scheduled to work Tuesday through Saturday.	Denied	Mgmt. right to establish which days of week constitute regular workweek. Hours of shifts have been negotiated.
13-PN-0284	Dakota County (Interest Award) Law Enforcement Labor Services, Inc.	Befort, Stephen	Interest	Deputies. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix: 12-0%; '13 base% +lump sum%-e.	2012 - 0% 2013 - 1%	Internal pattern. 73% fund balance not a factor. 2 patterns based on level of insurance coverage. Discussion of Arbitration considerations.
11-PA-0351	Dakota County Law Enforcement Labor Services, Inc.	Fogelberg, J.C.	Written Reprimnd	Deputy didn't immediately respond to Sergeant's call on suspicious parties.	Denied	U claimed Sgt used Code 5 vs 6. Ee failed to be proactive to Sgt's 3 calls.
13-PA-0662	Duluth, City of AFSCME Minnesota Council 5	Miller, Richard J.	Overtime Pay	Veteran placed on administrative leave due to fitness for duty issues seeking OT pay that could have been earned.	Split	No OT for time ruled unfit for duty, but OT ordered for time leading up to exam & time between fitness & return to wrk.
13-PA-0415	ISD 38, Red Lake Education Minnesota - Red Lake 2007	Latimer, George	Basic Day	1/2 hour added to teacher's work day. Is duty free lunch included in 7h 15m day?	Sustained	Past practice of 7h15m day w lunch. Reinstall old "day"-no monetary award.
13-PA-0438	ISD 93, Carlton Carlton Education Association	Yaeger, Thomas	Early Retirement Incentive	Teacher on unpaid medical leave for 10 years denied severance. Both sides had timeliness challenges.	Sustained	Ee only worked part of her last year. but "'75% of their base salary" refers to schedule, not actual earnings.
13-PA-0721	ISD 709, Duluth AFSCME Minnesota Council 5	Gallagher, Sharon	Termination	Failed to disclose former name & convictions on job application.	Denied	Contract list this as just cause which trumps 9 years of exemplary service.
13-TD-0002	ISD 6049, River Bend Ed District Individual Grievant	Befort, Stephen	Termination	Psychologist failed to complete sp. ed. reports within 30 day deadline & falsified. reports & billings.	20 day susp	Failed to prove fraudulent intent, so statute requires teacher to receive a warning & chance to correct behavior.
13-PA-0638	Metro Transit Amalgamated Transit Union Local 1005	Fogelberg, J.C	Class A Warning	Suprvs told train driver to detour, that switches were lined. New suprvs came failed to stop for the switch.	Class B Warning	Driver has responsibility to check each switch, but penalty excessive since yard switches was not disciplined.
None listed	Minnesota, State of, Department of Minnesota Association of Professional	Imes, Sharon	Termination	Falsely reported time worked and	30 day susp	Exempt ee told by suprv to enter 8 hrs. indicate which part of the policy was
13-PA-0472	Ramsey County Teamsters Local 320	O'Toole Carol	Termination	Corrections Sgt. falsified time record, violated off-duty work policy & used sick time so he could coach hockey.	Denied	Lack of prior discipline & failure to write up counseling were overcome by transgressions that are so serious.
13-PA-0556	Saint Cloud, City of Law Enforcement Labor Services, Inc.	Lundberg, James	Denying Vacation	2 officers vac requests denied. Chief limited vac to 2 weeks to control OT.	Sustained	Contract doesn't support vac denial. Practice defined appropriate denials.
12-PN-1088	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Powers, Nancy	Interest	Sgts: Duration-3yrs-e (u-2y); Wages-12-0%-e (u-3%), '13-14-parties agree; Insur-50% inc v \$-u; Vac cash out-n-e; Add FI Hol-n-e; Comp time-n-e; Court time-3 hr.-u; Seniority bidding-n-e.	2012 - 0% 2013 - 2% 2014 - 2%	May Arb- officers 0%, 3%, 3%. Sgts agreed to pattern '13-2%, '14-2% but wanted 2% in '12 for 6% officer's total. Court time 3hrs=officers. U insurance position closest to current language.
12-PN-1205	Traverse County (Interest Award) Law Enforcement Labor Services, Inc.	Scoville, James	Interest	Deputies wages: '12-1%-e (u-6.2%)	2012 - 1%	Internal pattern. Insurance used by ER for external compensation comparison.

May, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0248	Dakota County Human Services Supervisors Assn	Jacobs, Jeffrey	Termination	Probation officer's husband had grow and sell operation on her property.	Denied	Serious misconduct & clear showing of nexus to work activity.
13-PN-0089	Dakota County (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Sergeants. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix:	2012 - 0% 2013 - 1%	Internal pattern. There are 2 patterns based on level of Insurance coverage.

				12-0%; '13 base% +lump sum%-e.		County has 73.64% fund balance.
13-PA-0040 13-PA-0651	Goodhue County Law Enforcement Labor Services, Inc.	O'Toole, Carol	Injury on duty	Workers comp paid 2/3 salary w 1/3 deducted from sick leave if ee desired. Ee requested full pay w/o deduction.	Denied	Contract ambiguous. 25 years of past practice.
13-PA-0428	Hennepin County Medical Center Hennepin Co. Assn-Paramedics &	Beens, Richard	Overtime	EMT signed up for OT to work Twins game, but position given to EMT as a regular assignment for the day.	Denied	ER has right to determine need for OT and has right to change schedules to avoid OT.
12 PN 1309	ISD 485, Royalton (Interest Award) Royalton Federation of Teachers	Latimer, George	Interest	Wages-u, (e '12-0%,'13-0%). Mediated. agreement of 0%, 2% rejected by ER.	2012 - 1% 2013 - 1%	Retaining standing in comparison group outweighed ability to pay.
13-PA- 0463	ISD 748, Sartell-St. Stephen School Service Employees Local 284	Remington, John	Senior Qualified Selection	External candidate selected for Admin Assistant over 3 internal candidates.	Sustained	"Senior qualified" = sufficient ability. ER prohibited from comparing relative abilities of qualified applicants.
None listed	Maple Grove, City of Veteran's Preference	Befort, Stephen	Termination - V.P.	P.T. firefighter refused to participate in performance improvemnt plan. Fired 2nd time for offensive & threatening emails.	Denied	Performance problems & refusal to accept plan make firing reasonable. Still on payroll when fired 2nd time.
13-PA-0511	Metro Transit Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Termination	Driver told female student to leave bus, she pushed him out of bus-he slapped back of her head.	6 month susp.	Similar cases did not result in firing. Returned w no back pay & 3 yr. final notice of warning.
13-RA-0075	Minnesota Association of Professional Office and Professional Employees	Beens, Richard	Termination	BA obtained & forwarded confidential letter of her ER, relating to negotiations, to her union steward.	Denied	Rules on untrustworthiness & conflict of interest need not be promulgated
None listed	Minnesota State Colleges and Inter-Faculty Organization	Gallagher, Thomas	Overload Assignment	Teacher denied overload assignment due to budget concerns. Adjunct teacher hired at lower rate.	Sustained	Contract has "offer-overload-unless" requirement. Budget not a consideration. Earnings + punitive amount for loss of pension benefit awarded.
12-VP-1300	Minnetrista, City of Individual Grievant	Kapsch, Frank	Termination - V.P.	Water Treatment Op - 8 yrs. service.	Denied	G sent resignation letter in lieu of brief.
13-PA-0226	Scott County Law Enforcement Labor Services, Inc.	Beens, Richard	Out of Title Pay	In absence of a Sgt, should Sr. Deputy receive deputy-in-charge pay? - no.	Denied	Contract requires deputy be assigned.
13-PN-0018	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Wages: '12-0%-e (u-3%), '13 & '14-u (e-2%, 2%). Insurance '13-e;'14-reopener.. Limit single to cost of base plan-no-u.	2012 - 0% 2013 - 3% 2014 - 3%	Wages-external-lost ranking since 2006 & only 1 intrnl settlement. Ins- amt intrnl pattern. Must neg Single ins.
12-PN-0968	Wright County (Interest Award) Wright County Deputies Association	Befort, Stephen	Interest	Wages-e (u-3%,3%,3%); Steps on anniv vs Jan 1-no-e; Longevity pay-n-e; On call \$30 to \$50-y-u; Court Time 3 hours-no-e; Uniform \$650,\$675,\$700-e (u-\$70-,\$750,\$800); Increase Vac-no-e; change Vac/Sick use-n-u; Def of child-y-e; Incr Severance-n-e; Funeral Leave-u; Change Floating Holiday-no-u.	2012 - 0% 2013 - 0% 2014 - 1%	Wages internal - did not change comparison group. Longevity-e, On Call-u, Uniform-e, Vac-e, Def of Child-e Severance-e, all based on internal pattern. Remaining issues failed for lack of compelling reason to change.

April, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Medical Transportation IAEP Local 167	Befort, Stephen	Termination	Ambulance driver failed to respond to code 3 with lights and siren.	Denied	Expeditious response is essence of driver's job.
13-PA-0661	Duluth, City of AFSCME Minnesota Council 5	Johnson, John	Demotion	Sr Engineering Tech-5d susp&demotd. Grievance timeline missed but City didn't present demotion to Civil Service Board.	Denied	Only non-displn demotions go to Civil Service. Contract grievance v Civil Service discussed. No contract bar to

12-PN-1086	Faribault County (Interest Award) Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Can city take Vac to correct overpaying? Wages:'12-1.25%,'13-0%-e (u-2.5%, 2.5%). Insurance - e.	2012 - 1.25% 2013 - 0%	recovering overpayment from vac time. Internal pattern, overall economy & fund balance of only 23%.
13-PA-0575	Hennepin County AFSCME Minnesota Council 5	Beens, Richard	Termination	Senior Social worker's errors & failure to complete cases.	Denied	6 years substandard performance in spite of counseling, training & discipline.
FMCS	Lutheran Care Center United Steelworkers Local 9230	Daly, Joseph	Termination	Nursing assistant yelling and swearing in presence of residents.	Denied	Just cause to skip progressive steps for her unprofessional behavior.
12 PN 1191	McLeod County (Interest Award) Law Enforcement Labor Services, Inc.	O'Toole, Carol	Interest	Wages-e; Range movement '12-1.5% '13-1.75%-u; Top lump sum \$.30,\$.40.	2012 - 0% 2013 - 0%	Sgt wages-internal pattern. Range movement equal to deputies.
13-PA-0462	Metro Transit Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Class A warning	LRT operator failed to enter pre-trip data (B violation) then went through a resulting red signal by 18 inches.	Denied	It does not matter by how much the signal was violated nor if there was actual damage.
13 PA 0460	Metro Transit Amalgamated Transit Union Local 1005	Kircher, Andrea	20 day suspension	Driver violated cell phone safety policy by failing to turn off & having Bluetooth device in pocket.	2 day susp.	17 yrs. service & phone was not being used. Suspension reduce and final record of warning removed.
13-PA-0152	Rochester, City of Operating Engineers Local 49	Jacobs, Jeffrey	Part Time/ Seasonal pay	City failed to pay Union rates. Cited 40 yrs. of past practice where Park Board set pay rate for seasonal ees. See August 2013 award for remedy.	Sustained	Contract denies benefits for part timers but not wages. Discussion of past practice; Ramsey Co v AFSME, 1981 Supreme Ct case & doctrine of latches.
13-PA-0405 13-PA-0406	Waseca County Teamsters Local 320	Jacobs, Jeffrey	Pay grievances	Wage calculations to implement a a revised salary range.	Sustained	Award based on Commissioners resolution of similar claim.
March, 2013						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals and Clinics - United Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Termination	Asked to stock "block cart" by a co- worker, Similar discipline in '04, '05 & '11.	Denied	Negotiated LOU allows ER to use repeated amount of time between incidents.
12-PA-1103	Blaine, City of Law Enforcement Labor Services, Inc.	Bognanno, Mario	4 day suspension	Failure to follow procedure re towing a trailer suspected of being stolen.	Split	Suspension stands. 2 charges not proven & references removed from file.
13-VP-0153	Brooklyn Park, City of Individual Grievant	Paull, David	Termination - V.P.	Probationary off. continued teaching. despite bar to off-duty wk while training.	3 day susp.	Failure to timely enforce led to belief actions were acceptable.
13-PA-0118	Clay County Law Enforcement Labor Services, Inc.	Lundberg, James	Termination	Eden Prairie PD reported K9 deputy drunk at motel pool late night party. And failing to self report.	Sustained	Wrong deputy identified. Rule and orders given during investigation lacked clarity.
12-PA-1169	Dakota Communications Center Law Enforcement Labor Services, Inc.	Dunn, Richard	3 day suspension	Dispatched officer to check welfare vs. sending medics for childbirth call.	2 day susp.	Significant recent disciplinary history but performance rating is satisfactory.
12-PA-1279	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Ogata, Harley	1 day suspension	Officer called to assist driver who was stuck. Failed to de-escalate situation.	Wrtn reprimd	Lack of progressive discipline. Prior reprimand 12 yrs. old therefore stale. ER's process errors didn't harm ee.
FMCS	Red Wing Shoe Company United Food & Commercial Workers	VerPloeg, Christine	Part-time employees	PT & temps hired "to meet production demands" when there was no such need.	Denied	Phrase describes type of work, not amount. No full time ees laid off.
February, 2013						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
AAA	ADT Security Services, Inc. IBEW Local 110	Malamud, Sherwood	Travel Pay	1st hr. of commute time from home is not paid. Should 1st hr. commute from hotel to work site be deducted? - No.	Sustained	Nothing to suggest "home" is a term of art vs the dictionary definition."Home of record" is address on file w company.

11-PA 1013	Austin, City of Austin Employees' Association	Jacobs, Jeffrey	Vacation Eligibility	Conflicting language--vacation credited on anniversary date or January 1st?	Sustained	Language added later is precedence where there is an inconsistency.
12-PN-0906	Brooklyn Center, City of (Interest Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages ('12&'13 u-2%+.05%;e-!%,1%) Longevity-add \$20 to 16yr step-u; Det. pay \$35/m-u; On call-no change-e; Insurance-contribution reduced-e	2012 - 2% 2013 - 2%	Wages-2% internal pattern. Longevity external comparison. Detective incrs external. Insurance-internal & rate dropped by 17% to 20%.
13-PA-0417	Duluth, City of AFSCME Minnesota Council 5	Jacobs, Jeffrey	Long Term Disability	Placed on LTD w/o ees request and before 120 sick days exhausted.	Sustained	120 sick days per year guaranteed by contract.
12-PN-0906	Hennepin County (Interest Award) Hennepin County Professional Social	Latimer, George	Interest	'12-no step,\$500 lump sum-e(u-steps + 5%);'13-step+1.5%-e (u-steps+5%); on	2012 - \$500 2013 - 1.5%	Wages-expanded duties didn't require large wage increase- internal pattern.
13-PA-0197	ISD 197, West St. Paul SEIU Local 284	Ogata, Harley	Termination - V.P.	Failed to stop 2 kindergarten girls from sexually assaulting a 1st grader.	Denied	May not have seen assault but failed to control unruly behavior on bus.
13 PA 0081	ISD 740, Melrose Operating Engineers Local 70	Remington, John	Bargaining Unit Work	Supervisors doing custodial work. 50% - no; 2.75 hours/day - okay.	Split	Can assign Unit work if less than 14 hours per week or 2.75 hours per day.
12-PA-0817	ISD 2142, St. Louis County Education Minnesota - St. Louis County	Gallagher, Sharon	Q comp/continuing Contract.	Refusal to pay earned Q Comp until new contract negotiated.	Denied	Historically haven't paid steps before new contract. Q comp MOU expired.
13-PA-0097	Ramsey County AFSCME Minnesota Council t	O'Toole, Carol	Reduction of Hours	Hours reduced at Lake Owasso Residence due to budget cuts.	Denied	Reduction in hours based on seniority. Intermittent employees released.
13-PA-0267	Starbuck, City of AFSCME Minnesota Council 5	Miller, Richard J.	Termination	Clerk/Treasurer's conflict with council over communication, budget/finance insubordination & attitude.	20 day susp.	Terminated after only 2 reprimands. Nothing so serious to eliminate need for progressive discipline
12-PA-1280	Welcome, City of Electrical Workers Local 160	Daly, Joseph	Bargaining Unit Work	City wants to hire Pub Works Director who would do bargaining unit work	Sustained	Can hire lead worker or foreman but a supervisor can't do unit work.

January, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PN-0380	Carver County Teamsters Local 320	VerPloeg, Christine	Interest Detention/Dispatch	'12-July 1% to min, .5% to max-e; '13-Jul 1.75%min,1.25%max-e (u-4%,4%); Step-no-e (u-4.5%); Market adjustment for dispatch-no-e (u-7%); Severance increase-yes-u; Uniform & Shift diff increases-no-e.	2012 - 0.5% 2013 - 1.25%	Wages-internal. Steps-negotiated away in 2009. Dispatch mrkt. adjstmt did not include longevity comparison. Severance-internal. Uniform & shift differential-internal.
12-PA-1219	Duluth, City of AFSCME Minnesota Council 5	Befort, Stephen	5 day suspension	Gross insubordination for failing to cooperate in fitness for duty exam.	Denied	A severe breach of discipline did not require progressive discipline.
12-PN-1005	Glencoe, City of (Interest) Glencoe Federation of Police	Lundberg, James	Interest	Officers. 2012-2%-u (e-2%if HSA is same as other ee's). H.S.A.\$2,040-u (e-\$1610).	2012 - 2%	Wages pattern. H.S.A. set at 68% in current contract. ER failed to establish need for change, thus \$2,040.
None listed	Minneapolis, City of Operating Engineers Local 70	Imes, Sharon	Pay rate for temp assignments.	Should temp assigned ees receive as wages the amount the exclusive rep negotiated for their union pension fund?	Sustained	Although Local 363 agreed to reduce wage rate by amount City forwards to union pension fund it didn't negotiate reduced wage rate.
12-PA-0324	Oakdale, City of Law Enforcement Labor Services, Inc.	Latimer, George	O.T. Distribution	Contract requires OT be equitable. OT offered to highest vs lowest earner.	Denied	Triple homicide - case falls outside normal circumstances.

12-PA-0355	Three Rivers Park District Law Enforcement Labor Services, Inc.	O'Toole, Carol	Demotion	New sergeant left area w/o notifying dispatch. Met w Champlin officer to obtain info on purchasing steroids.	Denied	Lack of judgment needed of sergeant. Claimed only doing research-should have used internet.
None listed	Twin City Hospital Workers Pension Fund, Union Tr Twin City Hospital Workers Pension Fund,	Gallagher, Thomas	Increase disability	Pension trustees at impasse. Union proposal to increase benefit.	Union position	Benefit last increased in 1985. Union increase.

2014 Arbitration Awards - Minnesota B.M.S.

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	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,	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	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	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%mkd 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,	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,	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	Combined grievance for 3 units. 2014 insurance premium went down. U seeking 100% of savings - but is not in contract.	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-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,	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	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 Flex	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 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	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	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	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	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	Holidays	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	Authority granted under one provision cannot be used to undermine another. Arbitrator Wallin, St. Francis, June 2010 ruled differently.
			Timelines		Sustained	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	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,	3 day	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 14-PA-0313	Blaine, City of Law Enforcement Labor Services, Inc.	Anderson,	Promotion Role of	Officer who scored highest for sgt. & w seniority passed over 2 separate times.	Denied	Seniority only trumps equal qualifications Those selected - leadership experience.

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,	Seniority	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	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,	Placement on Salary	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 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. to 8 hours. Contract lists 10 or 8.25hr shifts.	Sustained 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 pattern+.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	Seeking return of Vac used to attend training session.	Denied	Training was denied as not relevant so ER not obligated to pay.
			Termination	Fraud investigator insubordinate & un-cooperative. Co Attorney refused to accept his cases.	Denied	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,	Health	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	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,	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	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 -	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	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 AFSCME Minnesota Council 65	Jacobs, Jeffrey	Job	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,	Unit Work	Supervisors removed pea gravel from light rail track for safety reasons.	Denied	Past practice. No clear contract language
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April, 2014

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0148 13-PA-0581	Blaine, City of (See Court Order) Law Enforcement Labor Services, Inc.	Crump, Harry	Written 4 day	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.
Blaine, City of (Court of Appeals)		Court of Appeals	Public Policy 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,	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	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	Coach moved to non-coaching duties. Videos of his children bathing; cell phone personal use; children in locker room.	Not allowed Sustained	Impermissible discipl.& violation of CBA Pictures not sexual in nature; State policy on cell phones allows for reasonable use;
			Termination	Above issues & pornography on deptmen computers at office & home.	Oral reprimand	no proof of children in locker room. Porno on computer linked to assistants & prior users. Oral for allowing wife to use cmpr.
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	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 13-PA-0532	Isanti County Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Holiday pay	Officer on IOD did not receive Holiday pay.	Denied	Past Practice.
13-PA-0957	Minnesota, State of Minn. Gov. Engineers Council	Beens, Richard	Safety	\$125 boot allowance vs requirement to provide protective equipment or clothing.	Denied	Boot allowance limits requirement to 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	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	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 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	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,	Layoff vs	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
January, 2014						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0659	Crosby, City of	Remington, John	Demotion	Sgt. serving as officer's union steward	Denied	Demoted. Negligent in duties as suprv.
13-PA-0660	Teamsters Local 346		Termination	lied about his duties & revised his job description in negotiations.	Sustained	Returned to work. Comments made in bargaining are protected.
FMCS	Faribault Allina Medical Clinic AFSCME Minnesota Council 65	Gallagher,	Travel to	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	ISD 194, 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.
14-PA-0112	Education Minnesota Lakeville					
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	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.
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2015 Arbitration Awards - Minnesota B.M.S.

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, 2015						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PN-0326	Freeborn County (Interest Award) Teamsters Local 320	Miller, Richard J.	Interest	Dispatchers-taken over by County-1st. contract. Step placement-e; wages-b; step movement-e (u objected to listing part-time); OT over 40hrs-e (u-in excess of shift); OT by seniority-n-e; 120 hrs. comp time-u; working alone pay-u; call back-n-e; shift diff hrs-e; Vac/sick transition balance-n-e; vac accrual-e; holiday pay-u Severance to count city time-n-e; life ins-u	2015 - 2.25% 2016 - 2.25%	Wages-both parties agreed to pattern. Other awards based on existing Sheriff's Dept. contract patterns. Wrking alone pay-no one else in county familiar with city's system-no one to give breaks. Transition denied because city bought out benefits. Part-time definition-e; definitions of OT, scheduled shift, and breaks-n-e.
16-PA-0010	ISD 706, Virginia Virginia Education Association	Scoville, James	Health Insurance Contribution	If teachers are married to each other, ER pays 1 contribution towards family policy. U seeking 2 contributions. Practice in place 26 years.	Denied	Consistent w common business practice not inconsistent w contract-past practice stands.
			Arbitrability		Arbitrable	"Continuing violation doctrine".
15-PA-0870	ISD 728, Elk River AFSCME Council 5	Jacobs, Jeffrey	Insurance premium HSA,HRA accounts	Federal ERRP program allowed ER to pay \$33/mo towards insurance. Barred from paying into HSA, HRA accounts?-no.	Sustained	Contract calls for reduction of premium, didn't exclude HSA,HRA. Not paid into accounts but on ee's check.
15-PA-0559	ISD 625, St. Paul AFSCME Council 5	Kapsch, Frank	Bumping rights	Supervisor in another union was laid off & bumped an AFSCME ee from the position supervisor previously held.	Sustained	ER used civil service leave of absense rules to justify move. Specific contract language trumps civil service rules.
None listed	Minneapolis, City of Police Officers Federation of Mpls.	Befort, Stephen	Administrative Leave	Failure to return officers to duty beyond the duration listed in the contract.	Sustained	Unlimited administrative leave not allowed in the contract.
None listed	Minneapolis, City of Police Officers Federation of Mpls.	Jacobs, Jeffrey	10 hr. suspension	Officer using red light, but no siren in violation of policy, when hit by another car. 2nd accident calls for up to 10 hrs.	Written Rprmd	Disciplinary panel recommended a written reprimand, but increased by a deputy chief. Mitigation reduced penalty.
AAA	Xcel Energy, Inc. Electrical Workers, Local 23	Daly, Joseph	Termination	Foreman failed to follow safety rules & meet expectations while on DML & was. dishonest during investigation.	Sustained	34 yr. ee requires clear & convincing evidence. ER failed to provide any evidence of wrongdoing.
November, 2015						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Bay State Milling Company, Winona Bakery Workers Local 113G	O'Toole, Carol	Pay for lower classification wk. Timeliness	OT on weekends doing clean up work was paid at the "utility" rate vs normal rate. Did grievance meet contract rules?	Sustained	Weekend work did not entail layoff and bumping into a lower classification
					Timely	Issue not raised until the hearing.
15-PA-0509	ISD 200, Hastings Teamsters Local 320	Abelsen, James	Termination	Night custodian suspected of smoking marijuana at work.	10 day susp.	Unfair & unjust. Long term ee. Drug policy favors progressive discipline, not zero tolerance.
None listed	Minneapolis, City of-Convention Cntr. Teamsters Local 320	Bognanno, Mario	Termination	Careless handling of a moveable panel resulted in over \$2,000 damage.	1 month susp.	Long term ee, no priors. No backpay awarded. Ee must conduct reasonable job search to mitigate damages.
15-PA-0483	Newport, City of Law Enforcement Labor Services, Inc.	O'Donnell, John	10 day suspension	Video of Officer going into City Admin. locked office w custodian who resigned. U challenged use of surveillance camera.	5 day susp.	5 day suspension given in a similar incident. MN Court of Appeals ruled - Exclusionary Rule limited to terminations.

FMCS	SuperValu, Inc. UFSC Local 1189	McCoy, Arthur Ray	Termination	Falsifying meat slicer cleaning logs. She retroactively filled in log when told to make sure they were complete.	Sustained	Investigation flawed. Key witnesses not summoned to testify. No evidence data filled in was wrong nor clear policy.
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September, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PA-0986	Carver County MN Public Employees Association	Jacobs, Jeffrey	Holiday Pay	Deputies seeking 4 hrs. holiday pay when not working as provided in expired MOU, but contrary to new contract. Can ER change schedule? - Yes.	Split	ER paid for 11 months in error - didn't create a practice, but couldn't correct error until new year. Reduce schedule on Hol. - mngmt right.
15-PA-0436	Lakeville, City of Law Enforcement Labor Services, Inc.	Toenges, Rolland	Termination	Officer released active investigative info to media without authorization.	Denied	Violated state law & clear Dept. policy. Destroyed trust w other agencies.
15-PA-0798	ISD 94, Cloquet Education Minnesota Cloquet	Lundberg, James	Lane Change	Masters from St. Scholastica on-line program denied due to courses for licensure which were already required.	Sustained	The school is an accredited institution. Superintendent's discretion is limited.
			Arbitrability	Lane changes denied for 5 yrs., but newest grievances met timelines.	Sustained	Denials not negotiated with union, viewed as individual agreements.
15-PA-0740	St. Paul, City of Tri-Council, Teamsters 120	Crump, Harry	Termination	Street Maintenance truck driver under a Last Chance Agreement for accidents hit 4 cars with snow plow.	Denied	25 yr. ee. Union argued procedural error in accident review process, but process was fundamentally fair.
15-PA-0538	Wright County Wright County Deputies Association	Fogelberg, J.C.	Termination	Female deputy fired for associating w convicted felon & lying during IA investign.	60 day susp.	Excellent work record. Policy is vague. Lesser penalty in similar cases. 60 days for being "less than forthright" during IA.

August, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PA-0799	Carlton County Teamsters Local 346	Neigh, Charlotte	Medical Insurance for part-time ees	U unaware P.T. ees didn't receive insur. until ER offered MOU for insur. at same pro-rata level as other unions. U seeking full coverage.	Sustained	Contract lists part-time rate for other benefits, but no part-time limitation for insurance. Practice of never paying benefit doesn't trump language.
15-PA-0589	Clay County Law Enforcement Labor Services, Inc.	Beens, Richard	K-9 assignment	Deputy with prior K-9 experience & seniority denied position.	Denied	Assignment, not a promotion. Seniority plays not role. Not arbitrable.
15-PA-0692	Cook County Law Enforcement Labor Services, Inc.	Abelsen, James	Unit Seniority when not in Unit.	Appointed chief deputies given credit for time outside U. U opposed. ER-MN stat. 3.088 protects elected officials seniority.	Denied	Contract-"Continuous service record" with Co. not bargaining unit. Statute does not apply (appointed not elected).

July, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PA-0386	ISD 314, Braham Braham Education Association	Lundberg, James	Lane Change	Can credits earned before a Master's degree be applied to lane changes beyond Master's - yes.	Sustained	Contract does not specify the order in which credits are earned.
15-PA-0666	ISD 914, Ulen Ulen-Hitterdal Education Association	Orman, Anthony	Denial of Master's	Approval for Masters in Educational Leadership degree denied to math teacher.	Denied.	Contractual requirement that advanced degree be germane to assignment.
FMCS	Kemp's LLC Teamsters Local 160	Daly, Joseph	Past Practice	Does a shift starting at 11:00pm count for day it starts or day where majority of hours are worked? Suprv overrode pay	Sustained	OT implications. Practice in place for 2 yrs. before discovered-no other ees treated this way, but company is

				system to credit day majority of hrs worked.		responsible for acts of its agents.
FMCS	People's Energy Cooperative IBEW Local 949	Befort, Stephen	Unilateral Changes	Restructuring due to expanded territory. Was it an unfair labor practice telling temp workers they might not be hired if plan not approved?-no not a promise nor threat.	Split	Can't use residency as qualification for promotion to evade contract language. Standby territories allowed if don't skew OT.- challenge not foreclosed.
15-PA-0088	St. Cloud, City of Law Enforcement Labor Services, Inc.	Beens, Richard	2 day suspension	Officer improperly handled a robbery. Didn't notify suprv., or forward for invest.	Denied	Proper progressive discipline. 2 prior written reprimands.
15-PA-0148	Wright County Teamsters Local 320	Jacobs, Jeffrey	Termination	Correction's Sgt fraternizing w inmate within 1 yr of release & using cell phone in jail both in violation of policies.	Written Reprimand	1 yr. fraternization bar does not apply if friendship predated incarceration. Cell phone was 1st discipline- written reprmd.
June, 2015						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PN-0251	Brooklyn Park, City of AFSCME Minnesota Council 5	Befort, Stephen	Interest	1st contract P.T. FF. 2 yrs.-u (e-1yr); Wages-u (e seeking steps based on hrs vs yrs.); U & ER Security-u; Out of class pay-u; Certifications-u; Seniority-e; Call Back-e; Hol.-e; Residency-e; Discipline and Work Schedules-split.	2016 - 2.5%	Wages same as full time. ER seeking steps based on hrs. vs yrs.-awarded yrs., but longer than u request. U seeking Insurance, Severance, Sick, IOD, Light Duty, Jury Duty & Bereavement-awarded if ees work 20 hrs/wk. (ER policy).
14-PN-0350	Carlton County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Sheriff's Supervisory - 1st contract. Wages:'13-1.75%-e(u-4%),'14-2.25%- e(u-4%), '15-4%-e&u agreed.	2013 - 1.75% 2014 - 2.25% 2015 - 4.0%	Wages internal pattern. U seeking to increase differential (5.28%) v deputies. ER conducting mrkt study-"wait for study".
15-PA-0457	ISD 196, Rosemount, Apple Valley, Eagan Support Staff Association of ISD 196	Roberts, Andrew	5 day suspension	Custodian brought dog to work. Confronted co-worker who reported her. Took sick day when scheduled to meet suprvr.	1 day susp.	No clear rule about dogs in school. Went to clinic on sick day. 1 day for retaliating against co-worker.
15-PA-0435	ISD 278, Orono School Service Employees Local 284	Daly, Joseph	Qualifications vs Seniority Timeliness	Maintenance Tech position given to external applicant. Did timeline start when denied position?	Denied Sustained	Not qualified. Mngmt has right "to define the job duties required". Started once position filled.
15-PA-0170	Mille Lacs County AFSCME Minnesota Council 65	Befort, Stephen	Unpaid Leave while campaigning	Asst. Co. Attorney placed on unpaid leave while a candidate for Co Attorney. Personnel Board found a conflict of interest.	Denied	U argument is an attack on PBA/Co Board hearing process. Should have appealed to MN Court of Appeals.
14-PA-0808	MN Judicial Branch, Third District AFSCME Minnesota Council 65	Ogata, Harley	Termination	Court clerk made 1,400 inappropriate DVS look ups. Only 2 of 26 ees had no look ups. 8 disciplined-3 highest abusers terminated.	15 day susp.	Discipline intended to be corrective, not punitive. Only 1 violation after memo re policy. Arb.Neigh reduced 1 termination to 10 day suspension, see Dec. 2014.
FMCS	North Memorial Medical Center Minnesota Nurses Association	Befort, Stephen	Attendance Policy	ER unilaterally adopted new attendance guidelines regarding use of sick leave.	Sustained	Contract bars discipline based solely on number of days used.
15-PA-0343	Spirit Mountain Recreation Authority AFSCME Minnesota Council 5	Abelsen, James	Recall from Layoff	Recalled ees paid at rate of position they were filling vs their regular rate.	Denied	Contract calls for pay in job range close to regular pay. New position only 1 rate.
May, 2015						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PA-0009	ISD 152, Moorhead Education Moorhead	Gordon, Paul	Tentative Agreement	Signed TA not placed into CBA. Union failed to review draft contract.	Denied	A TA does not become part of the CBA unless it is adopted into the CBA itself.
None listed	Metropolitan Airports Commission Individual Grievant - V.P.	Kapsch, Frank	Termination - V.P.	Sgt engaged in inappropriate relations w female subordinate. Continued texting when asked to stop & lied during investigation.	1yr. Demotion	Investigation incomplete and flawed. 525 texts between parties before she asked him to stop texting.

14-PA-1085	Metropolitan Council Teamsters Local 320	Jacobs, Jeffrey	80 hr. suspension	Officer punched handcuffed prisoner who spit at him.	Denied	Excessive use of force. Prisoner's head hit concrete - ended up in hospital.
None listed	Minneapolis, City of Police Officer Federation of Minneapolis	Lundberg, James	Permanent Demotion	Sgt. made 2 sexually charged comments to a female officer.	90 d demotion	Demotions have been for substandard work, not 1 case of misconduct.
None listed	MN State Colleges & Universities MN State College Faculty Union	Wallin, Gerald	Termination	St. Paul College carpentry instructor did not meet Sabbatical leave requirements.	Denied	Changed plan w/o approval. Did not finish course work. No prior discipline.
15-HA-0560	Regions Hospital AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Medical assistant ordering drugs for the hospital, signed forms as a registered pharmacist.	Reinstated w/o backpay (7 months).	Long term employee, exceptional work record. Forms filled out at direction of her supervisor. No personal gain.
None listed	St. Paul, City of AFSCME Council 5	Jacobs, Jeffrey	Termination	City code inspector used computer restricted to inspectors to influence an enforcement action on her property.	2 day susp.	No specific rule prohibiting action. Case remained open, computer id'ed her as person entering comments-she admitted.

April, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15-PA-0039	Anoka County Law Enforcement Labor Services, Inc.	Jensen, Eugene	Termination	Deputy pled to gross misdemeanor stalking of a female deputy.	Denied	Return to work would violate mission of ER to preserve the public trust.
15-PA-0491	Duluth, City of Firefighters Local 101	Latimer, George	Unilateral change to health insurance	Insurance is self funded. ER payed ees to opt out contrary to contract thereby saving ER monthly contributions to fund.	Split	ER ordered to pay fund amount tied to fire opt outs, but not amount fund lost due to other union's opt outs.
15-PN-0011	Hennepin County (Interest Award) Hennepin Co. Sheriff's Suprv. Assn.	Crump, Harry	Interest	Wages-2014 & 2015-2.5%, 2.5%-e u-2.5% +1% to top each year); Holiday pay - n-e.	2014 - 2.5% 2015 - 2.5%	Wages-pattern. Deputies 2.5%+1% due to double digit turnover-valid reason for exceeding pattern. No suprv get Hol pay.
15-PA-0201	Lake City, City of Law Enforcement Labor Services, Inc.	Remington, John	Overtime if using PTO	Officers denied OT due to using Paid Time Off. Does PTO = hrs. worked?	Sustained	PTO can't be considered hours worked, but is part of the normal schedule & OT in excess of normal schedule awarded.
None listed	MN Employment & Economic Dvlmnt. MN Association of Professional Ees	Befort, Stephen	Termination	Job Counselor did Spanish to English translations for Crystal Sugar at work.	10 day susp.	16 yr. ee with good work record. Only 23 emails during 2 yrs. Previous suprv. gave okay, & he wasn't paid for work.
None listed	Minnesota, State of, Human Services MN Assoc. of Professional Employees	Imes, Sharon	Termination	Sexual harassment. Showed sexually explicit picture to female co-worker; continued asking her to lunch after she said no; overly friendly & flirty.	1 week susp.	Unwelcome actions did not amount to sexual harassment. Failed to consider good work record. Inappropriate use of computer & showing photo=1week susp.
14-PN-0916	Wabasha County (Interest Award) Teamsters Local 320	Latimer, George	Interest	Deputies. Wages: '14 - 4.84% (1.5%+ 3.34% mkt adj.)-u (e-1.5%), '15 - 2%-e (u-3%), '16 - 2.5%-e (u-3%). Shift Diff \$.55-u (e-offered if receipts for uniforms); Comp bank from 120 to 150 hrs.-n-e. Court Cancel fee-n-e; IOD from 3 to 6m-n-e Increase travel food allowance-n-e; Receipts for uniform allowance-n-u.	2014 - 4.84% 2015 - 2% 2016 - 2.5%	Wages-'14 external market, '15&'16 - internal pattern. Shift Diff.- same as jail & dispatch. Retro despite ER claim they can't compile necessary records. Comp bank-internal & external. Court cancellation fee-no compelling reason/ IOD- external average. Food & Uniform no compelling reason for change.

15-PA-0314	Winona, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	Termination	Police office charged with DWI, lost his license for 60 days.	Denied	City has consistently followed policy to terminate if license is lost for 60 days.
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March, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-1233	Anoka County Law Enforcement Labor Services, Inc.	Laumeyer, James	Interest	Dispatchers. U-change merit pay plan to longevity plan-n-e; Wages-0%,0%-e (u-4%,4%); Merit-3%,3%-u (e-0%,2%); Shift leader 5%-u (e-3%); 3.5 hours required for shift lead pay-e (u-all hours); Seniority bidding-n-e; Paid lunch-n-e	2014 - 0% 2015 - 0%	Radical action should be negotiated. Wages-internal pattern & mkt ranking. Merit-dire internal inequity & malfunction of merit pay re movement. Shift leader-current practice. Seniority/Lunch-efficient & effective operations favor ER position.
15-RA-0298	Cemstone Teamsters, Local 120	Jacobs, Jeffrey	Termination	Driver swore at co-worker who told him he was supposed to call dispatch.	Denied	2yr Last Chance Agreeemnt due to anger issues didn't allow for a lesser penalty.
15-PA-0248	Clearwater County Minnesota Nurses Association	Ogata, Harley	Step advances w/o time in grade	Nurse hired at 3 yr. pay step based on experience. U-experience should be added to service time for pay advancement.	Sustained	ER considered gap between 10yr step and 15yrs as a longevity step requiring actual service. But no contract language.
15-PA-0250	ISD 534, Stewartville Stewartville United Educators, Ed MN.	Jacobs, Jeffrey	Overload Pay	Teachers assigned 6th class with no overload pay.	Sustained	Overload awarded due to extra work and loss of prep time.
			Timeliness	Does timeline begin at notice of change or date of change? - Date of change.	Sustained	Discussion why arbitrators hold date of change is event giving rise to grievance.
15-PA-0362	Sherburne County Law Enforcement Labor Services, Inc.	Ogata, Harley	Demotion	Sergeant failed to remove his firearm before entering booking area. Initially 1 day susp considered, but after looking at performance reviews he was demoted.	1 day susp.	If performance issues were significant enough to cause a demotion, he should have been place on notice that they could lead to demotion.

February, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PN-1018	Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Corrections. 2 yrs.-e (u-3y); Wages-0% w steps each yr-e (u-3.5%+steps per y). Those at top no step but 3.5% each yr. Longevity- n-e (u seeking new benefit).	2014 - 0% 2015 - 0%	Duration-intrnl. Wages based on pay for performnc cost-no external wage pattern. 3.5% for those at top due to no access to step. Longevity-no compelling reason.
14-PN-1127	Crow Wing County (Interest Award) Law Enforcement Labor Services Inc.	Toenges, Rolland	Interest	Deputies. Duration-3y-u (e-2y); Wages-u (u seeking 3% each yr w steps;E-0% each year w steps). 7 of 11 units on pay for performance vs steps.	2014 - 2.5% 2015 - 2.44% 2016 - 2.33%	Duration - already in middle of 2nd year. Wages-ER positon is major departure. Discusses performance vs steps & turnover gain. Wages=Internal cost avg.
13-PA-0735	Hennepin County Teamsters Local 320	Johnson, John	2 shift suspension	Juvenile Corr. Officer refused to let disruptive juvenile use bathroom facilities.	1 shift susp.	Went to bathroom twice within 1 hr. but denied 3rd request 20m later. Discipline for failing to de-escalate situation.
14-PA-0630	Minnesota Dept. of Human Services AFSCME Minnesota Council 5	McCoy, Arthur Ray	Termination	Human Services tech failed to notify ER that her DL was suspended.	Denied	Driving is a basic job duty. Contract requires immediate notification on limits.
15-PA-0106	Rochester, City of, Public Utilities IBOE Local 949	Tidwell, Carol	Termination	Ee said he could kill a former lead who was retired for 5yrs. Zero tolerance policy.	Verbal Wrng	20yrs, no priors. Disparate treatment, policy does not require termination.

January, 2015

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
14-PA-1237	Austin, City of UAW Local 867	Biggar, David	Job Bidding	Water Maintenance Tech added to CBA. Req. Master Electrician lic. U believes lic. moves w ee - senior ee w/o lic.tried to bump.	Denied	U based grievance on answers to quest. raised during neg. ER clarified position prior to vote. No contract language.
14-HN-0839	Cook County Hospital (Interest Award) Minnesota Nurses Association	Frankman, Janice	Interest	Wages: '14-3%-u, '15-2%-u (ER wanted to reclassify nurses. Hospital nurses 1.75% each yr. all others .75% each yr.). Insurance retain 85/15 split-u (ER 80/20); Discretionary leave-n-ER; Longevity-n-ER.	2014 - 3% 2015 - 2%	Wages-external pattern & ER's proposal required creation of new classifications. Insurance-internal pattern. Leave - no compelling reason. Longevity-should be dealt with at bargaining table.
14-PA-0861	Duluth, City of AFSCME MN Council 5	Jacobs, Jeffrey	Call Out Overtime	U challenged city's right to use stand-by crews for sewer emergencies vs most senior sewer workers.	Denied	U cited past practice, but both contract & policy changed. 3 arbitrations on same issue. Collateral Estoppel argued by city.
14-PA-0860	Duluth City of AFSCME MN Council 5	O'Toole, Carol Berg	Call Out Overtime	Same issue as in Boyer & Jacobs arbitrations.	Denied	Contract issues the same. Grievants have different seniority.
15-PA-0058	ISD 709, Duluth AFSCME MN Council 5	Lundberg, James	Insurance - eligibility change.	Paras have me too Insurance language w teachers. PIEP changed eligibility from 20 to 24 hrs. Teachers accepted.	Sustained	Me too applies to coverage & premiums. Unilateral eligibility change not allowed.
FMCS	Mayo Clinic, d/b/a St. Mary's Hospital SEIU Healthcare Minnesota	Beens, Richard	Short Term Disability Benefit	ER unilaterally increased waiting period 10 to 40 hrs. based on "me too" language.	Denied	Clear contract language and past practice that was not grieved.
13-PA-0564	MN Department of Corrections AFSCME Council 5	Yaeger, Thomas	3 day suspension	Gave prisoner info on impending writs. & signed inaccurate time cars.	Denied	Transfer information raises security issues. Timecards = fraud.
13-PA-0823			10 day suspension	Failed to report prisoner's threats.		Progressive discp. Re boundary issues.
14-PA-0266			Termination	Showed prisoners restricted payroll data & talked re investigation when warned not to.		Termination only 3 months after being disciplined for similar boundary issues.
14-PA-0766	Minnesota, First Judicial Branch Teamsters Local 320	Johnson, John	Termination	Absences, tardiness, failure to provide FMLA data within 15 days; performance. ER would not have moved to terminate if FMLA was timely received.	Sustained No backpay.	Performance not mentioned in notice of Intent to discipline-so not allowed. Confusion over FMLA filing undercut ER's case which focused on FMLA.
FMCS	Mortenson Masonry, Inc. Bricklayers & Allied Craftworkers, Local 1	Gallagher, Thomas	Double-breasting	Employer maintained 2 companies. 1 union & 1 non-union doing masonry work.	Sustained	Ordered to pay union wages for all work done by the non-union company.
FMCS	Office & Professional Empl Local 12 United Steelworkers District 11	Jensen, Eugene	Termination	Union BA injured in off-duty accident failed to return Union equipment, or provide requested info re return after leave expired.	Denied	ER considered this abandonment of job. Ruled a termination with just cause.
FMCS	3M Company United Steelworkers Local 11-418	Bognanno, Mario	Layoffs due to Weather	Ees sent home & not given chance to bump less senior ees when natural gas curtailed to plant due to weather.	Split	1st event-an emergency-denied. 2nd should have been planned for-sustained. Explained requirements for past practice.

14-PA-0411	University of Minnesota AFSCME Minnesota Council 5	McCoy, Arthur Ray	10 day suspension	Legal secretary violated the retention policy when she destroyed a file	Denied	Prior discipline and no evidence she attempted to correct poor performance.
14-PN-0683	Winona County (Interest Award) AFSCME Council 65	Lundberg, James	Interest	Attnys. Add 2 3% steps-y-u;'14-1.25%-u(e-1%); '15,'16-agreed amnt; Single Insurance 5%-n-u; Grade advance language-n-e; Indemnification-n-e; Private rep for grievances-n-e	2014 - 1.25% 2015- 1%, 1% 2016- 2%, 1%	Steps-no pattern re # of steps, low pay per pay equity & market. Wages-2 other groups received 1.25%; '15 &'16 agreed. All on Single Ins-no Fam subsidy needed. No compelling need for other issues.

2016 Arbitration Awards - Minnesota B.M.S.

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

"Sustained" means

December, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Dairy Farmers of America Teamsters Local 471	Latimer, George	Termination	Milk plant employee exceeded allowable points in no-fault attendance policy.	Denied	20 year ee. Mitigation re regulating medication for depression rejected due to consistent application of policy.
16PN0662	Hennepin County (Interest Award) Hennepin County Sheriff's Deputies	Befort, Stephen	Interest	Deputies. Parties agreed to wages based on pattern:'16-1.5% to steps, 2.5% to top step; '17-1.5% steps, 2.5% top step;'18 2.5% across the board. Market adjtmnt-1% across the board each year-u (e-0%).	2016 - 3.5% 2017 - 3.5% 2018 - 3.5%	Turnover is 7.73% vs county wide norm of 4.25%. Pay is low vs 7 county area.
16PN0726	Marshall, City of (Interest) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Officers. Limit Arbitrator authority-n-u; Limit time of effect of Arb award-n-u; Bar class action grievances-n-u; Prohibit just cause for probationary ees-n-u; Prohibit grievances for probationary ees-n-u; Increase shift pay-n-e; Remove list of uniforms provided-n-u; Eliminate severance n-u; Pay holidays v day off-n-u; Duration-3y	2016 - 3% 2017 - 3% 2018 - 3.25%	Proposed language changes failed to offer any compelling reason for change. They are issues more suitable to give & take of bargaining. Wages - external, losing ground to market average. Duration - 1st year finished, 3years adds to stability of relationship.
16PA0550	Public Housing Agency of St. Paul AFSCME Council 5	Bognanno, Mario	Timeliness Termination	Ee failed to report to work for 5 days w/o notice-considered a voluntary resignation. Step 4 grievance not filed within 10 days. ER refused to arbitrate due to timeliness.	Denied	U went to District Court where arbitration was ordered to determine timeliness. Mitigation not considered - consistent application of timelines.
16PA0975	Richfield, City of Law Enforcement Labor Services, Inc. See Court of Appeals reversal, April 2018 See Richfield, City of - Supreme Court reversal, February 2019	Neigh, Charlotte	Termination	Officer tagged a Somali driver, told him to leave area; he returned on foot w friends, was passively resistant. Officer used coarse language, slapped driver's head & shoved him to leave area. Failed to write use of force report.	3 day susp.	10yr ee with one oral reprimand. Accusing group of lying, who are lying, is not basis for concluding racial bias. Use of force not unreasonable. Lack of report is basis for discipline.
16PN0928	St. Louis Park, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Sergeants.Wages '16-2.75%-u (e-2.5%) 17-2.75%-e (u-3%); Mrkt. '16-2.5%-u (e-0%), '17-2.75%-u (e-\$.20/hr.). Uniform cleaning language-y-u.	2016 - 5.25% 2017 - 5.5%	Wages - internal pattern not compelling. Award accounts for Sgts predicted pay under pay equity & ranking in external market. Unifrms-limited to contamination.

November, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0461	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Deputies.2 yr-u (e-1y); Wages:'16-0%-e (u-2.5%),'17-0%-e (u-2.75%); Mrkt Adj. '16-2.5%-u (e-0%, u-asking \$1.50), 2017-2.5%-u (e-0%, U withdrew request but 2.5% is approx 1/2 of \$1.50); Merit-2% & 2%-both; changes to wage schedule-n-u; Range max-'16-4.5%, '17-4.5%-u (e-0%); Change LOA on evaluations-n-u.	2016 - 2.5% 2017 - 2.5%	2 years for stable labor relations. Wages-0% for 2016 is the non-rep pattern. Mrkt adjtmnt-Sheriff testified 10% vacancies (9 deputies) that he is unable to fill due to wages; 2.5% market & 2% merit increases the range by 4.5% & is how it was handled for 10 years except for 2013
16PN0668	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Dispatchers. 2y-u (e-1y);Wages-'16-0% e (u-2%),'17-0%-e (u-2.75%); Merit '16-2.5%-u (e-2%);'17-2.5%-u (e-2%); Market adj.-no-e(u-\$.75/h); changes to wage schedule-n-u;	Merit increase two years.	2 years-deputies award & only 1 month left in year. Wages-internal pattern. Merit .5% more than pattern deals with "restrained progression". Market - no problm hiring.Schedule-should negotiate.

16PA0932	Isanti, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	40 hr. suspension Fitness for Duty	Off-duty officer stopped a car for traffic offense after Lt told him to call dispatch. Self reported PTSD symptoms. Dr he selected found him unfit. 2nd Dr found him fit. City sent him back to 1st Dr who now found him fit.	8 hour susp. Denied	Insubordination, 14 years of Service with no discipline. Union claims city guilty of delays and should have put ee back to work after 2nd Dr.'s fitness report. City's actions not barred by contract nor policy.
16PA0773	Minnesota Colleges & Universities AFSCME Council 5	Crump, Harry	Termination	Bookstore coordinator at Fergus Falls sold books to vendor & kept the cash.	Denied	Case based on circumstantial evidence. No criminal charges but diffrent standard. of proof from criminal prosecution.
16PA0850	St. Paul, City of St. Paul Police Federation	Toenges, Rolland	Military Training Pay	MOU provides city will cover any loss of pay upon call up for active military service. Seeking pay for 106 day call up for BLOC training.	Denied	MOU excludes training - intended for active duty in Middle East & elsewhere. Contract provides for making up pay for 15 day annual training.
14PA0655	Waite Park, City of Teamsters Local 320	Crump, Harry	10 day suspension Arbitrability	Officer lied to county attorney that he didn't receive a court notice. Contract requires ee sign step 1, Union BA signed step 1 and it was refused.	3 day susp. Arbitrable	15 years with good record. 10 days not consistent with progressive discipline. Signature not a defect as to substance. No comment re 29mo. delay before Arb.
16PN0950	Winona County (Interest) AFSCME Council 65	Jacobs, Jeffrey	Interest	County attorney's. Should ees pay 15% toward single health insurance-n	Union's Position	All other ees pay 15%. Internal pattern ignored due to 2 prior arb awards on this issue w/o a quid pro quo for the change.

October, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0484	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Vernon, Gil	Interest	Work Release. 1 yr-e (u-2y); Wages-2% (e-0%, u-5%); Merit-3%-u (e-2%); new wage system-u.	2016 - 2.0%	9th arbitration since 1990, all over same issue-WRO vs Det Deputy pay. Creates more reasonable wage relationship.
15PA0922 16PA0161	Blaine, City of Law Enforcement Labor Services, Inc.	Befort, Stephen	40 hr. suspension 12 hr. suspension	Officer didn't reply truthfully when asked for his location by a supervisor. Failed to respond to 2 calls in a timely manner & failed to submit 12 call reports.	24 hr. susp. Denied	No financial profit by sandpapering the truth. 24 hrs similar to 2 other arbs. 3 prior inattention to duty verbal reprimands.
16PA0797	Cottonwood County AFSCME Council 65, Local 578	Yaeger, Thomas	Step Increase	Did MOA raising pay for HEO's require step on anniversary plus one on Jan.1st.	Denied	Ambiguous language between MOA & contract. Union wrote MOA language.
16PN0817	Dakota County (Interest) Teamsters Local 320	Bognanno, Mario	Interest	Corrections. Parties agreed to wages. Scheduling for training-n-u; Uniforms '16-\$600-u (e-\$525); '17-\$550-e (u-\$600) Full cost if uniforms changed again?-n-e. Market pay adjustment-n-e.	2016 - 2.5% 2017 - 2.5%	Wages-pattern. Scheduling-"If it ain't broke, don't fix it". New uniforms for 2016. Mrkt adjustment-situation differs from other who received adjustment. Arbitrator discussed approach to cases. Statue contrary to labor relations tradition of evidentiary hearings.
17PA0139	ISD 727, Big Lake School Service Employees Local 284	Ver Ploeg, Christine	Summary Disposition	ER pursuant to 572B.15(b) of Uniform Arb act seeking to bar U from arbitration. 1. Subcontracting right not arbitrable 2. Grievances not ripe. 3. If ripe, untimely.	Arbitrable Not ripe Timely	Court-New Ulm-based inquiry required. Parties still mediating new contract. Days refer to working days by statue.
15PA0725	MN,State of, Dept of Military Affairs AFSCME Council 5	Jacobs, Jeffrey	Timeliness	Timeline for arbitration fell on a Sunday, the request was sent on Monday. Was grievance timely?-yes,	Sustained	Ruling relied on state laws & regulations governing computation of time. If last day is a Sat. Sun. or Holiday it isn't counted.
16PA0851	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Gordon, Paul	Record of Warning	Bus driver failed to make the proper stop at a railroad crossing.	Denied	Mitigation, ie a full vs a rolling stop would block traffic, was considered but denied.
16PA0941	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Neigh, Charlotte	20 day suspension	Bus driver used his cell phone to notify dispatch that his MDT wasn't working.	Denied	18y ee. Clear policy enforced uniformly. Could have stopped to make call.

16PA0574	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Remington, John	Assigning work	Mechanic delivered a part to an outside vendor vs. a storekeeper delivering it.	Sustained	Requirement to "maintain the following job classifications", limits mangmt rights.
None listed	Minneapolis, City of Police Officers Federation of Mpls.	Befort, Stephen	Termination	Unreasonable use of force; failing to report per policy; inappropriate language. Prior discipline regarding use of force.	40 hr. susp.	Pushed a woman twice, she fell down - force unnecessary but wasn't a take dow so no report required. Language not proven. Prior discipline can't be used pending Arbitration on matter.
16PA0431	Minnesota, State of SEIU Healthcare Minnesota	Yaeger, Thomas	Union Dues	A fiscal intermediary didn't withhold Union dues when PAC's told them they hadn't signed cards. U provided info - back dues collected & sent to U. U - dues must be collected monthly; money sent back to members, asked State to pay dues.	Sustained	Fiscal intermediary not party to contract so can't be ordered to pay. Failure to collect dues monthly created a hardship on members. State ordered to pay amount of dues Union returned to members.
16PA0957	Ramsey County Law Enforcement Labor Services, Inc.	Vernon, Gil	Termination	Off-duty K9 officer was drunk and beat his dog. Pled guilty to Animal Cruelty misdemeanor.	7 mo. Susp.	20 year ee, no prior discipline, enrolled & completed treatment, worked for 4 1/2 months before being fired. Last chance returned with no back pay.
16PA0740	West St. Paul, City of SEIU Local 284	Abelsen, James	Termination	School bus driver drove into fast food parking lot in violation of policy striking a parked vehicle. Prior discipline.	Denied	Common law of the business from the Steelworker Trilogy used to determine just cause.

September, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0637	Blaine, City of (Interest Award) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Officers:1 yr-e (u-2y); 2016-3%-u (e-2%); Wage schedule modification-n-e; 2nd tier wage plan-n-u; Insurance-\$70-u (e-\$30); Detective pay increase-n-e; Directed Operations Group uniforms-n-e.	2016 - 3%	Duration-lack of data for 2nd yr. Wages-internal (e-officers received more in last contract); Changes to pay plan-rarely awarded. Insurance-no pattern-50% of increase awarded; Detective pay & D.O.G. lack compelling reasons.
16PN0429	Blue Earth County (Interest Award) MN Public Employees Association	Jacobs, Jeffrey	Interest	Jailers:2 yrs-e (u-3y); wages-both agree; Market increase-n-e; hazard pay-n-e; Change retention schedule on rprmds-n-u; Vac payout only if in good standing-n-u Boot allowance incr-y-u. Shift pay incr-y-u; Lunch break-n-e; FTO pay-n-e.	2016 - 2.5% 2017 - 2.5%	Mkt increase-high turnover but, reasons other than wages, few if any arbitrators have awarded mkt increases. Issues not awarded lacked compelling rational. Increases awarded to fixed \$ amounts. Discussed why Attorney's court case doesn't apply.
16PA0307	Faribault County Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Failed to take control of pills after he encouraged civilian to trade for them at a bar. Pointed his loaded weapon at other deputies on 6 occasions.	Denied	Gun pointing is serious conduct not requiring progressive discipline. Bar incident wouldn't have led to termination. In Washington Co. 05PA0599 (Befort '05) reduced termination to 30 days for gun pointing due to ER failure to warn.
16PA0721	ISD 152, Moorhead Education MN Moorhead	Orman, Anthony	Preparation period	ER was assigning work during teacher's preparation period. U-must seek volunteers.	Sustained	Dispute over meaning of work assign. Language & past practice.
16PA0280	ISD 319, Nashwauk-Keewatin AFSCME Council 65	Befort, Stephen	Timeliness	ER did not receive request for Arbitration within 10 days. U claimed it was sent.	Denied	No evidence the letter was sent. Even if sent didn't request arbitration as required.

16PA0492	ISD 2184, Luverne Luverne Education Association	Yaeger, Thomas	Lane Advancement	Teacher with 17 graduate credits hired at BA+10. Seeking BA+20 after earning 3 more credits-denied for lack of prior approval.	Sustained	After accepting 10 credits when hired, ER failed by not notifying ee the other 7 credits could not be used.
15PA0729 15PA0741	Lakes-Area Police Department Law Enforcement Labor Services, Inc.	Lundberg, James	Overtime	2 officers seeking OT for working the annual "Karl Oskar Days" due to short notice & past practice.	Denied	No past practice. No contract violation.
16PA0897	MN Judicial Branch AFSCME Council 5	Altman, Robert	Termination	Sr. Court Clerk hid 350 orders he hadn't completed, used Judge's approval stamp on orders not approved & fraudulently coded events in MNCIS system.	Denied	19yrs. service, no prior discipline, but egregious nature of actions & damage to courts reputation & integrity made return impossible.
None listed	Minnesota Department of Corrections Middle Management Association	Lundberg, James	10 day susp.	Lt. failed to write a report after viewing a video of a security violation that occurred in the jail five days earlier.	1 day susp.	35 year employee with good record. Deputy present at time of incident given written. Warden recommended 1 day.
15PA0309	MN State Colleges & Universities No Hennepin Community College AFSCME Council 5	Biggar, David	Temporary Work during Layoff	Seasonal employee's rights to temp job during layoff denied because job started before layoff or ended after recall.	Sustained	Right to temp job begins after seasonal ee laid off - no bumping right for temp job Can't deny temp job during layoff period even if it extends beyond ee's recall.
FMCS	New Brighten Health & Rehabilitation UFCW Local 1189	O'Toole, Carol Berg	Schedule Change	ER had trouble filing different shift so created a new schedule w/o Union input.	Sustained	ER claimed management right but rights were limited by Hours of Work language.
None listed	Port Group Homes SEIU Healthcare Local 113	Beens, Richard	Timeliness	Filed for Arbitration 1 year after step 3. ER moved to waive mediation.	Sustained	ER provided a timeline waiver. If no letter from ER a different result warranted Violated policy and direct order.
			Termination	Privacy violation-counselor sought personal info from resident after warnings.	Denied	
FMCS	Zup's of Aurora UFCW Local 1189	Remington, John	Severance Pay	Store closed, ees denied severance, because they were offered jobs at a store in a different city.	Sustained	waiver of timeline. Contract required employment if new ownership or a different store under the same contract. Neither applied. Never trained as a cashier, but had cashier experience w different employer.
			Seniority rights	Senior ee not offered work given junior employee because she wasn't qualified.	Sustained	
August, 2016						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16RA0598	Cemstone Teamsters Local 120	Jacobs, Jeffrey	Seniority	Junior drivers at Lakeland allowed to work on a rain day while senior drivers at other locations sent home.	Denied	Contract language. Past practice arguments fail. Discussion on Past Practice.
16HA0805	Douglas County Hospital IUOE, Local 70	Befort, Stephen	Starting Pay	Personal care attendants paid above starting pay based on experience.	Denied	Start means start, but practice since 1999 rules. Can negotiate change. Pay is ongoing-grievance can be filed after any pay date. Retro is not timely.
			Timeliness	Untimely, been practiced since 1999.	Denied	
16PA0754	ISD 544, Fergus Falls Fergus Falls Education Association	Lundberg, James	Insurance Contribution	Wife wanted ER to pay her insurance benefit into her husbands family plan.	Sustained	No past practice - situation hasn't arisen. Contract language & Wrenshall case BMS 14PA0752 (June 2014). MS 363A bars marital status discrimination.
16PA0697	Itasca County Itasca County Employees Association	Biggar, David	Termination	Lt. told ee outside his chain of command to see him if she needed to talk, Used squad car for personal business.	30 day susp.	24 yrs. Ee with excellent record. Case involves charges & counter charges w outside agencies investigating.
16PA0738	Mahnomen, County of Law Enforcement Labor Services, Inc.	Paull, David	Termination	4th DUI, failed to take breath test,barred from driving w/o interlock system, lied on job application, Brady-Giglio impaired.	Sustained but w LCA	3 yr. tenure, no prior discipline. N. Dakota DUI not listed on job app was discovered after termination. Difficulty in attracting & retaining officers.

None listed	Metropolitan Council Rodney Pierre - Veteran	Jacobs, Jeffrey	Termination - V.P.	Bus driver failed to pass his CDL test.	Denied	Policy allows 2 attempts to pass test. 2nd fail disqualifies employee.
16PA0713	Pennington County IUOE Local 49	Daly, Joseph	Termination	"Last Straw" discharge - 11 priors. EE drove a seriously overloaded trailer & sarcastically asked supervisor, "is that enough dirt for you?"	Denied	Misconduct that alone is not cause for discharge is sufficient based on number of chances given in progressive discipline See ISD 282, Kircher, June 2012.
16PN0659	Three Rivers Park District (Interest) Law Enforcement Labor Services, Inc.	Daly, Joseph	Interest	Officers. Wage reopener-3%-u (e-1%).	2016 - 3%	External comparison to Stanton 5 & 6. Internal pattern is 1%.

July, 2016 BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0469	Benton County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Deputies: 2 yrs (u-3, e-1); 2016-1%Jan, .25%July-e (u-3%); 2017-3%-u (e-2%). Shift pay-\$.15incr to \$.75-e(u-\$1&change hours);Remove 288 hr. cap on Vac till end of yr. vs quarterly-u; Insururance-50% of increase each year-e (u-total cost of increase. FTO pay-\$1.50-u (e-.50, 1.00)	2016 - 1.25% 2017 - 3%	Duration-lack of settlements for"18. Wages-'16 internal,'17external (\$4 below top pay of comps). Out of compliance w pay equity but ER failed to provide data & next report is 2019. Shift hrs-intrn, amt external. Vac bank will exceed pattern. Insurance pattern. FTO-market.
16PA0092	Columbia Heights, City of Law Enforcement Labor Services, Inc.	Lundberg, James	Timeliness Termination	Case bifurcated, timeline challenged first. New secretary unfamiliar w process.	Denied	Parties have never deviated on timelines. Clear contract language.
16PA0266	ISD 108, Norwood Young America Central Education Association	Beens, Richard	Timeliness Timeliness Retiree Insurance	Arbitrator selection required in 10 days. Submit info to Arbitrator within 5 days. Retired teacher told he would receive free coverage for 10 years.	Denied Denied Denied	ER's inaction constitutes a waiver. No prejudice to employer. Payroll clerk not authorized to promise benefit. Contract provides a limit.
None listed	Minneapolis, City of Police Officers Federation of Minneapolis	Jacobs, Jeffrey	Termination	Officer used profane language & made racist comments during an arrest. Violated new chief's code of conduct.	Denied	24 yr ee with numerous awards. 1 prior discipline that was pending at time of arb. Chief entitled to set standards.
16VP0806	Minneapolis Public School, SSD #1 Individual Grievant	O'Toole, Carol Berg	Termination	Inappropriate communication, rude & unprofessional behavior, data violations, insubordination & inefficiency in teaching.	Denied	10 year ee. Progressive discipline. Refused Union representation. Acted as her own counsel.
None listed	MN, State of, Dept. of Human Services MN Assoc. of Professional Employees	Befort, Stephen	Termination	Supplemental Order to March 2016 award. Ee was returned to his position as Chaplain, but positon was eliminated prior to his return. He was laid off and informed of other positions.	Union's position	Grievant did not persue other positions. ER free to reorganize, but original award modified from no back-pay to 40 days back-pay. See March 2016.
16PN0318	Minnesota, State of (Interest Award) MN Government Engineering Council	Wallin, Gerald	Interest	Engineers. Wages 2015-2.5% + 1% to top step-u (e-2.5%), 2016-2.5% + 1% to top step-u (e-2.5%), Move ESS from grade 7 to 8-n-e. Increase Def. comp match-n-e.	2015 - 3.5% 2016 - 3.5%	Pattern is 2.5%. 1% added to top, MS 43A.18 Subd.8(b) requires a reasonable relationship to outside jobs. Grade incr.&Def. Comp-not compelling.
16PA0859	Red Wing, City of IAFF, Local 2078	Jacobs, Jeffrey	24 hour susp. & Written Reprimand	Firefighter used the stations PA and called a Captain, "a piece of shit".	Denied Ltr amended.	Violated City Policy. Common sense does not need to be codified.

15PA0950	University of Minnesota Teamsters Local 320	Abelsen, James	1 day suspension	Building/Grounds worker failed to return building keys at end of her shift.	Denied	Mitigating circumstances discounted. Clear policy & prior discipline re keys.
16PA0165	Wabasha County AFSCME Council 65	Gallagher, Sharon	Written Reprimand	Bringing union rep per Weingarten for a non-disciplinary meeting when told it wasn't disciplinary is insubordination. No prior discipline.	Verbal warning	No prior discipline. Daugherty's 7 tests for just cause challenged by Dunsford's conclusions they are misleading in substance & distracting in application.
June, 2016						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PA0021	Anoka County Law Enforcement Labor Services, Inc.	Toenges, Rolland	Right to reduce shift.	.25 hr. early start for shift change briefing eliminated. U challenged loss of OT using "past practice" argument.	Denied	Issue of practice arises when practice is inconsistent w contract. Contract doesn't bar ER establishing work schedules.
None listed	ISD 593, Crookston Crookston Education Association	O'Donnell, John	Error in Contract Language	Retiree definition removed from contract. Teacher retired - denied benefits, due to failure to meet the retiree definition in the previous contract. ER claimed they did not agree to remove the language. Language restored to the contract by Arbitrator.	Denied	ER drafted contract, but Union told the secretary to remove language. Contract requires: "manifestation of mutua assent" & "certainty of terms". Each subsequent offer repudiates the prior offer. No agreement to remove language.
15PN0916	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Dispatch. Wages-agreed to pattern 2%, 2.5% & 2.6%. Mkt Adjustmnt. '15-0%-e (u-2.9%), '16-0%-e(u-2.9%), '17-2%+2.6% pattern-u (u seeking 2.9% ea yr.; e-0%). Call back & OT liquidation language - n-e.	2015 - 2% 2016 - 2.5% 2017 - 4.6%	Market adjustment-follows market based awards given to Commanders & Deputies. Call back & OT liquidation-union failed to meet burden necessary for change.
May, 2016						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PA0671	Blaine, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Past Practice Insurance Opt Out	City has 20 yr. practice re paying for opt outs. Union repudiated practice, seeking full pay, but did not negotiate new language.	Denied	Contract silent, paymnts rely on practice. Expansion requires new language. Discussion on Past Practice.
15PA0696	Dakota County MN Public Employees Association	Jacobs, Jeffrey	Written Reprimand	Jail Lt. failed to notify his supervisor SRT Unit was called out. Also failed to report and investigate use of force.	Denied	U claimed SRT corporal should have made use of force report - but, Lt. is responsible to see that report was written
AAA	Xcel Energy, Inc. IBEW Local 23	Daly, Joseph	Temporary Vacancies	ER failed to fill 2 vacancies at its garage due to vacation & illness. U seeking OT.	Denied	Staffing is a management right. Union claimed past practice but no evidence.
April, 2016						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Boise White Paper LLC United Steelworkers Local 159	Beens, Richard	Temp assignment below class.	EE temporarily assigned to lower job to fill in for vacations. Received regular pay.	Denied	Management right. Neither contract nor practice prohibits assignments.
15PA0346	Goodhue County Law Enforcement Labor Services, Inc.	Dunn, Richard	Injury on Duty Past Practice	Failure to pay difference between Work comp & regular pay. ER charged sick account to make up difference.	Sustained	Relied on past practice. Union repudiated practice. Discussion on practice and how to repudiate.
None listed	Minneapolis, City of Police Officers Federation of Mpls	Befort, Stephen	Bid Assignment Expedited arbitratio	Officers coming off admin leave not returned to previous bid assignments. ER-not return to work, but assignment.	Denied Sustained	Specific vs general contract language. Return would disrupt operations. ER interpretation is too narrow.
16PA0068	MN, State of - Crosswinds & Perpich State Residential Schools Ed Assoc.	Befort, Stephen	Pay during School Breaks	Teachers told they must use vacation to be paid for winter & spring breaks vs being allowed to work.	Sustained	Practice allowed teachers to work for additional pay and can't be unilaterally changed. Discussion on inferred practice.

15PN0673	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Deputies. Wages: '15-2%, '16-2.5%, 17-2.6% - both. Market adjustment: 15-1.2\$, '16-1%, '17-1% - u (e-0%).	2015 - 3.2% 2016 - 3.5% 2017 - 3.6%	Wages based on pattern. Market adj.- external; pay equity predicted pay; and Commander Feb 2016 award for 3.2%.
16PA0351	Rosemount, City of Law Enforcement Labor Services, Inc.	Roberts, Andy	Termination	Ee pointed his laser equipped pistol at a co-worker. Inconsistent & incomplete statement given. U challenged there was no Garrity warning or questioning.	Denied	EE provided voluntary written statement that was inaccurate. Serious misconduct does not required progressive discipline.
16PA0396	Spirit Mountain Recreation Authority AFSCME Council 5	Jacobs, Jeffrey	3 day suspension	Refusal to wear footwear after being told to do so & rude/unprofessional behavior toward her manager. Occurred before her shift so ee claimed she was a customer.	Denied	General obligation to observe plant rules. Swearing at supervisor was determining factor. Discussion on nexus to work place of off duty conduct.
16PA0231	Traverse County AFSCME Council 5	Daly, Joseph	Termination	Deputy Auditor/Treasurer used postage meter without reimbursing County.	12 mo susp.	Lack of clear & convincing evidence. Casual & lax practice re postage meter.
15PA0792	University of Minnesota MN Public Employees Association	Ogata, Harley	Vac/Comp time PRHCSP	Officer leaving for another job unable to use vac/comp time due to understaffing so money place into PRHCSP.	Denied	Clear language in MOU. EE also given opportunity to extend vacation in Nov. but refused.

March, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PA0970	Cook Hospital AFSCME Council 65	Beens, Richard	Termination	Nursing assistant told nursing home patient he was pissed because he had to clean him.	15 day susp.	Mistreatment of a vulnerable adult. Procedural violations at Loudermill meeting. Similar Appellate Court case.
15PN0566	Hutchinson, City of (Interest Award) MN Public Employees Association	Befort, Stephen	Interest	Police. Wages-u (u-3,3; e-2,2); Shift Differential-n-e; OT-count vac as hours worked-n-e; Language-eligible for wage increase despite discipline-u.	2015 - 2.25% 2016 - 2.25%	Wages external average. Shift Differentia & OT lacked compelling reasons for change. Language-existing practice. Discussion of Arbitration Standards.
None listed	MN, State of, Dept. of Human Services MN Assoc.of Professional Employees	Befort, Stephen	Termination	Chaplain at Recovery center in Brainerd Failed to cooperate with background study.	Split	U claimed confusion regarding order. Returned to work but no back pay. See Supplemental Order July 2016.
AAA	N.S.P. d/b/a Xcel Energy Inc. IBEW Local 160	VerPloeg, Christine	Overtime	Work crew are comprised of Benefit & non-benefit (Union bench) ees. U feels only benefit employees should receive OT.	Sustained	Despite 30 yr practice, contract language only applies to benefit employees.
16PA0124	Ramsey County Law Enforcement Labor Services, Inc.	Anderson, Richard	Termination	Deputy arrested for DUI 3/8/14, pled on 2/13/15, given 25 day susp. on 6/19/15. Arrested for Gross Misd. DUI on 6/6/15. Terminated on 6/20/15	9 mo. Susp.	Delay in suspension on 1st DUI while waiting for the court case raised due process concerns on subsequent termination. Returned with no backpay.
16PA0388	St. Paul, City of International Union of Painters Council 82	Johnson, John	Union work	Retired painter called back to train new painter on paint striping machine. Hired as a machinist so painter pension not effected.	Sustained	U seeking OT for active painter, but his current duties create time conflict. ER ordered to pay U dues during training.

February, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PN0621	Carver County (Interest Award) AFSCME Council 65	Neigh, Charlotte	Interest	Attorneys. PTO donation-n-e. Severance update-e; wages '15-0%, '16-2%-e (u-5%, 5%);performance pay-up to 4.25%-e (u-7%), increase after prob-u; prorating merit-n-u; add language on eligibility for merit-n-u; delete obsolete language re PFP plan-y-e.	2015 - 0% 2016 - 2.0%	PTO donation-not fully developed, failed to show need. Severance-eliminates obsolete language, Wages&merit-pattern Remaining awards based on internal patterns.

15PA0855	Chaska, City of Law Enforcement Labor Services, Inc.	Miller, Richard J.	Termination	Officer used racial profiling in making traffic stops, manipulative conduct with county attorney & lied during investigation.	Denied	Giglio-impaired due to untruthful answers during Garrity. Co. will not accept his testimony in criminal cases.
16PA0051	ISD 2889, Lake Park - Audubon Education MN - Lake Park, Audubon	Latimer, George	Lane Advancement	Superintendent approved credits for lane advancement, not knowing they were professional development, not graduate level courses	Sustained	Credits were approved as required by the CBA. Note: current negotiation attempt to clarify language doesn't mean language says the opposite.
15PA0631	Metro Council Amalgamated Transit Union Local1005	Jacobs, Jeffrey	Termination	Policy calls for termination when driver has 4 chargeable accidents in 36 months.	Denied	13 years service doesn't mitigate. Policy valid and has been consistently applied.
15PN0624	Nobles County (Interest Award) Teamsters Local 320	Toenges, Roland	Interest	ER implemented a new pay plan & offered the awarded wages. U seeking additional \$1.50 hr. shift pay for jail- no. Correction Officer 2 moved to Probation Officer 1 at a lower start, but a higher top. U claims it is a promotion so must start higher.	2015 - 1% 2016 - 2.25% 2017 - 2.5%; Denied	Internal pattern; no one else in Co. has shift pay; Miller Jan 2016 did not award shift pay to Sergeants. A voluntary reduction by terms of contract and Personnel Rules.
16PA0037	Ramsey County Teamsters Local 320	Abelsen, James	Voluntary Move	Not filed within 21 days.		ER failure to object constitutes a waiver.
16PN0020	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Commanders.'15-2%-e(u-3%),'16-2.5%-e(u-4%),'17-2.6%-e(u-5.1%), increase POST lic.pay-n-e; Mkt adj. '15-3.2% + 2% pattern-u (e-0%)	2015 - 5.2% 2016 - 2.5% 2017 - 2.6%	Wages-internal pattern. Market adjtmnt 3.2% based on pay equity underpaymnt. Award compares cities to counties.
16PA0189	Red Wing, City of AFSCME Council 65	Anderson, Richard	Sick Leave, non-family member	Can sick leave be used for girlfriends Doctor appointment?	Sustained	Immediate family includes "bona-fide permanent member of household".

January, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PN0652	Clearwater County (Interest Award) Teamsters Local 320	Jacobs, Jeffrey	Interest	Communication officers. ER seeking to change 65/35 split for family Insurance to the ER's 50/50 pattern.	No change	No quid pro quo nor compelling reason for change. 2 prior arbs supported the Union. (Teamsters have own ins.plan).
15PN0458	Nobles County (Interest Award) Teamsters Local 320	Miller, Richard J.	Interest	Jail Sgts. seeking shift differential.	Not awarded.	No quid pro quo nor compelling need & no one else in county has benefit.
16PA0170	Metro Transit Amalgamated Transit Union 1005	Bauman, Susan	Termination	Bus driver making a right turn, struck a bicycle rider. Union didn't dispute driver was responsible.	60 day susp.	50% of those involved in similar accidents were returned under LCA's. ER did not provide sufficient evidence showing why this was different. 9 yr. ee with previous LCA that expired more than 3 yrs. ago therefore could not be used in this case.
None listed	Metropolitan Council Terry Fulford - Veteran	Jacobs, Jeffrey	Termination - V.P.	Bus Driver lost his CDL as a result of a D.U.I.	Denied.	Without a CDL-Veteran is incompetent within meaning of the statue.

2017 Arbitration Awards - Minnesota B.M.S.

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, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0928	<u>ISD 88, New Ulm</u> New Ulm Education Association	Latimer, George	Staff Meeting Pay	Teachers asked to attend meeting to plan kindergarten registration. Meeting 3:00 to 4:00, basic school day ends 3:30pm.	Denied	No clear practice, but contract allows for reasonable participation in school activities including staff meetings.
17PA0999	<u>ISD 435, Waubun-Ogema-White Earth</u> Waubun Education Association	Biggar, David	Lane Advancement	Can graduate credits earned prior to a Master's be used to advance to MA +15.	Sustained	No clear practice barring use. Argument credits weren't germane rejected-reason it wasn't brought up until arbitration.
17PA0728	<u>SSD 1, Minneapolis</u> Minneapolis Federation of Teachers	Beens, Richard	7 day suspension	Behavior Dean failed to follow sign in/out policy;combined lunch w breaks; refused to handle student behavioral issues.	Denied	Displayed lack of sound judgement, defiance & inability to get along with co-workers.
17PN0325	<u>Wright County (Interest)</u> Teamsters Local 320	Jacobs, Jeffrey	Interest	Sheriff's supervisors. Wages-'17,18,19-2.5%,2.5%,2.5% (parties agreed). 10% Mrkt Adjust-no-e; Retro pay-u Uniform-'17,18,19-\$800-u (e-\$700), Off duty MOU-\$ amt.=1.5% sgt rate-u.	2017 - 2.5% 2018 - 2.5% 2019 - 2.5%	Wages-internal pattern-agreement at arb. "Few if any, interest arbitration's in recent years have awarded market adjustments. Uniform-same as deputies. Off duty listed as \$ amt. not increased since 2014.

November, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0789	<u>Brooklyn Center, City of</u> Law Enforcement Labor Services, Inc.	Daly, Joseph	2 day suspension	Violation of chase policy and language used to control suspect.	Denied	Language use was appropriate for the situation. Although in compliance with parts of chase policy, excessive speed warranted 2 days.
17PA0653	<u>Rice County</u> Minnesota Public Employees Assoc.	Jacobs, Jeffrey	Overtime Past Practice	Voluntary take home car policy required deputies to start 15 minutes early. Union asking for OT going back 2 yrs. per statute.	Denied	23 yr. practice-BA did not know practice but steward did. Issues of FLSA, Unfair Labor Practice, Statute re backpay limits are outside Arbitrators authority. Good discussion of past practice.
17PA0127	<u>State of Minnesota, MSAB</u> State Residential Schools Ed Assoc.	McCoy, Arthur Ray	Creating New Pay Schedule	Music Therapist at MN Academy for the Blind moved from MAPE to Teacher contract due to legislation defining position as a teacher. W/o required license she would receive \$10,000 below current pay so ER added MAPE pay schedule into contract.	Sustained	ER errored by unilaterally placing MAPE schedule into teacher contract and for not recognizing position as a teaching position as a result of legislation. EE had academic qualifications & ER could have applied for provisional license.
16PA1015	<u>University of Minnesota</u> Teamsters, Local 320	Finkelstein, Phillip	10 days to return to old position? - Past Practice	Past practice for Building & Grounds workers who have 10 days to return to old position. Does practice carry over to Senior B&G positions - no.	Denied	No contract language & never applied to Senior Building & Senior Grounds positions - therefore no past practice.

October, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PA0912	<u>Hennepin County</u> Hennepin County Sheriff's Deputies	Jacobs, Jeffrey	Termination	Deputy charged w stalking-acquitted; felony drug possession-Alford plea; storing gun in unsecured location with children in house.	Denied	7 yrs., no discipline. Violations so serious normal progressive discpln inappropriate, & loss of trust warrants removal. Media attention considered an important factor.
17PA0466 17PA0470	<u>Maplewood, City of</u> Law Enforcement Labor Services, Inc.	Crump, Harry	Body-Worn Camera	U challenged policy prohibiting officers from reviewing camera video prior to providing a voluntary statement & random supervisor review of video.	Denied	U injunction denied in District Court citing inherent managerial authority. Arbitrator ruled not substantively arbitrable

September, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0050	<u>Isanti County</u> Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Demotion	Made hostile & harassing calls to officer in another Dept. Failed to monitor a chase.	Denied	Failed to follow policy & procedure after repeated coaching & discipline.
17PA0469			Termination	Falsified a report relating to his patrol	Denied	Violated policy re required Rural Patrol falsified log and lied about it.
17PA0818	<u>Litchfield, City of</u> Teamsters Local 320	Tidwell, Carol	Termination	Sgt. arrested for DWI. Lied to arresting officer about drinking. Lost license for 1 year. Prior alcohol problems.	Denied	Installing an ignition lock on squad would be expensive, potentially unsafe, & not operationally feasible.
16PA1073	<u>Ramsey County</u> Teamsters, Local 320	Befort, Stephen	Termination	Probation officer at Boy's Totem Town failed to report contact with a released offender & touched a female inmate.	Denied	25 yr ee with good record, but egregious act can overcome good work record & a general desire for progressive discipline.

August, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PN0560	<u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Ammended award 4/2/18 - Lic. Suprv. Market. Adjustment '18-5%-u (e-0%). ER failed to provide requested data.	2018 - 5%	ER agreed to reopen arbitration w new data showing Deputy Chief & Majors received 7.5% mrkt adj. despite n turnove
17PN0560	<u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Lic. Supervisors. Initial award 8/25/17. Market adjustment '16, '17, '18 - 0%-e. Wages '16-1.5%, top 2.5%; '17-1.5%, top 2.5%; '18-2.5%-agreed based on pattern.	2016 - no 2017 - no 2018 - no	Wage pattern agreement. U seeking market adjustment of 5% over 3 yrs- No. No adjustments unless attraction/retentio issues.
17PN0203	<u>Hennepin Co. Medical Center (Interest)</u> Hennepin County Paramedics & EMT's	Befort, Stephen	Interest	Wage reopener. 2017-2% first 5 steps, 1.75% for remaining steps-e (u-3% 1st 5 steps, 2.5% remaining steps).	2017-1.75%	Clear internal pattern & Hospital's finances are in a distressed state.
17PA0866	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005	Remington, John	Record of Counseling	Bus driver relieving another driver on an in service bus, thought the driver said something upon leaving bus. He followed him demanding to know what was said.	Split	Leaving the running bus did not constitut abandonment - he could still see bus. Confronting driver improper but record expunged due to no discipline for other e
17PA0597	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005	Tidwell, Carol	Written Warning	Bus driver received written warning for a 2nd accident within 3 years.	Denied	Responsibel accident standard - could diver have prevented accident? Yes.

July, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0215	<u>Hennepin County</u> AFSCME Council 5	Kapsch, Frank	3 day suspension	EE refused to give his chair to suprv. at roll call meeting. Suprv tipped over chair and took it. EE claimed he was placed in head lock & leg was lifted. Witnesses did not see the physical assault.	1 day susp.	ER failed to establish willful lying about incident, but ee was insubordinate and failed to cooperate with co-workers.
17PA0276	<u>Hennepin Healthcare System, Inc.</u> AFSCME Council 5	Paull, David	Termination	Hospital protection officer punched a restrained patient after he was slugged, threatened, and spat upon.	Denied	Regardless of provocation, gratuitous violence can't be tolerated. Grievant's denial of striking patient makes it less likely he could correct his error.
17PA0342	<u>Minnesota Department of Corrections</u> AFSCME Council 5	McCoy, Arthur Ray	Termination	Corrections officer assaulted woman at a bar. Not truthful during investigation.	Denied	Found not guilty at trial. But "just cause" has a different standard. Discussion of "Clear & Convincing" standard.
16PA0065	<u>West St. Paul, City of</u> Law Enforcement Labor Services, Inc.	Crump, Harry	Overtime	Officer on vacation volunteered to work off-duty at Wal Mart (who contracts officers through the city) - seeking OT.	Denied	City policy prohibits using sick or vac. to create OT situation. Voluntary work at Wal Mart does not require FLSA OT.

June, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0643	<u>Cass County</u> AFSCME Council 65	Daly, Joseph	Termination	Child protection worker's 2day absence due to DWI arrest. Prior verbal & written.	10 day susp.	Progressive suspension step ignored due to ees cavalier attitude - not proven. Ees embarrassment more likely cause.
17PA0510	<u>Elk River, City of</u> Operating Engineers, Local 49	Bognanno, Mario	Rental Uniforms	1st contract. Uniform amount from prior policy & a new shoe allowance negotiated U didn't neg. rental option from old policy.	Denied	U-benefit is a past practice, since not specifically barred it continues. ER - zipper clause eliminates past practice.
17PA0147	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005	Roberts, Andrew	Arbitrability	Can ees be held to DOT requirements if States can opt out? -Yes.	Denied	Reasonable safety requirements are a management right - not arbitrable. ER provided light duty job, then offered another job but U would not allow seniority to accrue. ER agreed to accept exception to DOT if approved by Mayo DR.- ee-no.
			Medical Absence	Was ER required to accommodate disability beyond 185 days of light duty? - No. Then laid off until 1yr DOT requirement met.	Denied	
17PA0367	<u>Minnesota Judicial Branch - Anoka</u> AFSCME Council 65	Laumeyer, James	1 day suspension	Sr. Court Clerk rude & unprofessional with court staff & clients. 1 day susp. & removed from court assignment.	Denied	17 complaints from 11 individuals. Union challenged hearsay nature of complaints. Discussion on how hearsay analyzed.
17PG0261	<u>St. Paul, City of</u> Electrical Workers, Local 110	Jacobs, Jeffrey	Arbitrability	Assignment made to accommodate ee with medical restrictions under ADA -no contract issue. U cited bumping rights.	Sustained	ADA does not trump contract.
			Seniority	U relied on bumping language put into contract in 1976 when new Sunday shift implemented. ER-for Sunday shift only.	Sustained	App B "For all normal work weeks..., which includes Sunday..." does not eliminate coverage to shifts w/o Sun wrk.
17PA0475	<u>Sauk Rapids, City of</u> Law Enforcement Labor Services, Inc.	Tidwell, Carol	Termination	2 complaints of unnecessary tasing & 6 times he left city in squad car to go home.	2 day susp.	Troubling that 1st tasing & leaving the cit incidents only investigated to support termination. 2nd tasing violated policy.

May, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0798	<u>Crow Wing County (Interest Award)</u> Law Enforcement Labor Services, Inc.	Paull, David	Interest	Corrections. 3y-u (e-1y); Wages; *steps 0 0%, 0%-e (u-2.75% each yr.), if already at top 3.24% (based on average differential between steps)-u (e-0%). Add 2 steps to schedule so those moving to top in future could catch those who moved to top in a prior year-n-e	2016 - 0%* 2017 - 0%* 2018 - 0%*	Duration-labor stability & 1st yr. passed. Wages: County has a performance pay system, a few groups still have steps & they received 0% on steps & 2% to 2.5% for those at top. Wages patterned after Miller's Feb 2015 award. New steps-n. Award only intended as a "patch".
None listed	Minneapolis, City Police Officers Federation of Minneapolis	Befort, Stephen	Demotion	Lt. demoted to Sgt. for untruthfulness, use of derogatory language & inability to work with interjurisdictional partners.	Denied	Insufficient evidence re derogatory language. A discussion on the weight given hearsay evidence in Arbitration.
16PA0739	<u>Moorhead, City of</u> Law Enforcement Labor Services, Inc.	Gordon, Paul	Tuition Reimbursement	Officer denied tuition reimbursement due to lack of funds. Program not funded for almost 10 yrs. Denial was arbitrary & capricious.	Denied	Issue previously arbitrated (Jacobs 2011) Language gives City right to approve or fund tuition reimbursement. Recession & hiring 24 officers valid reason to deny.

April, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0614	<u>Anoka County (Interest)</u> AFSCME Council 5	Miller, Richard J.	Interest	Probation Officers-1st contract. 2 yrs (e-1yr, u-3yrs). Wages-parties agreed on merit incrs. Stewards paid to negotiate-n-e. OT over 40hrs vs 171hrs-u; OT accrual-n-e; 5% shift leader pay-y-u. Xmas eve hol-e; Transfers & shift assignments-u. PT benefits-e. Seniority-no award; Tort language-n-e; Placing policies in contract-n-e; Paid breaks-no-e; ESS differential of 5%-y-u; Payroll deduction for U PAC-n-e	2016 - 2% 2017 - 3%	Duration-1st yr. expired, no data for 3rd Pay to negotiate-not common, requires quid pro quo. OT over 40hrs has been th practice. OT accrual stopped by ER prior to organizing. Xmas eve, U trying to add benefits for PT. Transfer & Shift language to other contracts. PT benefits-no incrs. Seniority-important issue should be neg. Tort and Policies already covered in other places.
17PA0155	<u>Metropolitan Council</u> Transit Managers and Supervisors Ass.	Malamud, Sherwood	Demotion	Suprv., off-duty, posted Facebook video that was racially charged. Seen by ees who complained to management.	Denied	Ability to perform supervisory duties was fatally compromised. Nexus to work-40 to 50 calls complaining about video.
17PA0032	<u>Minnesota Judicial Branch</u> AFSCME Council 5	Latimer, George	Termination	8 Senior Court Clerks terminated & 2 suspended, for using Court's electronic communication tools inappropriately for personnel conversations re court proceedings.	Denied	Certain types of ee misconduct are so offensive & harmful to the employer, that extensive warnings not required to justify termination of employment.
FMCS	<u>Polar Tank Trailer, LLC</u> International Assoc. Machinists & Aerospace	Hoffmeyer, Steven	Spousal Insurance	Provision added to contract after U vote requiring spouse working for another ER carry single insur. to qualify for family here.	Denied	Clearly communicated to U that insurance was still being neg. Contract provides for same insurance as non U & management
17PA0412	<u>St. Paul, City of</u> St. Paul Police Federation	Miller, Richard J.	Termination	Suspect in man w gun call, failed to comply w orders. K-9 bit suspect & while on ground grievant kicked him 3 times in chest.	30 day susp.	No policy barring kicks; K-9 officer's excessive use of force received 30days; Civilian review panel recommended 30d.

March, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PA0986	<u>Dakota County</u> Law Enforcement Labor Services, Inc.	Laumeyer, James	Special Duty Pay upon Promotion	Policy calls for 10% increase over base pay when promoted. Union seeking 10% above differential received while in a temporary assignment-citing past practice even though new language negotiated.	Sustained	Past practice controls because there wasn't discussion of intended meaning. Practices are not changed solely with appearance of new contract provisions.
17PA0139	<u>ISD 727, Big Lake</u> School Service Employees Local 284	Ver Ploeg, Christine	Subcontracting	District refused to negotiate decision to subcontract food service (mgmt. right). Effect neg. to impasse - then implemented.	Denied	Decision to subcontract is different than bargaining the Effects. Analysis of New Ulm Supreme Crt case.
17PA0140	<u>Lac qui Parle County</u> AFSCME Council 65	Miller, Richard J.	Arbitrability	HEO applied for HEO position in a diff. location. ER challenged arbitrability claiming management right to assign.	Arbitrable	Discussion on factors determining arbitrability. Contract language on filling positions makes this arbitrable.
			Filling Position	Junior ee selected. U claimed sr. denied because ER didn't want him to transfer. ER junior ee had better work attitude.	Denied	Modified seniority clause. Selection not arbitrary, capricious or made in bad faith. Harsh consequences of reversing hire.
17PA0146	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005	Miller, Richard J.	Record of Warning	Fellow bus driver swore & made threats grievant responded in kind.	Split	Instigator received 3y final warning which added to prior final wrng netted 5-1/2mo incr. Thus this 3y wrng reduced to 5-1/2m
16PA0581	<u>Metropolitan Council, Transit Police</u> Teamsters Local 320	Powers, Nancy	Termination	Officer engaged in St. Paul chase w/o notifying dispatch, failed to put it in the log. 2 other code of conduct violations. Brady impaired due to IA testimony.	Denied	Brady impaired? Just cause must be determined independently. New officer who demonstrated he is unable to follow policies & takes steps to conceal acts.
17PA0119	<u>Springfield, City of</u> AFSCME Council 5	Powers, Nancy	Parental Leave	Employee using sick/vacation for FMLA seeking additional Holiday pay on holiday.	Sustained	Contract provides, ees will receive extra days pay for each holiday.
16PA0435	<u>ISD 284, Wayzata</u> School Service Employees Local 284	Gordon, Paul	Senior Qualified	Jr. ee selected for truck driving position over Sr. ee. Contract requires seniority if candidates are "equally qualified".	Denied	Relative ability vs sufficient ability. Jr. ee was more qualified so seniority was not in play.
			Timeliness Acquiescence	Violated Contract's timelines U failed to follow through on previous G, tried to change language in negotiations	Timely Denied	Delay due to ER failure to provide info. Grievance are dropped for many reasons Failure to change language doesn't bar U right to challenge interpretation.
17PA0115	<u>Western Lake Superior Sanitary District</u> AFSCME Council 5	Neigh, Charlotte	Termination-Last Chance Agreement	An arbitrator found LCA unenforceable. District Court reversed ordering rehearing with a new arbitrator. Ee was tardy in Violation of LCA & terminated.	Denied	Arbitrator limited to reviewing if employee violated terms of LCA.
<u>Western Lake Superior Sanitary District</u>		District Court	Vacate Decision	Arbitrator Lundberg did not determine if e violated LCA, but ruled LCA unenforceable.	Vacated	Arbitrator exceeded scope of his authority Award vacated.

February, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PA1014	<u>Eagan, City of</u> Law Enforcement Labor Services, Inc.	Lundberg, James	Vacation use	Officer denied vac on July 4 due to Dept. policy where all hands needed to police city festivities.	Sustained	Arbitrator did not agree all hands were necessary. Dept. must evaluate each request & justify city's need per contract.
			Comp use	Comp time denied on July 4. FLSA requires allowing use within reasonable time.	Not arbitrable	Contract is subject to laws of U.S. but does not incorporate laws into contract.

16PA1093	<u>Freeborn County</u> Minnesota Public Employee Assoc.	Roberts, Andrew	2 day suspension 1 day suspension	Deputy failed to search prisoner who cut up back seat of squad. He blamed others. Disrespectful when confronting female deputy for failing to search.	Denied Wrtn Warning	He was deputy in charge. Didn't search even after he knew suspect had property. His supervisor authorized talking to the probationary ee regarding searches.
17PA0142	<u>Hibbing Public Utility Commission</u> AFSCME Council 65	Frankman, Janice	Drug Testing	Random testing challenged due to law limiting random tests to safety-sensitive positions. Grievant & secretaries aren't safety-sensitive. Contract's requirement "all" are subject to random is fatal flaw.	Denied	Grievant is safety-sensitive. Discussion of requirement to make a case "class-action" which was not met. Discussion of LELS v Sherburne Co. MN Court of Appeals 2005.
17PA0049	Mendota Heights, City of Minnesota Public Employees Association	Miller, Richard J	Termination	Probationary Sgt. Improperly advised officers to conduct a search w/o a warrant.	Denied	City has sole discretion to terminate ee during the 1 year probationary period.
16PA0386	Minnesota Department of Commerce Minnesota Law Enforcement Association	Befort, Stephen	Implementing a new pay schedule	Fraud Specialist moved from range 20H to 21H due to pay equity study. Ees placed nearest to current pay. U seeking placement based on years of service.	Denied	No contract language specific to this situation. Practice w other groups does not establish practice here. Management rights prevails.
16PN1094	<u>St. Louis Park, City of (Interest Award)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Officers. Agree on wages. U seeking new top step 4.56% above current top - n-e. Supplmnt pay: '16-2.5%, '17-2.75%-u (e-0%, U seeking % of pay vs increase to fixed \$)	2016 - 2.5% 2017 - 2.75%	New top step intended to match Sgts. Dec 2016 arb award - Sgts underpaid per pay equity & in market. Officers paid in both.
17PA0042	<u>Wright County</u> Wright County Deputy's Association	Crump, Harry	1 day suspension	Deputy misjudged distance and backed into a parked semi causing \$1500 damage..	Denied	Progressive discipline - relied on incident 7 years old.

January, 2017

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0025	<u>ISD 2687 Howard Lk-Waverly-Winsted</u> School Service Employees Local 284	Latimer, George	Subcontracting Timeliness	ER subcontracted bus service. U claims anti U animus because it will eliminate U. U filed regarding plan to sub-contract. Either not ripe or should have been filed when board first gave notice.	Denied Denied	No prohibition in contract. Valid business reason provided. All drivers rehired. Triggering event not always clear. At this point clearly ripe. Both cited Supreme Court Case New Ulm v SEIU 284 (1993).
16PA0712	<u>Sartell, City of</u> Law Enforcement Labor Services, Inc.	Gallagher, Sharon	Holidays	The city required its investigator & SRO to take the Holiday off on the Holiday, so they could not work & receive Hol premium.	Denied	Management right to schedule, trumps language that Holiday bank can be used same as Vac.bank. Bank are different.
16PN0525	<u>Metropolitan Council (Interest Award)</u> Metropolitan Council Management Ass.	Toenges, Rolland	Interest	Supervisory & Managerial. Add 2 steps-no-e; Wages: '16-2% on steps-e (u-3%), 2%performance(PGIN)-u (u-3%,e-1.5%), 1.5%pool (PZ)-both; '17-2%steps-u (u-3% e-1.25%), 2%perfrmce-u (u-3%,e-1%) 1.5%pool (PZ)-u (e-1%), Increase Annual Leave-n-e; Retiree passes-n-e; Insurance -e; Retiree insurance-same as active-both	2016 - 2% 2017 - 2%	Compensation schedule only 3 years old. Any change should be negotiated. Wages-pattern; Leave-existing 32 days. is generous. Retiree passes-not ees therefore no authority to decide. Insurance based on pattern.

2018 Arbitration Awards - Minnesota B.M.S.

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, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PA0997	<u>Douglas County</u> Teamsters Local 320	Jacobs, Jeffrey	Termination	DVS records clerk made unauthorized DVS inquiry in May '18. Law required 30d revocation of access. But training and Oct '18 change in law to permanent revocation (MS 171.12 s1a(b)) resulted in termination.	8 mo. Susp.	Discipline occurred prior to Oct '18 law change. Arbitrator considered 30 days based on loss of access under existing law, but due to seriousness, returned her to work after 8 months w no back pay.
18PA0986	<u>Mower County</u> Law Enforcement Labor Services, Inc.	Anderson, Richard	Termination	Jailer sprayed special needs prisoner in cell with tear gas, failed to decontaminate or write required report.	20 day susp.	Use of force not excessive. One second spray on floor, not into face.
18PN0893	<u>Lino Lakes, City of (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Sergeants. Duration & Wages parties agreed. Mrkt adjustmnt-'18-0.2%, '19-0.5% (u-1.25% & 0.5%; e-0%) Fire stipend-\$1.40 (u-\$1.50, e-\$1.34, \$1.37).	2018 - 2.75% 2019 - 2.50%	Wages-agreed to internal pattern. Mkt Adj. keeps sgts at same positon as 2017. Fire stipend same as officers.

November, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PN0648	<u>Hennepin Healthcare Systems, Inc.</u> AFSCME Council 5	Jacobs, Jeffrey	Interest	Add Friday to weekend differential for techs-y-u; Additional tech on-call pay-y-u; Range movement 3%-e (u-5%); Burn LPN increase-n-e; Retroactivity-y-u; MOUs to continue into new contract-y-u. MOUs-imposing an arbitrary sunset could cause an upheaval in relationship.	2018 - 2% 2019 - 2%	Wages-parties agreed. Weekend diff- Polysomnographic tech's benefit when accreted into unit. On-call - Nuclear med techs had benefit when accreted into unit. Performance range reduced from 5% to 3%-internal pattern. Burn LPN-any wage increase should be negotiated. Retro-shouldn't penalize for exercising rights.
18PA0453	<u>Hibbing, City of</u> AFSCME Council 65	Remington, John	Changing duties and pay rate	Sanitation Lead Worker Mechanic was promoted & some of duties went to new position. Pay reduced to Lead Worker for new ee in the position.	Sustained	City can change duties of position, but pay must be negotiated.

18PN0511	<u>Houston County (Interest)</u> Law Enforcement Labor Services, Inc.	O'Donnell, John	Interest	Jailer/Dispatchers. Duration-3y-e (u-2y). Wages'18-2.75% (e-1%,u-3%),'19-2.5% (e-2%,u-3%),'20-2.25% (e-2%,u-3%). Market adj-n-e (u-1%,1%,1%). Xmas eve hol-n-e. OT if 4 wkends-n-e. Court cancelation fee-n-e.	2018 - 2.75% 2019 - 2.5% 2020 - 2.25%	Duration-historic pattern. Wages-external. Market adjustments-should be limited to particular positions if needed. Xmas eve, OT and Court issues lacked compelling reasons.
17PA0936	<u>ISD 700, Hermantown</u> Education Minnesota - Local 1096	Abelsen, James	Senior qualified	Library Clerk hire. Less senior ee hired. "automatically w/o interview, move most qualified senior candidate into vacancy..." but, "final selection of ees for open positions will be made by the administration."	Denied	Language is confusing & inconsistent. Statutory right to select personnel is only relinquished by clear language. Interview necessary to establish communication & interpersonal skills requirements.
FMCS	<u>Toro Company</u> IUE-CWA Local 1140	Beens, Richard	Termination	Long history of disputes w supervisors. Either pushed or accidentally touched supervisor during a discussion.	5 day susp.	5 day suspension and a 12 month last chance agreement.

October, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PA0058	<u>Benton County</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Termination	Failing: to generate timely reports; to file search warrants in timely manner; falsifying documents by copying Judge's signatures onto search warrants filed with the court; making untruthful statements to BCA & a superior.	17 mo. Susp.	Attention deficit challenges & changes in his personal life. Guiltily of inefficiency vs dishonesty. No convincing argument that isolated lying incident would make him Brady Giglio-impaired.
17PA1014	<u>Brooklyn Park, City of</u> Teamsters Local 320	Daly, Joseph	Overtime pay	4 ees claimed OT for working voluntary open house instead of flexing schedules.	Denied	City has policy re voluntary events, which serves to clarify how contract is applied.
18HN0415	<u>Chippewa Co. Montevideo Hospital</u> SEIU Healthcare MN	Jacobs, Jeffrey	Union Dues	ER distributed STOP DEDUCTIONS forms to union members after the Janus US Supreme Court decision.	Sustained	Janus dealt with Fair Share, not regular dues. ER ordered to pay all lost dues as result of Stop cards & restart deductions.
18HN0415	<u>Chippewa Co. Montevideo Hospital</u> SEIU Healthcare MN	Jacobs, Jeffrey	Interest	Language changes re Janus-u. Wages-e (u-\$2.75 + 4%,4%); Incr shift diff \$.50 & On Call \$1.45-n-e. Union Health Plan-n-e.	'18 - ER offer 2019 - 1%	Language need, supported by grievance. Wages-ER proposal more reasonable, No support for other Union proposals,
18PN0510	<u>Houston County (Interest)</u> Law Enforcement Labor Services, Inc.	Imes, Sharon	Interest	Deputies. Duration-3y-e (u-2y); Wages: 18-3%-u (e-1%),'19-3%-u (e-2%),'20-3%-u (e-2%). Mrkt adjust.-n-e (u-2%);FTO pay-y-u.	2018 - 3% 2019 - 3% 2020 - 3%	Duration-historic pattern. Wages-U more reasonable (CPI 2%, Markt 2.6% vs ER 1%). FTO-no need for quid pro quo there are added duties & common in market.
18PA0740 19PA0061	<u>Metro Transit</u>	Altman, Robert	Class A violation Class A violation	Train operator failed to use horn & bell as required on 2 occasions-considered serious violations.	Denied Denied	U seeking reduction to Class B violations arguing specific acts violated not listed specifically as Class A violations.
Not listed	<u>Minneapolis, City of</u> Minneapolis Foremen's Association	Before, Stephen	Unpaid leave	Foreman received a restricted DL due to a DUI. Place on 45 day unpaid leave until DL restrictions were removed.	Denied	Conduct which results in loss of license necessary for performance of normal duties is misconduct. No need to excuse or reallocate essential function.

18PA0261	<u>Ramsey County</u> Teamsters Local 320	McCoy, Arthur Ray	Termination	Corrections Sgt received hundreds of racists & pornographic emails; conducted outside business on his work computer; failed to get permission for off-duty work; & violated data practices by sending inmate info.	Denied	Ee deleted majority of emails unread but failure to have friend stop sending or IT block emails allowed them to accumulate on ER's server creating liability.
18PA0863	<u>Winona, City of</u> Law Enforcement Labor Services, Inc.	Daly, Joseph	I.O.D. calculation	Injury on duty language supplements workers comp up to 240 duty hours. U believes should be pro-rated.	Denied	240 duty hrs. refers to total hrs on work comp eligible for supplement pay - not the amount of supplemental pay.

September, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PA1037	<u>ISD 197, West St. Paul Schools</u> SEIU Local 284	Jacobs, Jeffrey	Termination	School bus driver urinated into cup on bus at end of shift & failed to use sanitary wipes to clean seat.	Split	5 year ee, with 2 day susp. Returned to work - no back pay for 6 months he was off. Lack of progressive discipline.
18PA0235	<u>Itasca County</u> AFSCME Council 65	Laumeyer, James	Admin. Leave	Union challenged Administrative leave during investigation.	Denied	Inherent management right. He accrued wages and benefits - not discipline.
			Termination	Deputy accused of falsifying time sheets & pattern of deceit during investigation.	Denied	16 yr. ee did not mitigate pattern of dishonesty & breach of trust.
18PN0470	<u>Lino Lakes, City of (Interest)</u> Law Enforcement Labor Services, Inc.	Ver Ploeg, Christine	Interest	Officers. Wages: 2018-2.75%-e (u-3%), '19-2.5%-e(u-3%).Fire stipend-'18-\$1.40 (e-\$1.30+2.75%; u-\$1.60), '19= to % incr.	2018 - 2.75% 2019 - 2.5%	Wages-internal; external comparisons are problematic. Firefighter stipend - both agreed to tie to wage increase in future.
18PA0656	<u>Metropolitan Council</u> AFSCME Council 5	Anderson, Richard	Latches	Legal doctrine-unreasonable delay in seeking remedy will prevent enforcement.	No.	No time limits in contract. No evidence ER was prejudiced by delay.
			Termination	Purchasing agent complained re rules & increased workload-became more & more insubordinate & disrespectful to managers.	Denied	16 yr. ee with good record. Repeated warnings, counseling & training failed to change behavior.
17PN0517	<u>Wabasha County (Interest)</u> Teamsters Local 320	Jacobs, Jeffrey	Interest	Deputies. Insurance-e (u-no change). Move current ees into PTO-n-u. Wages-e (u:'17-3%, '18-3%, '19-3%). Market adjustment-n-e (u-3%). Retro pay-y-u	2017 - 2% 2018 - 2.5% 2019 - 3%	Insurance-internal pattern. PTO-internal pattern. Wages-internal pattern. Market-no compelling evidence. Retro pay-denial would chill union's right to arbitration.

August, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PN0408	<u>Anoka County (Interest)</u> Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Work Release ees. 3 yrs-joint agreemnt; Merit-'18/19-3%,3%-joint,'17-3%-u (e-2%) Mrkt adjust-n-e; Wages '17,'18,'19-0%-e (u-2.5%,.5%,.5%); Incrs Wage range-y-u; Add Prison Rape Elimination language-n-u;	2017 - 0% 2018 - 0% 2019 - 0%	2017 Merit; Wages; & Range - pattern PREA language-no demonstrated need. Market Rate Adjustment-w/o clear data, will result in adverse consequences for the integrity of the compensation system.

18PA0652	<u>Hennepin County</u> Hennepin Co. Sheriff's Deputies Ass.	Ver Ploeg, Christine	10 day suspension	Deputy falsely entered health & welfare checks as having taken place.	Denied.	No priors, Union argued for progressive discipline. But 10 days given in all similar circumstances.
18PA0743	<u>ISD 696, Ely School District #12</u> Ely Education Association	Jacobs, Jeffrey	VEBA Insurance Contribution	Married teachers denied \$2k VEBA to spouse who was enrolled as a dependent in husbands family plan vs being enrolled in her own plan. Benefit paid for 8 years.	Sustained	Coverage under family plan constituted enrollment based on how word used in contract & past practice. Similar to Wrenshall 08-PN-0752 (VerPloeg '14) & Fergus Falls 16-PA-0754 (Lundberg '16).
19PA0130	<u>ISD 625, St. Paul</u> St. Paul Federation of Educators	Jacobs, Jeffrey	Parenting Leave	Can mother use both both 6 week post birth recovery and 30 day "parent of newborn" benefits? - Yes.	Sustained	ER claimed benefit changed from father to parent at U request for gender neutral language-but "parent" covers birth mother.
None listed	<u>Minnesota, Dept. of Transportation</u> AFSCME Council 5	Befort, Stephen	Overtime	Less senior ee called to operate a log loader.	Denied	Contract required senior qualified. Senior ee not trained to operate log loader.
18RA0864	<u>RIHM Motor Company</u> International Assoc. of Machinists & Aerospace Workers Lodge 77	Orman, Anthony	Unpaid lunch break	ER implimented 1/2 hr unpaid lunch. Contract allows up to 1 hr unpaid lunch - but ees allowed to skip lunch in past.	Denied	U argued past practice, challenging ER right to impliment contract language, but not all eliments of binding practice met.
18PA0174	<u>University of Minnesota, Morris</u> Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Disorderly conduct in domestic situation. Small Dept needs to work closely w other agencies - his credibility & trust destroyed.	Denied.	ER need not retain an employee whose misconduct has rendered him unable to perform the essential functions of his job.

July, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PA0093	<u>Minnesota, Deptmnt Human Services</u> AFSCME Council 5	Johnson, John W.	Termination for loss of Licensing	Client at group home jumped out window & broke ankle. Ee given 1 day susp., & license disqualified. Put on unpaid leave then terminated while appealing license. Admin Law Judge reversed license disqualification.	Split	DHS not responsible for license decision nor required to accommodate supervision requiremnt which would have allowed her to work w/o license, but must return ee to work w backpay to date of lic. reversal.
18PA0660 18PA0661	<u>Murray County</u> Law Enforcement Labor Services, Inc.	Ogata, Harley	Out of Title Pay	2 deputies were doing the work of the Drug & General Investigator w/o receiving the premium pay.	Sustained	ER-parties did not hold title & position. But duties were commensurate with the positions & worthy of compensation.
17PA0922	<u>Ramsey County</u> Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Demotion	Sgt. demoted for sleeping on duty & retaliating vs. deputy who reported it.	3 day susp.	No retaliation, only investigating deputy's violations. 3 days for "nodding off".
18VP0844	<u>St. Paul, City of</u> Individual Veteran	Anderson, Richard	Termination - VP	Fire Equipment Operator had sex in fire station while on duty.	Demoted	10 years w no prior discipline. Desperate treatment vs other serious infractions.
18PN0556	<u>Stearns County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Jail/Dispatch - insurance reopener. Should singles receive +\$30/m-no-e (+\$5).	ER position	All groups in County accepted pattern of \$300 Veba, +\$30 family, +\$5 single.

June, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Allina Health Emergency Medical Servs Paramedics</u>	Kapsch, Frank	Termination	EMT complained partner was degrading & disrespectful. Supervisor ordered her to complete her shift. She refused.	Denied	Insubordination. None of complaints rose to level of intolerability sufficient to justify refusal. "Obey order now & grieve it later."
18PA0250	<u>Duluth City of</u> Duluth Police Union, Local 807	Bognanno, Mario	Termination	Officer dragged drunken man who was passively resisting, about 100 feet, by the handcuffs, behind his back.	13 mo. Susp.	9 yrs, only minor discipline. Coaching after 2014 use of force did not work so returned w no back pay or benefits.
18PA1027	<u>Hennepin County</u> AFSCME Council 5	Bognanno, Mario	Timeliness	3 day suspension. Union argued the timeline began after suspension served.	Denied	Timeline began when decision to suspend was made after the Loudermill hearing.
18VP0662	<u>Hibbing Public Utilities Commission</u> AFSCME Council 65	Foy, Terrence	Termination - VP	Falsified two doctor's notes to excuse 2 separate absences from work.	Denied	Falsification of records is extreme misconduct.
18PA0530	<u>ISD 740, Melrose</u> Melrose Federation of Teachers	McCoy, Arthur Ray	Lane Change	U grieved District denying teachers request to move 2 lanes.	Sustained	"Lane changes once every year", refers to the # of request per year, not # of lanes.
17PG0951	<u>Minneapolis Park & Recreation Board</u> AFSCME Council 5	Befort, Stephen	Termination	Called in sick Monday, but did not notify ER of status the next 4 days=resignation.	Denied	Policy - 3 consecutive work days w/o permission-constitutes a resignation.
18VP0742	<u>Willmar Municipal Utilities</u> Individual Grievant - Veteran	Beens, Richard	Termination - VP	Director of Electrical Operations failed to submit timely reports/invoices/wrker's comp claim, harassing behavior & insubordination.	Denied	Actions had adverse financial & safety consequences. Discussion of Veteran's rights & progressive discipline.

May, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Boise Paper</u> Teamsters Local 346	Befort, Stephen	3 day Suspension	4th violation of electronic sign off policy. Signed off the following day.	2 day susp.	29 yr ee, no discipln other than "sign-off". Procedural vs substantive error. 3 days is only 1 step from termination-too severe
17PN0736	<u>Crow Wing County (Interest)</u> Law Enforcement Labor Services, Inc.	Abelsen, James	Interest	Deputies & Invs. Wages-PBP system, 17,'18,'19-total base incr.6.5 to 10.35%-e (u-retain step system +2.75% each yr.). Shift bids-u, Vacation bids-u, Court cancellation-u, Xmas eve holiday-u. Insurance reopener 2019-n-e.	2017-PBP 2018-PBP 2019-PBP	5th arbitration in 5 yrs. re: moving from steps to Performance Based Pay. 9 of 11 units already in PBP & parties inability to resolve issue forced arbitrator to decide. Language issues were quid pro quo for change. Arb's reasoning in Int cases given.
18PA0102	<u>Metro Transit</u> Amalgamated Transit Union Local 1005	Anderson, Richard	Record of Warning	Foreman mechanic violated rules when moving a train car in the shop.	Denied	Removed language re: throwing a tool & disrespectful comments - not proven.
18PA003 18PA004	<u>Metropolitan Council-Transit</u> Law Enforcement Labor Services, Inc.	Ver Ploeg, Christine	Written Reprimand Demotion 160 hour susp	Lt. told officers not to document time for lunch. Filed a complaint against a junior officer in retaliation for earlier testimony against grievant.	Denied	Condoned falsification of officers log. Retaliation is an extremely serious matter. No bar on 2 forms of discipline for same issue.

None listed	<u>Minnesota Department of Corrections</u> AFSCME Council 5	Befort, Stephen	Pay Above Grade	ER has difficulty attracting ees at step 1, placed them on the schedule based on experience & education-mngmnt right?-no..	Sustained	Non-employee trainees not covered by contract. ER can determine compensation. Once hired must follow contract.
17PA1027	<u>Minneapolis Park & Recreation Board</u> AFSCME Council 5	Kapsch, Frank	Timeliness	2 meeting held to resolve issue prior to grievance. ER then challenged timeliness.	Denied	Both parties recognized if issue was not resolved it would be grieved.
			Adding Issue	U tried to add 2016 violation to grievance.	Denied	Grievances must be specific at time filed.
			Me Too Clause	U wants its ees hired at top step-Teamster mobile operators are hired at top step. AFSCME to receive Teamster's general increase but other benefits reduced so Total Compensation is equal.	Denied	Request not in original grievance. Can't be added during arbitration.
					Sustained	"Me Too" - COLA is the same as general increase. Language applies even when Teamster contract ratified before AFSME

April, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0903	<u>Hennepin County</u> AFSCME Local 552	Crump, Harry	1 day suspension	Probation officer received 1 day susp. for off-duty DUI,	Denied	Job related since integrity, trust & public confidence are essential for ees in justice system. Discipline consistently applied.
17PN0560	<u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Lic.Suprv. Ammended award 4/2/18. Market. Adjustment '18-5%-u (e-0%). ER failed to provide requested data.	2018 - 5%	ER agreed to reopen arbitration w new data showing Deputy Chief & Majors received 7.5% mrkt adj. despite n turnover.
17PN0560	<u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Lic. Supervisors. Initial award 8/25/17. Market adjustment '16, '17, '18 - 0%-e. Wages '16-1.5%, top 2.5%; '17-1.5%, top 2.5%; '18-2.5%-agreed based on pattern.	2016 - no 2017 - no 2018 - no	Wage pattern agreement. U seeking market adjustment of 5% over 3 yrs- No. No adjustments unless attraction/retention issues.
18PA0064	<u>Isanti, City of</u> Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Timeliness	ER-grievance not filed within 21 day.	Denied	Parties met trying to resolve issue so ER had adequate notice of grievance.
			Uniform Allowance	Allowance escalator removed from new contract. U-not negotiated, sought to retain the lanugage. ER - clearly identified by strikethroughs & voted by Union.	Denied	ER clearly expressed proposed change. Unilateral mistake by U does not provide basis for reforming contract.
17PA0950	<u>Kanabec County</u> Law Enforcement Labor Services, Inc.	Remington, John	Demotion	Correction's Sgt. demoted for failure to follow policy-allowing whiskey into jail. Argued as management rights vs discipline.	Denied	Performance considered indifferent unresponsive & incompetent.
None listed	<u>Minnesota State Academy for the Deaf</u> MN Assoc. of Professional Employees	Imes, Sharon	Layoff	Laid off Athletic Program Administrator, made the position part-time, then gave it to a teacher.	Sustained	Position was not abolished, nor did ER meet and confer w Union as required. Grievant given part-time position.
None listed	<u>Minnesota State Colleges - St. Cloud</u> Inter Faculty Organization	Befort, Stephen	Claiming Rights as Adjunct Instructor	Laid off tenured faculty have claiming rights to adjunct position if they possess "sufficient ability". Grievant was not given a position.	Denied	Position required:a high level of expertise' which is not inconsistent with "sufficient ability" since courses were graduate level in a specialized area.

A17-1275 16PA0975	<u>Richfield, City of - Court of Appeals</u> Law Enforcement Labor Services, Inc.	MN Court of Appeals	Public Policy	Officer failed to report use of force, had previously been disciplined, trained and counseled for failing to report use of force. 7 issues w use of force & report writing. <u>See Richfield, City of, December 2016.</u>	Arbitration Reversed	City did not argue excessive use of force, rather, that failure to report use of force after discipline & training violates public policy. Arb reversed - "where there have been prior offenses & warnings, the public-public policy exception may be invoked."
18PA0372	<u>St. Cloud, City of</u> Firefighters Local 1712	Miller, Richard J.	Timeliness Termination	Was arbitration barred when deadline to file for is missed? Firefighter convicted of gross misd. DUI. DL, which is required for the job, was revoked for 2 years.	No 8 mo. Susp.	Attorney didn't date request so unknown how long BMS took to generate request & ER waiting until the hearing to raise the issue waives its right to challenge. Caused no harm to public image. City could've granted an interlock exemption.

March, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PN0629	<u>Carver County (Interest)</u> Minnesota Public Employees Assoc.	Jacobs, Jeffrey	Interest	Deputies. 2yrs-e (u-3y); Uniform \$775-e (u-\$800); Salary range-start \$27.00, top \$36.52-e, (u-s \$27.37, t \$36.87; Wages '17-2%, '18-2% (u-2.5%, e-1.5%). Range movement '17-2%, '18-2%-u (e-1.5%). PFP plan-n-u (u paid slightly less as quid pro quo for not being in plan).	2017 - 2% 2018 - 2%	Duration-no internal, few external for '19. Uniform-internal pattern; Salary range-ER position increases start by 10.3% & top by 2% (attraction concerns), police. comparisons not relevant. Wages-pattern but effective Jan. 1 vs March 1. Range movement-% negotiated in last contract.
17RA1004	<u>Cemstone Products Company</u> Teamsters Local 120	Yaeger, Thomas	Termination	Cement truck driver was using his cell phone. Lied during investigation	Denied	Safety violation of work and CDL rules; lying & 4 disciplines in 12 mo.
17PA0969	<u>Hennepin County</u> Teamsters Local 320	Latimer, George	Reassigning Duties	Admissions unit duties performed by Juvenile corrections officers reassigned to Public Safety records clerks. Union sought to retain positions.	Denied	Dispute between Recognition clause & Management rights clause in contract. Core work of JCOs does not include the clerical functions of the Admission office.
17PA0072	<u>Hennepin County</u> Hennepin Co. Sheriff's Deputies Assoc.	Lundberg, James	Body Ornamentation	Personal appearance standards policy re tattoos. Union grieved that their request to meet & confer was denied.	Sustained	Article on work rules gives union right to meet & confer. ER must reinstate former policy until parties meet & confer.
17PA0318	<u>Hibbing, City of</u> Hibbing Police Federation	Befort, Stephen	Resignation	Officer signed resignation papers. 2 days later tried to rescind-denied. District court ordered arbitration.	Denied	U-constructive discharge-n; invalid since ee in emotional turmoil-n; Chief accepted retraction-lacked authority; City Adm-no..
17PN0870	<u>Maplewood, City of (Interest)</u> Law Enforcement Labor Services, Inc.	O'Toole, Carol Berg	Interest	Police. City stopped practice of paying stewards for negotiations, U asked to continue practice-n-e; wages '17, '18-2.5%, 2.5% (u-2.75%, 2.75%); Retroactivity-y-u; incr. deferred comp contribution-n-e; 2x pay on xmas & Thanksgiving-n-e; New - limit Holiday pay to 1 shift per ee-n-u; Reduce court minimum-n-u; incr uniform-n-e.	2017 - 2.5% 2018 - 2.5%	Wages - internal pattern. Retroactivity-internal pattern. Deferred comp-u asked for AFSCME amts-no compelling reason & only 1 external w benefit. Uniform amt. is equal to Sgts. Other changes either lack compelling reason for change, or are better left to be packaged as part of negotiated settlement.

17PA0941	<u>Metro Transit</u> Amalgamated Transit Union Local 1005	Malamud, Sherwood	Assignments	Commuter Rail car cleaners assigned to misc. shop cleaning duties when "helper" normally assigned was on vacation.	Denied	ER's priority that Cleaners clean interior & exterior of cars did not establish past practice that limits other assignments..
16PA1055	<u>Ramsey County</u> Law Enforcement Labor Services, Inc.	Abelsen, James	10 day suspension	Used notes while taking an exam for EMS instructor & continued using after warning.	Denied	Argument that it was an open book test refuted by instructor & classmates.
17PA0253			30 day suspension	Absent for 4 hours without signing and failed to answer cell phone.	5 day susp.	Deputy is flex time ee, but failed to get permission. Good record. 30 days is disproportional to misconduct.
FMCS	<u>Securitas Critical Infrastructure Serv.Inc.</u> United Security Professionals, Local 2	Hoffmeyer, Steven	Contractor withholding access.	Guard at nuclear plant lost plant access due to off duty incident. Action required by Xcel's federal license.	Denied	U claimed discipline w/o just cause - no, 3rd party contractor denied access. Burden then on U re contract violation.

February, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PN0500	<u>Itasca County (Interest)</u> Teamsters Local 320	Jacobs, Jeffrey	Interest	Court probation officers (non-essential). Arbitrated to sort out courts unfettered right to remove prob.officers (MN.244.19) vs PELRA. Mgmt. Rights language-u.; Grievance Procedure-u; Seniority-e (no language); Wages-u-State MAPE pay schedule, (e-use County pay scale).	Wages-union	BMS ruled County is the public employer. MN Supreme Crt in General Drivers #346 v Aitkin Co, 1982 (re Sheriffs MN 387.14) & Arrowhead Corrections v Graff, 1982 affirming holdings in "Drivers" for P.O.'s that PELRA supersedes MN 387.14 which has similar language to MN 244.19.

January, 2018

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
17PA0974	<u>Anoka County</u> Law Enforcement Labor Services, Inc.	Abelsen, James	5 day suspension	Corrections Officer involved in heated verbal argument with prisoner.	Denied	Handled situation unprofessionally. Prior discipline for similar issue.
			1 day suspension	Retaliated against supervisor for reporting 1st incident by filing complaint on her.	Denied	Warned against retaliation.Timing & other witnesses saw no violation.
17PN0576	<u>Brooklyn Park, City of (Interest)</u> Teamsters, Local 320	Wallin, Gerald	Interest	Sergeants. Uniform allowance-\$830-u (e-\$800). Additional pay for Sgts-n-e (U-\$1.00).	2017 - 0%	U seeking \$1 to increase differential over officers. U claims diff is 9.6% when using FTO pay. ER shows diff.16.29% top to top.
17RA0839	<u>Super Valu Inc.</u> Teamsters, Local 120	Remington, John	Termination	24 yr warehouse ee failed to answer 3 calls to report to office. Then threatened supervisor.	Denied	Difficult, contentious & belligerent ee who had problems w previous female & current black supervisors.

2019 Arbitration Awards - Minnesota B.M.S.

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, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA0300	<u>Anoka County</u> Law Enforcement Labor Services, Inc.	Osthus, Marlin	20 hr. suspension	Det.Deputy on sick leave answered call for marine unit wrked his regular days off.	Denied	Policy bars working while on sick. But reinstated to marine unit with all benefits.
19PA0525	<u>Carlton County (Interest)</u> Law Enforcement Labor Services, Inc.	Hoffmeyer, Steven	Interest	Deputies. Retiree Insur-no change-u (e sunset new ees);Shift Diff-\$1.20h-agree Wages:'19-2%,'20-2.25%-e (u-3%, 3%) Duration-2yrs-e (u-3y)-no data for 3rd yr.	2019 - 2% 2020 - 2.25%	Retiree insur.-3 units retained benefit. Shift Diff-parties agreed. Wages-pattern for units retaining Retiree Insurance.
20PA0137	<u>Duluth, City of</u> AFSCME Council 5	Abelsen, James	1 day suspension	Failure to complete Operator Qual. test by deadline. 2nd violation since 2017. 1st violation written, 2nd 1day suspension.	Denied	Discussion on amending final positions. U cited practice of only looking back 1 yr. for level of discipline. Chronic tardiness
19PA0876	<u>ISD 625, St. Paul</u> Teamsters Local 320	Orman, Anthony	Termination	Special Ed teaching assistant w L.C.A. requiring her to follow all policies, rules & procedures took video & grabbed student.	Denied	doesn't establish practice of all violations. L.C.A. negotiated in good faith. Lack of termination date but reasonably timely to
19RA0753	<u>Metropolitan Council, Metro Transit</u>	Osthus, Marlin	Record of Warning	Driver's 2nd accident. Car didn't stop to exchange info. Very minor damage	Denied	LCA. Polices were violated. Video showed driver should have waited
19RA0755	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union, Local 1005	Toenges, Rolland	Written Counseling	Mechanic failed to fully lower lift while working on a bus damaging the lift.	Split	before entering lane. Discpln. per policy. Will remain in file for 18 vs 36 months.
19PA0310	<u>MN Minneapolis Veteran's Home</u> AFSCME Council 5	Laumeyer, James	3 day suspension	Van driver accused:racial discrimination, harassing & intimidating a female ee.	Denied	Uniformity of application not established. Lack of evidence re discrimination. 3 day
18PA1004	<u>Minnesota, Dept of Natural Resources</u> MN Conservation Officers Association	O'Toole, Carol Berg	Timeliness Duty Days	Dispute over 2016 policy re duty days. Policy mandates 4 eight-hour work days each 14 day work period-Union grieved.	Arbitrable Sustained	susp.for violating respectful work policy. Continuing violation every 14 days.. Policy in conflict w contract language. Change must come through bargaining.

November, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PN0751	<u>Champlin, City of (Interest)</u> Law Enforcement Labor Services, Inc.	Bauman, Susan	Interest	Officers. Premium pay for 3 titles-n-e; Meal allowance incr-n-e; IOD 60 to 90d-y-u; Severance-n-e;Uniform incr.-n-e;Uniform reimburse vs cash-n-e;Parenting leave-y-u FTO incr.-n-e; Officer in charge pay-n-e.		Duration, wages & insurance negotiated. 9 benefit issues arbitrated. Union failed to show need to add or change 7 items. Increases to IOD and Parenting leave were in Sgts CBA.
19PA1769	<u>Cloquet, City of</u> Teamsters Local 346	Toenges, Rolland	Termination	Officer Brady/Giglio impaired based on discipline from '04,'05 &'17. County Attnry will not allow him to testify so he is unable to preform one of his essential duties	Denied	22 yrs, Sgt working as a detective. Not a discipline case - inability to perform essential duties. Only 19 officers on Dept. so desk duty not an option.
19PA2464	<u>Duluth, City of</u> AFSCME Council 5	Jacobs, Jeffrey	Overtime	G volunteered to plow snow on vac day. ER returned vac day, paid straight time for 8 hrs. U seeking 2.5 time pay.	Denied	Contract implies hours worked during regular shift compensated at regular pay.

19PG0912	<u>Itasca County</u> Itasca County Employee's Association	Carne, Danielle	Unilateral change: Health Insurance	ER changed Insurance options. All other groups accepted change for 2019. Assoc. fighting change based on expired '18 CBA. Is there a 3y bar to continuing contracts?-no.	Sustained	ER argued issue should be decided in interest arb for 2019 CBA. Grievance is issue of remedy. Old plans not available so ER to pay savings realized to Union.
19PG0912	Itasca County Itasca County Employee's Association	Carne, Danielle	Remedial Award	Question regarding remedy for grievance?\$129,906 29 ees,but not based on individual damages.		Amount of savings above replaced plan, no credit given for Co. HSA contribution.
19PG0912	<u>Itasca County</u>	District Court	Vacate Awards	ER unilaterally changed insurance. Remedial damages of \$129,906 Was MOU part of contract - yes.	Vacated Vacated	"Equivalent Value" per contract language. Moot since continuing contract trumped by successor contract's effective date. *Discussion on basis to vacate awards.
19PN0868	<u>Itasca County (Interest)</u> Itasca County Employee's Association	Carne, Danielle	Interest	Supervisors. Wages '19-2.75%-e, '20-2.75%-e, '21-3%-e; Health Ins.-e; Life insurance-e.	2019 - 2.75% 2020 - 2.75% 2021 - 3.0%	Assoc. sought to keep old insurance or have ER pay 100% of deductible. Award based on internal pattern.
19PA0376	<u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union, Local 1005	Bolander, Kristine	Accident	Verbal warning for hitting a tree branch while parking a bus. Branches are always scrapping bus, this one cracked a window.	Denied	30 yrs. with no accidents. No evidence that accident was unavoidable.
None listed		Befort, Stephen	Termination	Used a defensive push-kick to handcuffed prisoner in back of squad. Denied		Kick was aggressive, breaking nose, jaw & teeth. 5 prior Use of Force disciplines.
19VP0696 19PA0678 19PA0737	<u>Owatonna, City of</u> Jason Christensen - Veteran	Daly, Joseph	Termination 30 day susp. 60 day susp.	15d (held in abeyance on prior 30d) was implemented for failure of PIP when he disobeyed orders by submitting a case to county attorney for reconsideration after being ordered not to - resulting in 60d susp. Terminated for arrest lacking probable cause, failure to advise prior to questioning & failure to turn in evidence.	Denied Denied Denied	4yr ee w 2 oral, 4 written reprimands & 4 susp. 1st arrest that drew 30d was not grieved so only issue was PIP violation. 60d challenged since policy limits susp. to 30 & calendar days v workdays, but allows city to determine level. City's actions in termination were reasonable.

October, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0303	<u>Carlton County (Interest)</u> Minnesota Public Employees Assoc.	Altman, Robert	Interest	Suprvs. Duration-2y-e (u-3y);Wages-19-2%-e(u-3%),'20-2.25%-e(u-2.5%); Retiree insur.-u; On call \$50-u(e-\$25).	2019 - 2% 2020 - 2.25%	Duration-pattern. No sunset of retiree insur. so not given 3%, 2.5% for those accepting change. On-call = AFSCME.
19PN0630	<u>Hennepin County (Interest)</u> Hennepin County Supervisors Assoc.	Laumeyer, James	Interest	Detention Sgts. Wages 2019: 2.5% + 5.0% market adjustment-u (e-2.5% + 0%). 2.5% was county pattern. 5.0% awarded based on disparate treatment.	2019 - 7.5%	Sgts. didn't qualify for mkt. adj. under formula. Miller's April 2018 award gave licensed suprv. Extra 5% due to Sheriff Majors & Deputy Chiefs extra 5%.
19PA1577	<u>ISD 477, Princeton</u> SEIU Local 284	Daly, Joseph	Termination	18 yr. food service worker didn't charge a custodian, who helped her during the summer, for 5 meals valued at \$22.50.	Denied	"De minimus" amount doesn't remove lack of trust. Long-term employment is no mitigation in this matter.
19VP0740	<u>Minneapolis, City of</u> Peter Brazeau - Veteran	Malamud, Sherwood	Termination - VP	Handcuffed suspect lying on his back kicked veteran in chest when veteran leaned over to help suspect up. Veteran punched suspect & reported use of force.	80 hr. susp.	Violated use of force policy. Mitigation-Dec. 2016 event, but put back on duty in 2017 for 14 months as a training officer with exceeds expectations rating.
19PA0162	<u>SSD 1, Minneapolis</u> Minneapolis Federation of Teachers	Lundberg, James	Timeliness Severance	Laid off - recall rights expired in 2012. Teacher sought Wellness pay 5 years after leaving district.	Arbitrable Sustained	Date of denial in 2017 started timeline. District obligated to pay. Failure to give basis for forfeiture-due process violation.

19PA0162	<u>SSD 1, Minneapolis-challenge of award</u> Minneapolis Federation of Teachers	District Court-4th J.D.	Vacate award	ER challenged as untimely-5 years after event.& grievant not covered by relevant CBA-no longer a teacher.	Denied	Arbitrator didn't exceed authority, award drew from essence of CBA. Wellness pay is a vested property right.
17PA0993	<u>Wabasha County</u> Teamsters Local 320	Bognanno, Mario	Retirement Pay Sick Leave buyout Timeliness	If sick bank max is reached hrs. go to special sick bank. Benefit paid on sick bank. U seeking buyout for both accounts. Step 2 not timely filed.	Sustained Arbitrable	ER paid on both sick banks once in '07 but never since. '07 defined CBA, other cases are outstanding grievances. Violation is continuing in nature.

September, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0295	<u>Hennepin County</u> AFSCME Council 5	Befort, Stephen	Non-selection	MAVI, an OT assignment for probation officers was put up for bid. Grievant, a current member was not selected.	Denied	Non selection wasn't disciplinary so isn't premised upon good cause. No language restricting rights to assign.
19PA0557	<u>Minnesota, Dept. of Human Services</u> AFSCME Council 5	Been, Richard	1 day suspension	Patient at St. Peter Hospital threw a urine soaked blanket at ee. Ee told patient to lie on floor & reflexively threw blanket near patient's head.	Denied	Employee with 9yrs & no priors, but no level of retaliation can be tolerated in Security Hospital setting.
16PA0945	<u>MN, Fergus Falls Veterans Home</u> AFSCME Council 5	Altman, Robert	Termination	Inappropriate behavior and threatening a co-worker.	Denied.	18 yr. ee, but 3 similar suspensions in 18 months. Not appropriate to reevaluate prior discipline dispositions.

August, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0007	<u>Anoka-Hennepin ISD 11</u> Anoka-Hennepin Education Minnesota	Carne, Danielle	Lane placement	Entry level Physical Therapist degrees were Baccalaureate's in the 80s, Master's in the 90s & since 2018 Dr.'s. Thus new ees start at higher pay vs long term ees. ER discovered credits offered to transit to Dr. were neither certified nor enough.	Sustained	ER reviewed all PT salary placements & employees placed in appropriate lanes. Arbitrator returned all PTs to Dr. level. Initial decisions to advance made by district employees who had authority to do so and signed off by superintendent.
19PA0030	<u>Carlton County</u> AFSCME Council 65	Yaeger, Thomas	Promotion Senior Qualified	Highest score on structured interview promoted vs most senior.	Denied	Contract awards promotion to most total points. Seniority only used if equal.
19PN0526	<u>Hopkins, City of (Interest)</u> Hopkins Police Association	O'Donnell, John	Interest	Reopener health insurance 2019, 2020. U-% based on high priced plan.	U position	City's position-internal pattern % based on low priced plan.Based on high in past.
19PA0296	<u>ISD 625, St. Paul</u> AFSCME Council 5	Foy, Terrence	Out of Class Pay	Clerk I paid "Out of Class" Clerk 3 pay when Clerk 3 went on leave, but was not paid years later when Clerk 3 retired.	Denied	Clerk 1's position reevaluated to Clerk2. Clerk 3's title not necessarily dispositive to the proper compensation level.
19PA0669	<u>LeSueur County</u> Teamsters Local 320	Roberts, Andrew	Funeral Coverage	U seeking funeral coverage for step-brother since term "brother" includes stepbrothers.	Denied	Step children listed but not stepbrother. Listing specific items excludes unlisted items.
19VP0756	<u>Metropolitan Council - Metro Transit</u> Steven Melby - Veteran	Bauman, Susan	Termination - VP	2 weeks after a LCA he was searching seats & heater grills for lost change causing damage & not work as assigned.	30 day susp.	Didn't violate specific provisions of LCA. 12 year employee with overall good ratings and mitigating family situation.
18PN0704	<u>Metropolitan Council, Transit Police</u> Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Sgt. & Lts. Duration-3 years-e (u-2yr.); Wages:'18-2.5%, '19-2.5%, '20-2.5%-e (u-3%, 3%, 3%); Mrkt adj.'20-1% (e-0%).	2018 - 2.5% 2019 - 2.5% 2020 - 2.5%	Duration-pattern; Wages-pattern; Market adjustment-same relationship to market that existed in 2015.

18PA0798	<u>University of Minnesota</u> Teamsters Local 320	Foy, Terrence	Termination	Food service worker w 6 absences in 6 month period. 10yr. ee. Unsatisfactory ratings 9 yrs. Fired Feb.11, 1015.	4 yr. susp.	CBA removes discipline after 1 year. No record of progressive discipline. Susp. w no backpay (4 years, 9 months).
15PA0956	<u>University of Minnesota, Unit 3</u> Teamsters Local 320	Latimer, George	Holiday Overtime	Off-Shift mechanic selected for Holiday O.T. vs more senior day shift mechanic. CBA calls for ee who normally does work.	Denied	Holiday mechanic responsible for all buildings on East Bank & No. Campus. Off-Shift ee trained on all buildings.

July, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19VP0778	<u>Hennepin County</u> John McGuiggan - Veteran	Beens, Richard	Termination - VP	Corrections officer asked an inmate, "do you have a rope...you must not be used to having one around your neck."	Denied	Racially charged inflammatory speech. 5 yr. ee with 2 similar prior disciplines.
19PN0418	<u>Hennepin County (Interest)</u> Teamsters Local 320	Befort, Stephen	Interest	Corrections. Wages '19- 2.5%+4.9% for range maximum, '20-2%, '21-2.5%. Wage progression-3%-e(u-continue 5% steps). Voluntary PTO-y-e; Merged seniority-no-u. Increase Shift, FTO & Uniform-no-e	2019 - 2.5% 2020 - 2.5% 2021 - 2.0%	Wages-parties agreed. Progression-13 of 15 units agreed. PTO-13 of 15 units covered. Seniority-lack of compelling need to change. Shift, FTO, Uniform-no showing of need & inconsistent w others.
FMCS	<u>Interplastic Corporation</u> United Steelworkers Local 11-1259	Befort, Stephen	Mpls. Safe & Sick Leave - unilateral change to contract	ER implemented policy to comply with Mpls. Sick & Safe Leave ordinance after U refused to reopen contract.	Sustained	Parties directed to negotiate a mutually acceptable alternative resolution.
19PA0836	<u>ISD 279, Osseo</u> Education Minnesota - Osseo ESP's	Ogata, Harley	School Calendar	ESP calendar set, but \$60k shortfall forced cancelation of 11wks. Different positions offered to Union, but declined.	Sustained	Mngmt right to assign means job duties-doesn't include hours of work. ER to pay ees for 11weeks. U rejection of alternate positions didn't provide mitigation
18PN0856	<u>Millie Lacs County (Interest)</u> Teamsters Local 320	Abelsen, James	Interest	Jail. Mrkt adjustment-n-e (u-1.25%); Hol. pay incrise-no-e (u-x2.5);Comp bank 48h (u-60h, e-40h) Shift pay- \$1 in 2019 u-\$1.50 in 2018, e-\$-.75); FTO-\$1.00-u	2018-pattern 2019-pattern	Parties agreed to internal wage pattern. Comp accrual, Shift pay & FTO are the same as deputies negotiated. Mkt adjust or Hol. would create internal disparities.
19PA0395	<u>Minneapolis Park & Recreation Board</u> Minneapolis Police Officer's Federation	Befort, Stephen	3 day suspension	Responded to assault call Officer yelled at Somali boys, handcuffed, then finally released them w/o apology or explanation. Officer who did not yell wasn't disciplined.	Denied	Yelling escalated vs de-escalated event. Failing to explain or apologize violated code of conduct. No desperate treatmnt 2nd officer did not escalate situation.
19PA0793	<u>Minnesota Judicial Branch</u> Teamsters Local 320	Biggar, David	Court Reporter's Transcripts.	Court reporters are statutorily required to furnish a transcript upon request. They charge per page-it is considered outside work and barred from on-duty time.	Denied	Union seeking ability to do work on-duty as allowed in Federal Courts. Outside work not governed by contract & beyond Arbitrators authority.
			Timeliness	Outside work policy enforced since 2012.	Sustained	Continuing Violation each paycheck.
18PA1023	<u>Minnesota Management and Budget</u> AFSCME Council 5	Carne, Danielle	Termination	Behavior Modification Asst. at Dakota Crisis Home accused of maltreatment of vulnerable adult when he slapped resident while attempting to block the resident's slap. And failure to report the violation.	1 day susp.	Witness accounts differ. Unable to prove intentional act of abuse & he was allowed to continue caring for resident for 2 mos. Discipline for reporting policy failure.

June, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0481	<u>Blaine, City of</u> Law Enforcement Labor Services, Inc.	Beens, Richard	Termination	OT is either offered or forced based on a rotating list. Ee wasn't on list possibly due to FMLA event. Peers told him to notify Sgt. but he didn't. During investigation lied re not knowing about being off the list.	Denied	10 yr. employee with no prior discipline. Disobeyed order not to talk to anyone about the investigation and lied twice during the I.A. investigation.
19PA0725	<u>Duluth, City of</u> AFSCME Council 5	Abelsen, James	Seniority	Traffic control OT offered to senior maintenance worker rather than to HEO who had most seniority in the division.	Sustained	Lowest paid class given work, but higher paid can do the work. CBA calls for Div. seniority, not by class. No backpay.
19PA0431	<u>St. Louis County</u> Teamsters Local 320	Jacobs, Jeffrey	Assignment vs Bid	EE bid for excavator, assigned to grader. U believes seniority allows for a daily bid. ER claims right to assign.	Denied	U failure to negotiate language to support their position used to interpret current language, plus ER's past practice.

May, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PN0429	<u>Rogers, City of (Interest)</u> Teamsters Local 320	Miller, Richard J.	Interest	Wages: 2.75% each yr.- agreed. Market adjustmnt-'18-\$.75-u (e-0%), '19,'20 -0% -e(u-\$.50, \$.50). Drug task force/School off-4.5%-u (e-0%). Shift diff-n-e(u-\$.55). Uniform-\$960-u,(e-\$900).	2018 - 2.75% 2019 - 2.75% 2020 - 2.75%	Wages-agreed to internl pattern. Mkt Adj. same as sgts. Drug task force/School off don't receive pay in most cities-maintains consistency w sgts. No city ee receives shift differential. Uniform same as sgts.

April, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0227	<u>Hibbing, City of</u> AFSCME Council 65	Biggar, David	5 day suspension	Equipment operator lowered supervisor into a trench using a backhoe.	Written Reprimand	Operator knew if was unsafe, but he was ordered by supervisor which is mitigating.
Not listed	<u>Minnesota, Dept. of Human Services</u> MN Association of Professional Employees	Fogelberg, J.C.	Termination	EE at St. Peter State facility took emails from file & presented them in Ct w/o permission.	2 mo susp.	Names were redacted,so not certain it wa a data privacy violation.
18PN0687	<u>Ramsey County (Interest)</u> Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Sergeants. Wages-2%Jan/1% July each year (e-2.5% each yr; u-3% each yr.); Mkt adjustment-n-e (u-3% '20); Invst premium pay from \$100 to \$200/m-u (e-\$100).	2018 - 3% 2019 - 3% 2020 - 3%	Wages-same as deputies. Mkt-ER doing a comp study; adjustmnts to Commdrs nt a Mkt adjustmnt-not given to all. Invstgtor premium-same increase as deputies.
18PN1030	<u>St. Cloud, City of (Interest)</u> Firefighters Local 1712	Miller, Richard	Interest	Firefighters. Wages-e (u'18-2%,+5% adj. '19-2/1%,'20-3%); Uniform-'20 +\$10/m 4/19/2019 (e-'20 +\$5, u-+\$15); Communications pay 1 hr./wk-u (e-no); Eliminate 1hr residency-n-e	2018 - 2.0% 2019 - 2.5% 2020 - 3.0%	Wages-pattern, 5% adjustment for police parity offered in past as quid pro quo but rejected. Communications pay same as Captains. Residency-no reason to remov

March, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PN0924	<u>Brooklyn Park, City of (Interest)</u> Brooklyn Park Police Federation	Richard Anderson	Interest	Wages: 2018-2%-u (e-4% & remove COLA formula),2019-2%-u (e-2% or 0% w COLA). ER claims 66% of officers make more than pay step used in Market COLA formula.	2018 - 2% 2019 - 2%	U 2% & 2% is less than pattern, but '18 with COLA is greater than pattern. Arb.- COLA formula fundamentally flawed. Parties to neg '19 formula-if no agrmnt, 2019 wage becomes 2.5% & Article is to be negotiated in the 2020 contract.
19PA0046	<u>University of Minnesota</u> Law Enforcement Labor Services, Inc.	Finkelstein, Phillip	Termination	Off duty officer got into confrontation w woman pedestrian who kicked his vehicle Pled to misdemeanor assault. Charge dismissed & vacated after 1 year.	10 mo. susp.	20 years of service, a good record, with no discipline. Returned to work with no backpay.

February, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0474	<u>Hennepin County</u> AFSCME Council 5	Befort, Stephen	Salary Adjustment yr. end pay period	Evaluations for range movement during all but last pay period of 2018 paid at '18 rate. Last pay period evals paid 1/6/19 based on '19 CBA vs preferred '18 CBA.	Denied	Contract language. Salary adjustment is effective the first Sunday following the pay period.
19PA0345	<u>Henn. Healthcare/Henn. Co Med Center</u> AFSCME Council 5	Hoffmeyer, Steven	Benefit accrual on worker's comp.	Union seeking PTO accrual for time ee was on worker's comp.	Denied	Regular wrk hrs. & paid leave hrs. accrue benefits. WC considered unpaid leave.
FMCS	<u>Honeywell International Inc.</u> Teamsters Local 1145	Befort, Stephen	Job Bidding	EE bid for job at different plant for essentially the same job he was doing. External candidate selected due to interview.	Denied	Interview considered part of minimum qualifications for job.
18PA0865	<u>Houston County</u> Law Enforcement Labor Services, Inc.	Roberts, Andrew	Termination	Detention/Dispatch deputy took picture of female co-worker suggesting he would use it to masturbate. Later thanked her.	Denied	Actions clearly unwanted sexual nature. Brief tenure, poor work record, & failed to correct behavior after prior coaching.
19VP0457	<u>Minneapolis Park & Recreation Board</u> Minneapolis Building Trades Council	Toenges, Rolland	Removal as a Temporary - VP	Electrician worked 6 yrs. as a temp ee. ER replaced temps with permanent ees. 1 Temp w more seniority than vet retained.	Sustained	U hiring Hall agreement temps covered by VP act. 8 vs. 6 yrs. service does not support less favorable treatment for vet.
18PA1017	<u>MN Judicial Branch, Ramsey County</u> AFSCME Council 5	Daly, Joseph	Written Reprimand	Clerk failed to change \$3,000 bail, to no bail for shoplifting. Prisoner held for 2 months before error discovered.	Denied	U sought oral reprimand based on prog. discipline. Egregious & serious nature gives right to move past oral to written.
19VP0449	<u>Minnesota Veteran's Home</u> Raymond Ludwig - Veteran	Altman, Robert	Termination - VP	Veteran was a registered nurse, who unlocked door in secure facility allowing an at risk patient to get out.	Denied	11 years - 3 priors involving patient care. When discovering patient, had someone else assist patient back into facility.
A17-1275 16PA0975	<u>Richfield, City of - Supreme Court</u> Law Enforcement Labor Services, Inc.	MN Supreme Court	Public Policy	Officer failed to report use of force, had previously been disciplined, trained and counseled - terminated. Arb-3days. Court of Appeals reversed. Supreme Ct reversed. See <u>Richfield, City of, December 2016</u> . <u>Richfield, City of-Court of Appeals 2018</u> .	Appeals Ct. Reversed	City did not argue excessive use of force, rather, that failure to report use of force after discipline & training violates public policy. Appeals Ct. - "where there have been prior offenses&warnings,the public-policy exception may be invoked." Supreme Court-applying statue, contract &deferring to facts found by Arb-reverse.

19PA0333	<u>ISD 47, Sauk Rapids-Rice</u> SEIU Local 284	Hoffmeyer, Steven	Termination	Custodian propped open school's exterior security doors after repeated orders not to do it.	Denied	15yrs., history of insubordinate conduct. Argued disparate treatment, but couldn't name anyone else who propped doors.
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January, 2019

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
18PA0727	<u>Duluth, City of</u> AFSCME Council 5	Bognanno, Mario	Overtime Pay Standby/call back	2 incidents when ees turned water main off, then 5 hrs later on-after regular hours. Both jobs posted seeking volunteers. Union asking for call back pay.	Split	No volunteers-ees on standby awarded call backpay (turning water on at medical facility non emergency since job posted) Volunteers-are scheduled not call backs.
18PA0932	<u>ISD 625, St. Paul</u> Tr-Council Local 49, Local 120, Local 363	Toenges, Rolland	OT for Temporary Employees	OT & seniority provisions violated by scheduling temps for OT.	Denied	Insufficient evidence regarding nature of wrk. Jurisdiction issue is purview of BMS.
19PA0087	<u>Ramsey, City of</u> Law Enforcement Labor Services, Inc.	Johnson, John W.	Written Reprimand	Sergeant was discussing report writing errors at roll call identifying officer responsible.	Denied	Publicly identifying officer rather than correcting in private was harmful.

2020 Arbitration Awards - Minnesota B.M.S.

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, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA1215	<u>ISD 625, St. Paul</u> St. Paul Federation of Educators	Finkelstein, Phillip	Bargaining Unit Work	Teaching assistnt hired for signing skills normally done by Ed.assistnts. Management right?-no. Ta eventually placed in Ea Union.	Sustained	Ta posting required ASL, historically Ea requirement - violated contract. Arbitrator unable to move Ta to Ea union. Ordered negotiations to address unjust enrichmnt.
20PA2612	<u>Hennepin County Health</u> AFSCME Council 5	Malamud, Sherwood	1 day suspension	Member service rep mishandled 2 calls: being rude, argumentative & putting member on indefinite hold. U claimed retaliation for Union activity & fails to follow progressive discipline.	Denied	4yr ee, oral in 2013. Conduct & difficulty of supervising warrants skipping initial discipline steps. Retaliation was also claimed in Nov '20, Jacobs Arbitration. But calls predated the Union activity.
19PA0884	<u>MN Department of Corrections</u> AFSCME Council 5	Befort, Stephen	Termination	Corr. Off. failed to immediately report he was subject of criminal investigation. Told to submit report in Nov. waited until Feb.	Denied	Prior 57 day suspension for failing to report use of force - had impact of Last Chance Agreement.
21PA0125	<u>MN Department of Corrections</u> AFSCME Council 5	Jacobs, Jeffrey	Termination	CO sprayed offender, being held on floor in the face; did celebratory dance & refused to leave scene when ordered. CO suffered back injury, concussion & ruptured ear drum from offender.	6 months	16yrs, 2 written. Use of chemical spray not clearly excessive. Taunting & failing to leave area grounds for discipline. Rtrn to work w no backpay upon medical ok. Discuss - just cause&reducing discipln.
FMCS	<u>Miner's Inc.d/b/a Super One Foods</u> UFCW Local 1189	McCoy, A. Ray	Holiday Pay	Hol hrs paid at 1.5x, but not counted in hours worked per week for OT callculation.	Sustained	Premium paid for holidays didn't create pyramiding. All worked hrs counted.
FMCS	<u>3M Company</u> United Steelworkers, Local 11-75	McCoy, A. Ray	Pandemic Pay	Ee with COVID symptoms quarantined for 7 days at ERs direction, but forced to use sick vs. Pandemic benefit.	Sustained	ER suggestion to quarantine meet all the requirements of the MOU.
20PN1834	<u>Yellow Medicine County (Interest)</u> Law Enforcement Labor Services, Inc.	Abelsen, James	Interest	Deputies: Wages-u (e- 2.5, 1.5, 1.25%) Mutual consent to mediate?-n-u. Comp Bank cap new ees at 120 v 240h?-y-e. Required to use sick for family illness-y-e Steps when no contract-n-e. Shift diff drop \$2 to \$1.40-e. Invst. pay from 1.5% to 3%-n-e. Increase Sick Severance from 288 hrs to 384 hrs.-n-e.	2020 - 2.5% 2021 - 2.5% 2022 - 2.5%	Wages, pattern, despite economy. Either can seek mediation due value of process. Comp bank-pattern & no harm to current ees. Sick leave to be used for family ills.-pattern. Steps-pattern. Shift pay 2x mrkt & exchange for wage adjsutmnt. Invstgtr position or assignment? Requires neg.

November, 2020

BMS #	Arbitrator	Issue	Details	Award*	Basis/Argument
19PA0432	<u>Hennepin Healthcare System, Inc.</u> AFSCME Co 5, Local 977	Toenges, Rolland	Subcontracting	ER using contract workers to perform same work certified to bargaining unit. Union: CBA limits use of temporary staff workers to 6 months. ER: Contract workers not bargaining unit members or employees so not covered by the CBA & therefore not limited to 6 months of work in a calendar year.	Sustained* Parties have agreed temporary workers' employment is not to exceed 6 months in a calendar year. ER use of staffing agency staff to continue temporary worker violates CBA if 6 month extension not mutually agreed to.
	*Court Later Overturned Decision				
FMCS	<u>Abbott Northwestern Hospital</u> SEIU Healthcare	Been, Richard	Termination	Environmental services aid, failed to respond to pages, unauthorized lunch & claimed cleaning room while on break.	Denied 16 yr. ee. 2 verbal, a 1 written & 1 day suspension in past 3 years. Policy and rule violations.
20PN1162	<u>Douglas County (Interest)</u> Law Enforcement Labor Services, Inc.	Abelsen, James	Interest	Deputies:3y-u (e-2y); Wages:2%,2.5% 2.75%-u (e-2%,1.5%); Grade adjust-no-e; Sick severance-n-e (u-eliminate 2 tier system); Insurance reopener '21 and '22 if incrs over 4%-u (e-50/50 split). Vacation payout forfeit if terminated-n-u.	2020 - 2% 2021 - 2.5% 2022 - 2.75% Duration & Wages internal pattern. ER tried to break pattern due to COVID19. ER upgraded deputies & entitled to implement their formula. Severance- ER neg change 13y ago. Reopener: u accepting greater risk w 4% threshold Vacation - an earned benefit.
21PA0181	<u>Eagan, City of</u> Teamsters Local 320	Beens, Richard	Seniority selection	Vacancies require 10 day internal prior to external. U argued qualified internal candidate should get job.	Denied Being qualified is no guarantee for a position. Management right to select best qualified.
20PA2375	<u>Grant County</u> AFSCME Council 65	Remington, John	Termination	H.E.O. was tardy 12 times in 8 month period- warned each time.	Denied 3 yr. ee, clean record before written reprimand then 11 more tardies.
21PA0016	<u>Hennepin County</u> AFSCME Local 2822	Miller, Richard J.	Written reprimand	Office specialist coached 5 times on attendance issues followed by 11 absences and 8 tardies.	Oral Arbitrary, capricious & unduly harsh to give written reprimand when an oral warning serves the same purpose.
20PA2611	<u>Hennepin County</u> AFSCME Local 2822	Jacobs, Jeffrey	1 day suspension 5 day suspension	Heated exchange w caller re cab ride beyond 60 mile limit. Argued w caller re her being ready when the cab arrives for pickup.	Written 1 day susp. 17 yr. ee, w oral reprimand. Progressive discipline calls for written on 1st offense (6 years after the oral) & 1 day for the subsequent offense.
20PA1296	<u>ISD 197, W. St. Paul-Mendota Hgths-</u> SEIU, Local 284	O'Donnell, John	Health Insurance Premium Timeliness	ER stopped using charter bus hrs for calculating District's % of Health Insur. contribution. U failed to grieve when 1st discovered.	Union Arbitrable ER failed to repudiate practice during negotiations. Strong presumption of arbitrability.
20PA2222	<u>Hennepin County</u> AFSCME Council 5	Wallin, Gerald	Termination	Conducted off-duty business at work. Used ER's equipmnt, false time reporting.	14 mo susp. Inappropriate equipment use but failed to prove false time reporting. L.C.A.

20PA1654	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Before, Stephen	Termination	Bus driver hit a pedestrian when pulling away from the bus stop. Distracted by talking on headset while driving.	Denied	6 y. ee, 1 prior. Hitting pedestrian almost always results in termination. Headset, prior discipline & short tenure considered.
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October, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA1575	<u>Columbia Heights, City of</u> Law Enforcement Labor Services, Inc.	Altman, Robert	Termination	Officer's untruthfulness, inaccuracy in report re a chase & turning off camera.	Denied	Brady impaired (prior incident). Camera requirement tantamount to LCA.
FMCS	<u>Fairview Southdale Hospital</u> SEIU Healthcare Minnesota	Kapsch, Frank	Consolidation Plan	Nurse's aides work changed due to loss of same day surgeries when a competitor's surgery center opened.	Denied	Hire letters do not constitute binding wrk assignments. No requirement for re-bids, 3 prior instances did not create practice.
20PA2600	<u>Hennepin County</u> AFSCME Council 5	Wallin, Gerald	Call Back Pay	Medical examiner ees seeking call-back pay for virtual meetings rather than regular pay or O.T. where appropriate.	Denied	Contract states, "called to the work site". Meetings not mandatory and employees remained to home.
20PA2508	<u>Hennepin County</u> AFSCME Local 1719	Jacobs, Jeffrey	Fitness for Duty	Corrections Officer asked to take Fitness for duty exam then placed on medical leave for two months. U seeking pay for that time since private Dr. said he was fit.	Sustained	ER has right to request fitness for duty exam. Pay only required when fit. Ee's Dr. said he was fit both in Sept and Nov. Co. Dr said he was unfit both times, but Co. put him back to work w/o explanation. Arb questioned why leave required?
20PA1596	<u>Hennepin Healthcare System, Inc.</u> International Union of Operating Engineers,	Wallin, Gerald	Me Too Clause	Me Too for '18-19 round of bargaining all contracts were for 2 yrs. A 2017 3 yr. contract had a reopener.	Denied	MOU adopted in mediation-no face to face understanding. Grieving party has burden of evidence - not met.
19PA0494	<u>ISD 625, St. Paul</u> Teamsters Local 320	Foy, Terrance	5 day suspension	School bus driver rear ended a car resulting in injuries. Drinking coffee in violation of policy.	Denied	11 yrs, no priors, 5-10 day suspension called for in policy
20VP2373	<u>Metropolitan Council, Transit police</u> Geoffrey Wyatt - Veteran	Lundberg, James	Termination - VP	Sgt. allowed a drunk man, who called about being suicidal, lay on rail tracks. A citizen talked the man off tracks.	Denied	Neglected duty to protect citizen; discredit to Dept & failed to properly supervise subordinate.
Non listed	<u>Metropolitan Council, Transit police</u> Law Enforcement Labor Services, Inc.	Before, Stephen	Demotion & 160 hour Suspension	Lt. made disparaging LGBTQ comments, showed bias vs female & lesbian officers. Demoted to sergeant suspended 160 hours.	Denied	Supervisor showed pattern of unequal treatment which impairs morale. Serious misconduct doesn't require progressive discipline. Disclpl.consistent w prior case.

September, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA1167	<u>Hennepin County</u> International Union of Operating Engineers,	Jacobs, Jeffrey	Workers Comp.	Union seeking to use vac. rather than sick leave to supplement workers comp.	Sustained	Workers comp language is more specific & trumps vacation language.

20PA1148	<u>Hopkins, City of</u> Hopkins Police Officer's Federation	Foy, Terrence	Oral Reprimand	Out-of-city chase contrary to policy. U-prior chase resulted in officers counseled.	Denied.	Oral is reasonable. Prior chase was low speed & officers ended it on their own.
20PA2475	<u>ISD 690, Warroad</u> MN School Employees Association	Daly, Joseph	Union work	Booster club paid charter company to transport H.S. teams to events. Union bus drivers claim it was their work.	Denied	No requirement for District to provide transportation to sporting events - not subcontracting when boosters pay.
20PA1020	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local	Befort, Stephen	Termination	Driver caused train door to close on customer's hand & failed to report it.	20 day susp.	ER maintained act was intentional, driver lied. Misconduct but intent/lie not proven.
FMCS	<u>3M Cottage Grove</u> United Steel Workers, Local 418	Befort, Stephen	Termination	Factory worker fell asleep tending a tape machine - a level 3 violation.	Denied	5 yr. employee with 2 priors. Policy calls for termination on 3rd violation in 3 years.

August, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19VP0589	<u>Hennepin County</u> Antoine Coleman - Veteran	Dunn, Richard	Termination - VP	Corrections suprvsr accused officer of alcohol on breath didn't report it for 4 hours. Untruthful in making the report.	Denied	28y ee, 2, 5 day suspensions. Waiting 4 hrs. to report is a serious safety violation, and incident didn't occur as reported.
20PA1353	<u>Hennepin Healthcare System, Inc.</u> AFSCME Council 5	Befort, Stephen	Termination	Protection officer called to eject man from hospital who had taken off clothes & resisted. Unnecessary force & lack of truthfulness in report.	13 mo. susp.	Chaotic security environment, lack of significant prior discipline & there were omissions rather than untruthfulness in his report.
20PA1207	<u>Lino Lakes, City of</u> Law Enforcement Labor Services, Inc.	Remington, John	Termination	Officer cross trained as firefighter, stated he wouldn't be using F-Tac radio after resigning as firefighter.	Written reprimand	Officer sought clarification of Dept's expectations but Dept failed to provide direction or policy regarding F-Tac use.
None listed	<u>Minneapolis, City of</u> Police Officers Federation of Minneapolis	Fogelberg, Jay C.	Termination	2 officers decorated 4th district's xmas tree using racially derogatory items contrary to Dept's core values. Pictures appeared on social media.	320 hr. susp.	20 yrs, no discipline, good service ratings no demonstrated bias. Call for termination occurred before investigation. Similar incidents received less punishment.
None listed	<u>MN State Colleges & Universities</u> <u>MN State Comm. & Technical College</u> <u>Minnesota Management & Budget</u> MN Assoc. of Professional Employees	Jacobs, Jeffrey	Work Schedule	Schedules were temporarily flexed to avoid OT for night meetings or events. Contract requires 14 day notice for permanent schedule change.	Denied	Management right to schedule. Flexing was temporary - U tried to obtain 14 day notice for temporary changes but was unsuccessful in negotiations.
19PA0402	<u>St. Paul, City of</u> Teamsters Local 320	Carne, Danielle	Timeliness 1 day susp.	U took 57 days vs 7 days to file step 2. Street Service Worker threatened co-worker, "snitches get stitches".	Arbitrable Denied	Lax with deadlines & ees medical situation. 12y ee, prior written reprimand. Policy prohibits threats.
20VP1419	<u>Wyoming, City of</u> Anthony Zerwas -Veteran (LELS)	McCoy, A. Ray	Termination - VP	Officer did a forceful rear takedown of a handcuffed prisoner in the jail sally port, due to prisoner "jerking away" but video only showed a slight turn.	Denied	4y ee, received discipline 3 mos earlier - a chase where he violated policy. Used U.S. Supreme Court Graham vs Connor for appropriate use of force determination.

July, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA1018	<u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local	Gallagher, Sharon	Termination	Bus driver's 4th accident in 3 yr period called for termination under the contract.	Denied	Know problem with bus access panel flying open was not mitigating.
20VP2354	<u>Metropolitan Council, Transit</u> Jeanette Patrin - Veteran	Altman, Robert	Termination - VP	Bus driver had 3 accidents, a red light violation, was disrespectful to supervisor & 2 cell phone violations.	Denied	Totaled 4 debits under the discipline system which calls for termination.
20PA1017	<u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local	Roberts, Andrew	Termination	Passenger on bus w/o paying, acted weird, said creepy things to female driver resulting in driver attacking passenger.	Denied	Fighting with customer, leaving seat w/o authorization, abusive or obscene language are each grounds for discharge.

June, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA0311	<u>Hennepin County</u> AFSCME Council 5	Befort, Stephen	Back pay	Position reallocated with back pay to 12/1/18. U seeking back pay to 2014.	Denied	U seeking remedy going back 5 years. Continuing violation allows grievance but remedy limited to 21 days.
			Timeliness	ER- untimely barred by 21 day timeline.	Arbitrable	
20VP1572	<u>Metropolitan Council, Transit</u> Michael Anderson - Veteran	Daly, Joseph	Termination - VP	Head stock keeper spent extensive time on internet, long lunches & lied during investigation.	30 hours	26 years service. No similar infractions. Mitigating health issues. Ordered to make hourly work record for 1 year.
None listed	<u>St. Paul, City of</u> St. Paul Police Federation	Bognanno, Mario	Termination	One of 5 officers fired due to actions at a bar disturbance. Failed to stop assaults, assist injured parties or investigate.	Denied	Several false statements, repeatedly failing to act while laughing & making disrespectful comments about patrons.

May, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Dairy Farmers of America</u> Teamsters Local 471	O'Toole, Carol Berg	Termination	Ee claimed he heard a racist comment. Supervisor didn't consider it racist. Ee yelled Filipinos weren't held accountable.	Denied	3 priors, including a final warning re code of conduct violations for using ethnic, derogatory or racist language.
20PA0882	<u>Plymouth, City of</u> Law Enforcement Labor Services, Inc.	Foy Terrance	Demotion 5 day suspension	Sgt. engaged in inappropriate conduct in a Mankato strip club during a police sponsored conference.	5 day susp.	Conduct warranted discipline, but demotion too severe.
20PA0441	<u>Wright County</u> Minnesota Public Employees Assoc.	Beens, Richard	Termination	5 bags of marijuana recovered only 4 turned in; no suprv. present while counting money, as required - \$200 missing.	2 mo. susp.	Violated policies/procedures re property. Insufficient missing money investigation. No one from cleaning crew questioned.

April, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA0938	<u>Brooklyn Park, City of</u> Brooklyn Park Police Federation	Yaeger, Thomas	Continuing Contract Insurance	CBA open. U seeking full benefit due to savings of moving to PIEP using continuing contract statute. CBA calls for only 60/40 split unless savings due to level of benefits or plan design change.	City violated Agreement	Essential ees covered by Contract in Effect Statute. Plan design changed. Arbitrator retained jurisdiction for purpose of remedy which is to be based on a negotiated settlement
20PA0252	<u>Ramsey County</u> Law Enforcement Labor Services, Inc.	Kapsch, Frank	Assigning Temp. Deputies	Temporary deputy hired to fill a 6 month summer traffic assignment.	Denied	30yr past practice of using temporary deputies to supplement summer staffing.

March, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20RA0804	<u>Azcon Inc.d/b/a Azcon Metals</u> Teamsters Local 346	Daly, Joseph	Timeliness Subcontracting	Union filed grievance after deadline. Subcontractor hired to cut heavy steel. U seeking to be paid OT for all OT hrs. worked by subcontractor.	Timely Denied	Continuing violation while subs working. No bar to subcontracting in contract. No adverse impact on Union.
19PA0530	<u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc.	Daly, Joseph	Termination	Officer accused of altering search warrant submitting false report & lying under oath making him Brady/Giglio impaired and unable to perform tasks of a police officer Given written reprimand by Dept.	17 months	Co Attorney said he can't testify so ER terminated due to inability to perform essential duties. Brady/Giglio doesn't eliminate just cause rights. Mistake due error vs deliberate lie. Retrnd no backpay.
19PA0530	<u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc.	Daly, Joseph	Just Cause	Group newly organized, no contract in place. Agreed to grievance procedure but no "just cause standard" listed.	Just Cause	Treatment as an "at will" employee w no just cause standard renders arbitration language absurd or nonsensical.
19PA0530	<u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc.	Daly, Joseph	Timeliness	Union cancelled mediation because ER refused to produce forensic evidence. U waited & filed for arbitration past deadline.	Arbitrable	Cancelling mediation was not a waiver. No final answer given after cancellation. cancellation so start of timeline unclear.
20PA1178	<u>Hennepin County</u> AFSCME Council 5	Befort, Stephen	Health Care Premium Holiday	Holiday on premiums declared for 3 pay periods by drawing from reserves, Union asked ER to replace reserves.	Denied	ER has full discretion to determine use of plan reserves. Insurance coverage not reduced.
19PA0857	<u>Hennepin County</u> Teamsters, Local 320	Beens, Richard	Overtime	12 hr. shifts have 48hr and 36hr weeks. Long week results in 8 hour OT. EE tried to use vac time to still qualify for OT, but ER gave unpaid leave to save OT cost.	Denied	Management right to deny vacation. No specific contract language.
19RA0934	<u>Human Development Center</u> AFSCME Council 5	Jacobs, Jeffrey	Termination	Case worker on Corrective Action Plan terminated for substandard performance.	Denied	Arbitrator limited to ruling if plan met contract's requirements.

20PA1307	<u>LeSueur County</u>	Jacobs, Jeffrey	Tentative Agreement	Summary Judgement award. Union seeking implementation of TA on Health insurance reopener not ratified by County	Denied	Without ratification - no agreement. AFSCME v City of St Paul, 533 N.W. 2nd 623 (Minn App 1995).
20PA1308	Teamsters, Local 320					
FMCS	<u>St. Francis Regional Medical Center</u> SEIU Healthcare	Hoffmeyer, Steven	Termination	Surgery scheduler. Performance issues regarding accuracy in filling out forms.	Denied	Given counseling/progressive discipline for over 3 years w/o improvement.
None listed	<u>St. Paul, City of</u> St. Paul Police Federation	Befort, Stephen	Termination	16 acts of misconduct while answering a fight call at a bar. Failure to act to stop assaults, assist injured parties or investigate.	Denied	6 yr. officer w good record. But 13 of 16 allegations proven. Misconduct appears to encompass deep seated beliefs.
20PA0274	<u>Sauk Centre, City of</u> Teamsters, Local 320	Lundberg, James	Insurance Deductible	MOU moved to PIEP & increased HSA amount 1/1/19. Due to coverage gap PIEP agreed to cover Dec '18.	Denied	U claims City promised no cost as result of change so City should cover Dec '18. deductible. No contract basis for claim.

February, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
19PN0888	<u>Hennepin County (Interest)</u> Henn. Co. Sheriff's Deputies Assoc.	Bauman, Susan	Interest	Deputies. Agreed to wage pattern 2.5%, 2.5%,2%. Pager pay-n-e; PTO-optional-u;Mkt adjst '19-4%-u,'20-0%-e,'21-0%-e (u '20-3.5%,'21-3%); Retroactivity-y-u; Reduce steps from 5% to 3%-e.	2019 - 6.5% 2020 - 2.5% 2021 - 2.0%	2019-2.5%+4%mkmt, based on Oct '19 & Apr '18 awards. PTO optional-based on Befort's 7/10/19 award. Pager pay-lack of comparables. Retro-likely result if neg. Steps-extensive internal pattern.
20PA0864	<u>ISD 879, Delano</u> SEIU Local 284	Daly, Joseph	Arbitrability 15 min. Breaks	Is Arbitration barred by bringing complaint to MN Attorney General? Is a Past Practice being violated by restricting breaks based on duties?	Arbitrable Denied	AG was proposing to mediate a wage theft complaint was not a barred action. Breaks not being denied, required to be flexible using professional judgement.
20VP0239	<u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local	Remington, John	Termination - VP	Bus driver stopped when pedestrians yelled. No one claimed being hit, but complaint filed later. Victim didn't testify.	Written Warning	Video didn't show bus hitting anyone. Driver made an accident report,but failed to notify Control Center as required.
19PN0861	<u>Sherburne County (Interest)</u> Minnesota Public Employees Assoc.	Hoffmeyer, Steven	Interest	Transport/Court. Wages-both agreed. Mrket adjusmnt-n-e; Pay for perfrmnce -no-u; Retro pay-y-u; increase notice required for termination to receive benefits-n-u: Floating Holiday-n, but Xmas eve Holiday-y.	2019 - 2.5% 2020 - 2.5% 2021 - 2.5%	Wages-agreed to pattern. Market - ER determines classification system. PFP, longer Termination notice & FL Holiday lack quid pro quo. Xmas eve Holiday - internal pattern.
19PA0841	<u>Stearns County</u> Law Enforcement Labor Services, Inc.	Roberts, Andrew	Arbitrability Timeliness	Dispatcher received 30 day suspension. U petitioned BMS for arbitration, but did not notify ER thus failing to meet timeline.	Denied	Contract requires U to notify ER. BMS is not a party to the contract.
19PN0975	<u>Steele County (Interest)</u> Teamsters, Local 320	Laumeyer, James	Interest	Corrections Sgts. Step increases based on satisfactory performance-y-e	2019 - 2.75% 2020 - 3.0%	Wages quid pro quo for change. All other groups accepted change. Overwhelming acceptance & inherent managemnt rights.

January, 2020

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Cargill Meat Solutions</u> United Food & Commercial Workers	Kapsch, Frank	Absences	43 of 230 ees received absence point for failing to come to work due to major snow storm. U seeing removal of point.	Denied	No fault attendance policy. Point system eliminates potential for bias or favoritism. 75% of employees came to work.
19PA0318	<u>Crystal, City of</u> Law Enforcement Labor Services, Inc.	Finkelstein, Phillip	1 day suspension	Officer assisting another Dept. cuffed suspect, swore at him, failed to write a report & misfiled body camera footage.	Denied	Union challenged investigation. Neither suspect nor other officers questioned. Camera footage, lack of report sufficient.
19PN0919	<u>Eden Prairie, City of (Interest)</u> Law Enforcement Labor Services, Inc.	Abelsen, James	Interest	Officer's 1st contract. Union activity-u; ER rights-u: Class action Grievances-u; OT assignment-u; Shift bidding-u;PTO in contract vs policy-u; PTO rates-e; Retro-u.	Pattern	Wages negotiated. Items awarded to Union were either in the IUOE 49 CBA or current practice. PTO rates in excess of IUOE 49 were denied.
20PA0131	<u>Golden Valley, City of</u> Law Enforcement Labor Services, Inc.	Bauman, Susan	4 day suspension	Detective didn't know how to access lab reports; failed to follow-up CODIS matches. Failed to perform follow-up & untimely reports in 40% of cases.	2 day susp.	City failed to prove ee put on notice re policy of 10 d follow-up since signature wasn't on page in Dept. manual. 2 of 3 charges proven. Supervision lacking.
19VP1104	<u>Minnesota Department of Corrections</u> Daniel Boegeman - Veteran	Befort, Stephen	Termination - VP	Corr. Sgt. accused of bribing offender to assault another, discussing investigation w offender, giving the finger to staff member & failing to dispose of contraband rings.	5 day susp.	Assault allegation not proven. Other violation do not rise to level of serious misconduct.
FMCS	<u>Quality Pork Processors, Inc.</u> U.F.C.W. Local 9	Befort, Stephen	Arbitrability	Grievances must be brought within 3 days but was pay practice for 17 years.	Arbitrable	Union unaware of issue until receiving paperwork from ER. Filed 3 days later.
			Paid rest period	Union claims conflict with 2 Articles over breaks for ees who don & doff protective equipment for their jobs.	Denied	Article with more specific language governs.
19PN0733	<u>Sherburne County (Interest)</u> Minnesota Public Employees Association	Lundberg, James	Interest	Corrections. Wages:'19-2.5%,'20-2.5%,'21-2.5% (agreed); retro '19-u; Adjust correct leapfrogging-n-e; Change anniversary date to Jan.1-n-e; Pay for performance-n-u; 30day notice when terminating employment-n-u; xmas eve-y-u.	2019 - 2.5% 2020 - 2.5% 2021 - 2.5%	Wages-pattern, retro for '19 in dispute - will not sanction U for hard bargaining. Leapfrogging, anniversary date & pay for performance should be negotiated. Xmas eve holiday - internal pattern.

2021 Arbitration Awards - Minnesota B.M.S.

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

"Sustained"

December, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PA0967	<u>MMB</u> SEIU Healthcare MN	Jacobs, Jeffrey W.	Wage/Dues	Successor entity did not provide wages, PTO time earned to home health care providers and did not submit union dues or political contributions deducted from checks to the Union. State being asked to make whole as they are party to CBA and oversee the funds.	Sustained in part Denied in part	The state failed to ensure the intermediate company implemented the terms of dues check off and COPE deductions. Whether the State violated the CBA with regards to payments of wages is outside the scope of arbitrators jurisdiction, but may be addressed in other forums.
FMCS 210809-	<u>2Mackay/Mitchell Envelope Co LLC</u> Teamsters Local 1B	Daly, Joseph L.	Mandated OT	Disagreement as to the definition of the advanced notice of overtime. Company mandating pre-shift OT, not just within first 4 hours of shifts to be extended.	Denied	No evidence CBA violated. Staffing shortages and pressures of 24/7 operations result in need for both voluntary and mandated overtime shifts.
21PA2596	<u>Chippewa County</u> AFSCME 65	Imes, Sharon K.	New Hire Salary Placement	New hire placed at step higher than current EE's claiming same level of experience or years of service. Following placement of current staff onto new salary scale.	Sustained	ER failed to show new hire possessed greater experience than current EE's. New hire to be placed at same step as current, not step higher.
21PN0853	<u>Washington County</u> MNPEA	Foy, Terrance J.	Interest Arbitration	No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. 2% Market Adjustment to be effective 12/31/21. No range adj for 2021. Insurance contributions: y-U 1/1/21 (E-ratification) Field Training Officer Comp. y-U 1.5 hrs (E-1 hr) Clothing allowance: A -\$660(U-\$675,E-\$600) Rejected new Special Teams Equip Allowance language. Already provided.	Insurance 1/1 \$660 clothing FTO to 1.5 hrs	Internal compensation consistency upheld to maintain equity and labor peace, even if economic conditions have improved since other settlements were reached.

November, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PN1408	<u>Washington County</u> LELS	Miller, Richard J.	Interest Arbitration	No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. Effective 12/31/21 Salary range maximum increased by 2%. No range adjustment for 2021. Insurance contributions: y-U-1/1/21 (E ratification) Clothing allowance: y- u-\$880 (e-\$875)	Insurance 1/1 \$880 Clothing	Internal compensation consistency upheld to maintain equity and labor peace, even if economic conditions have improved since other settlements were reached.

21PN1527	<u>Anoka County</u> AFSCME Council 5	Miller, Richard J.	Interest Arbitration	Parties reached agreement during hearing of non-bargaining calculation of merit increase 3% increase to min/max, 9% increase to Probation Aide starting wage, and deleting Art 3.9.	2% Merit Pay	Arbitrator maintained internal pattern of 2% merit increases, extended full holidays to Probation Officer Aides, but denied adding a non-certified holiday issue or granting a hazard pay bonus when no precedent with other employee groups in county.
21PA0131	<u>ISD 625</u> Teamsters 320	Ver Ploeg, Christine D.	Training Pay	Union argued EEs entitled to 30 min pay for breakfast and registration time before mandatory training session. District information stated it was optional and not required or part of training. Union provided breakfast and was considered social time.	Denied	Per FLSA, EEs who arrived early were waiting to be engaged, which is not work time which must be compensated. The time to sign in for registration was de minimus. ER only responsible to pay for the mandatory training hours.

October, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PN2015	<u>Washington County</u> LELS	Beens, Richard A.	Interest Arbitration	No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. Effective 12/31/21 Salary range maximum increased by 2%. No range adjustment for 2021. Insurance contributions: y-U-1/1/21 (E ratification) Clothing allowance: y- E- \$900 (U-\$940) Sergeants Promo Pay-y -E maintain 5% min (U- minimum of 8% increase)	Insurance 1/1 E:\$900 clothing	Internal consistency upheld to maintain equity and avoid labor unrest. Pandemic induced economic burdens best shared by all. Though not able to work from home, no reward granted for doing exactly what would be expected in ordinary times.

September, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PN1092	<u>City of Fairmont</u> LELS	Wallin, Gerald E.	Interest Arbitration	ER sought change to wage scale (3 to 10) severance scale, vacation accrual, holiday payout, comp time payout and addition of waiver language. Existing language/practices maintained (u). Call Back definition modified to exclude trainings, meetings, and special events (e). No change to sick leave usage language (u proposal rejected). Hybrid of HCSP/severance language awarded.	Wages: (e & u) 2021: 2.25% 2022: 2.75%	Arbitrator upheld language and practices maintained over lengthy bargaining history. Absent 'quid pro quo' of negotiations, no compelling argument for change even if other bargaining units have accepted them. Internal consistency does not warrant the elimination of employee choice. Union members not bound to the rights and benefits negotiated with other bargaining units.
FMCS	<u>UNFI</u> Teamsters 120	Daly, Joseph L.	Termination	Employee discharged for second incident of loafing/theft of time within a month. Union argued "just cause" must be followed even if not spelled out in contract.	Denied	Employer had just cause for the discharge. Employee had knowledge of policies and prior discipline to know the consequence.
21TD2674	ISD 244 Chisago Lakes Individual (Jeremy Peterson)	Befort, Stephen F.	Termination	District removed long-term teacher who showed racially and culturally insensitive video to a Jr High class resulting in complaints from students and parents.	40 day unpaid suspension	Misconduct and poor decision warranted serious discipline, but not immediate discharge without warning and chance to correct behavior.

21PN0863	<u>Rock County</u> Teamsters 320	Daly, Joseph L.	Interest Arbitration	1st contract Sergeant's Unit. Internal comp/consistency w/existing Deputy CBA. Comp Time Cap:U-80 hrs, E-40 hrs. Sick Leave Cap:U-800 hrs, E-720 hrs. Shift Diff: U-2.75 nights/1.75 wkend, E:0 Language issues re:LOA, COBRA, Seniority	ER Awarded: U Awarded:	OT-schedules can't create OT Existing vacation accrual schedule Vac and Sick NOT hrs worked for OT 40 hr annual Comp time cap Sick Leave cap, Leave of Absence language COBRA language, Shift Diff \$\$ & Seniority
21PA2030 21PA2031	<u>City of Duluth</u> AFSCME Council 5	Jacobs, Jeffrey W	Layoff vs Other Job Assignment	City Attorneys office reorganized and 2 positions eliminated while two paralegal positions created. The 2 employees were layed off after not possessing the skills required for the new positions. Union felt City had obligation to offer them positions outside of the department at the same rate of pay and benefits as before classification was eliminate.	Denied	City had right to reorganize the department and create new positions. Grievants were allowed to apply for positions but were not most qualified.No other positions existed within the department into which they could bump. City not obligated to place into a position somewhere else in the City. COVID practice NOT a precedent.

August, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PA1498	<u>Hennepin County</u> AFSCME Council 5	Osthus, Marlin O.	1 Day suspension	Corrections Officer. Multiple unscheduled absences with lack of proper medical documentation.	Written Rep.	Conduct warranted discipline, but jump from oral reprimand to suspension out of line. Policy unclear and errors made in enforcement.
21PA1785	<u>ISD 2142</u> Teamsters, Local 346	Jacobs, Jeffrey W.	Prorated Leave	District reduced most hours from 31.5 to 26, without adding definition of Full-Time. Union understood changes only would apply to health, life & dental insurance. District pro-rated sick leave, personal leave, and holidays based on actual hrs worked.	Denied Sustained	Sick Leave hour proration is supported by current contract language; Personal Leave article language provides "all" employees received 4 days per year Does not limit or clarify how accrued.
21TD1486	<u>ISD 282, St. Anthony-New Brighton</u> Individual	Beens, Richard	Termination	Teacher alleged to have contributed to culture of inappropriate behavior thru racist, homophobic, physical abuse and predatory behavior via online petition site.	Reinstated 7 day unpaid suspension	Police found no probable cause for any criminal charges. Incidents of swearing in front of students, expressing excessive anger is remediable. Memo on rumors.
21TD2014	<u>ISD 2365, Gibbon Fairfax Winthrop</u> Gibbon, Fairfax, Winthrop Ed. Assoc.	Kundrat, Frank	Termination	Licensed Speech and Language Teacher. Alleged to have used inappropriate and unauthorized carrying procedure on a young Special Ed student.	Reinstated 5 day unpaid suspension	While grievant did exhibit conduct that was unbecoming a teacher warrenting discipline, she did not wilfully neglect her teaching duties and is remediable.
21PN1105	<u>Clay County</u> Teamsters, Local 320	Miller, Richard J.	Interest	ACAs. Market Adjustment for 2022 U: 3%, ER: 0%	ER position	Comparable data and retention evidence do not support need for adjustment.
21PA1174	<u>City of St. Paul</u> Machinists, District Lodge 77	Kapsch, Frank Jr	Termination	Vehicle Maintenance Worker terminated re: violation of Work Place Conduct policy	Denied	ER had just cause to terminate. Threats of violence made. No ADA requested.

July, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21VP2021	<u>City of Red Wing</u> Veterans Preference	Finkelstein, Phillip	Termination	Roger Pohlman, Police Chief, terminated Veterans Preference rights request was challenged by City. Veteran failed to demonstrate he was not a Dept. Head.	Denied	Summary Disposition granted. As a Department Head is not covered under MN Veterans Preference Act, Minn. Stat. 197.46
21PA0014	<u>ISD 197</u> SEIU, Local 284	Lundberg, James	Working Out of Class Class	2020 Summer Program had less direct supervision and broader scope of involvement for Spec Ed Para staff. E: Core Site Supervisor responsibilities not reassigned.	Denied	Entire program redesigned in 2020. Insufficient evidence Special Ed Paras performing work of Site Supervisors.
21PN1151	<u>Dakota County</u> Teamsters, Local 320	Foy, Terrence	Interest	Correctional Deputies.	2021-1% 2022-2%	E Lump Sum Matrix pay awarded Union proposals for new flex time, hazard pay and retention bonus rejected.
20PA1893	<u>Hennepin County</u> AFSCME Council 5	Dunn, Richard J.	5 Day Suspension	OSIII at Correction Workhouse submitted timecards claiming 31hrs + of time not actually worked.Discipline for misconduct violation of timecard policies and Dept's Code of Ethics Standard of Conduct	Denied	Through falsification of time reporting grievant knowingly received pay for time which she did not work.
21PN0541	<u>City of Gaylord</u> Teamsters, Local 320	Foy, Terrence	Interest	1st contract Licensed Police Officers. U seeking definition OT, Union Business, Legal Defense. Comp Time:u-80 hrs, e-0 FTO:u-\$3/hr, e-I hr pay.Uniformsu-\$1000 e-\$700. Holidays: u-10+2 float. e-11.5 OT paid u-in excess normal schedule. E- after 84 hrs pay period. IOD:u 6mth e30d Shift Change: u-14 days, e-no change OnCall: u-\$3h, e-\$2h, Shift Diff:u\$1 6p-6a Duration:u-3 y, e-2 y	E Pay Scale 2021- 1.5%	No hearing. Cases submitted via briefs and exhibits. Only bargaining unit in city. No definitions added outside Quid Pro Quo negotiations. E wage scale/COLA given. Union position awarded OT pay & FTO City position awarded clothing, On Call, Severance, IOD, Duration. Union positions rejected on comp time, holiday pay out, schedule change, and shift differential.
21PA0800	<u>Metro Council</u> Machinists District Lodge 77	Orman, Anthony	Termination	Grievant discharged for use of racial epithet towards another employee. Terminable under MCES policies and guidelines.	Denied	Grievant dismissed for cause. Credible investigation confirmed incident.
21PA1025 21PA1026 21PA1027	<u>City of Duluth</u> AFSCME Council 5	Jacobs, Jeffrey W.	Termination Retro Termination Benefits	Grievant resigned/retired while on FMLA leave and while under investigation for possible "double dipping". Er attempted retroactively terminate back to date of FMLA leave and deny payout of benefits available to retirees.	Denied* Sustained Sustained	Grievant had right to resign/retire prior to discipline being imposed. Is entitled to benefits provided upon resigning/retiring. No two week notice required per CBA. Termination moot as had resigned prior to discipline.

June, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PA0097	<u>Minnesota Management and Budget</u> Minnesota Government Engineering Council	Kapsch, Frank	Step Progression Supervisory Pay	Union argued EEs did not receive the appropriate step progression and that the new requirement to enter a code in payroll to receive supervisor compensation was an attempt to avoid paying those who did not remember to enter code. ER believed it followed the CBA in awarding steps and the practice of entering code is standard and necessary for accurate record keeping.	Denied	Employer did not violated the language, terms or provisions of the labor agreement. No agreement for retroactivity in the new step progression language. Contract is silent as to the "code" issue and no previous challenges to use. EEs who forget to enter code can submit an amended timesheet and be made whole
21PA0644	<u>Hennepin Healthcare System</u> AFSCME Council 5	Wallin, Gerald E.	Termination	Grievant terminated for violating policies on Protected Health Information (PHI) and confidentiality by not restricting viewing to information necessary to complete work and getting out of the record.	Denied	Discharge upheld. Grievant did violate the "minimum necessary rule" when accessing and viewing information within the medical record outside of what was needed to complete work assignment.
21PA1259	<u>Metropolitan Council</u> ATW Local 1005	Wallin, Gerald E.	Discrimination in the application of physical fitness standards	Grievant removed from bus driving duties after health issue discovered. Dispute as to timeliness of grievance, ability to grieve "discrimination" in this context, and the application and provider of the fitness testing and standards applied in the ER's decision to restrict driving.	Denied	1. The case was procedurally arbitrable 2. Allegations of discrimination are substantively arbitrable. 3. The ER did not discriminate against the grievant in applying its fitness standard or denying ability to serve as bus operator.
21VP1329	<u>Bemidji State University</u> Veterans Preference	Wallin, Gerald E.	Termination	Shawn Callagan discharged for making inappropriate and racially offensive comments to a co-worker. Multiple previous disciplines for violations of ER's policies on Respectful Workplace and Non-Discrimination.	Denied	Progressive discipline was followed and discharge was in accordance with the MN Veterans Preference Stat. 197.46
FMCS	<u>Essentia Health</u> Minnesota Nurses Association	Befort, Stephen F.	Termination	Nurse ordered mediations under Dr's. name without talking to the doctor.	Denied	Serious misconduct does not require progressive discipline.
21PN0736	<u>Meeker County</u> Minnesota Public Employees Assoc.	Miller, Richard J.	Interest	Licensed Deputies. e:Sunset Sick Sever. Clothing: u:\$850/m, e:\$63/ppd On-Call: u:\$250/m, e:\$225/m	Clothing \$850 On-Call \$250	10 issues negotiated, 5 issues arbitrated. Sick Leave Severance Sunseted for new hires post 12/31/20
21PA0131	<u>ISD #625, St. Paul</u> Teamsters Local 320	Ver Ploeg, Christine	MOA premium	\$3 premium negotiated for Governor's mandated Essential Kid Care program. U seeking prem. for voluntary summer program.	Denied	Summer program voluntary vs mandated; recreational vs educational; not covered by MOA nor Governor's mandate.
20PA2566	<u>ISD #625, St. Paul</u> Teamsters Local 320	Laumeyer, James A.	Disaster Pay	TA's seeking Quarantine/Catastrophe pay for Break week they worked in the past.	Denied	COVID didn't meet CBA definition & no guarantee of hours in CBA.

19PA0398	<u>ISD #625, St. Paul</u> Teamsters Local 320	Ver Ploeg, Christine	Class Action	Is there a bar on filing a class action (re pay on a training day)?-No. Does FLSA claim create bar due to improper venue? No.	Arbitrable	CBA doesn't specifically bar union from filing on behalf of members. Issue is within scope of CBA.
21PA1258	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Beens, Richard	Termination	Train operator threatened to pay someone to shoot two managers.	Denied	Threats of gun violence are ... "sufficiently serious to justify immediate discharge."
21VP1115	<u>Metropolitan Council - Transit</u> Jessee Johnson - Veteran	Roberts, Andrew M.	Termination - VP	Driver gave incorrect & incomplete info re diabetes on his job application.	Denied	Falsification of records constitutes misconduct. Consistently enforced.

May, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
21PN0704	<u>Crystal City of (Interest)</u> Law Enforcement Labor Services	O'Donnell, John	Interest	Officers. Duration-2y-u; Insurance 2022 -reopener-e; Ins opt out-\$75-e (u-\$225); Wages 2%,2% (u-3%,3%; e-2%,1%)	2021 - 2.0% 2022 - 2.0%	Duration-1st yr almost done; Reopener-need to negotiate w carrier;Opt out-internal pattern. Wages 2021- pattern.
19PA0496	<u>Hennepin County</u> AFSCME Council 65	Hoffmeyer, Steven	Sick Leave Accrual	Corrections officers changed to 12 hr. shifts-84 hrs vs 80 hours, Seeking sick accrual for 84 hrs.	Denied	Sick accrual based on regular hrs. 4 hrs. are OT hours and not eligible for sick accrual calculation.
21PA0842	<u>ISD #194, Lakeville</u> Education Minnesota	Jacobs, Jeffrey W.	Pandemic Pay	Seeking compensation for teachers with hybrid in person & video distance learning requirements during COVID pandemic.	Denied	Not an additional class since it contains the originally assigned students & subject matter.
21PA1181	<u>ISD #649, Northfield</u> Education Minnesota	Hoffmeyer, Steven	Termination	Education assistant went golfing while claiming to work a full day.	Denied	Time theft does not require progressive discipline nor specific prohibition.
21PG0974	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Osthus, Marlin O.	Training Evaluation.	Bus driver seeking storekeeper position failed - claimed training was flawed & unfair-seeking a second chance.	Sustained	ER has inherent right to set standards, but training flawed. Lack of computer access conflicting directions, hostility.
20PA2057	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Osthus, Marlin O.	Termination	Bus driver failed to properly secure scooter that tipped during a left turn.	Denied	Policy violations led to accident. 4th acc. within 3 yrs. Calls for termination.
21PA1009	<u>Minneapolis Park & Recreation Board</u> City Employees LiUNA, Local 363	Befort, Stephen F.	Termination	Made racially disrespectful comment, "he's one of you" to a black co-worker,	Denied	24y ee, 4 prior suspensions including for, racially & sexually insensitive remarks.
20PA0833	<u>Minnesota Management & Budget</u> AFSCME Council 65	Laumeyer, James A.	OT assignment	No one signed up for OT in advance, ER asked for volunteers, selected most senior. U said most junior should be forced.		Forcing bad for moral. Contract language is permissive, not directed. ER permitted to seek volunteers a second time.
FMCS	<u>Morrison (Compass Group)</u> SEIU Healthcare	Daly, Joseph	Overtime	Failure to post sign-up for extra hours. thereby denying OT opportunities	Denied	ER has fixed & variable schedules. There were no extra hours to post.

20PN2562	<u>St. Louis County (Interest)</u> Law Enforcement Labor Services	Altman, Robert	Interest	Wages-e (u+10% equal sgts-no); Retro for those separated-y-u; Retro-y-u; sick remove from OT-no-u; Elect remedies-n-u Placement on new schedule-e; remove 12hr shift formula-n-u.	2020 - 2.0% 2021 - 2.25% 2022 - 2.25%	Wages, internal pattern. Sgts moved to another unit, reclassified as supervisors+ additional money. Retro for separated - small #, Retro-no Penalty for arbitrating. Placement-internal pattern, more money. ER didn't show need for other items.
19PA2874	<u>Willmar, City of - Municipal Utilities</u> I.B.E.W., Local 160	Bognanno, Mario	Arbitrability Promotional	Timeline met? - no. With minimum qualifications does seniority	Denied	Original grievant not qualified, for position.. Next senior name added at step 3. New

April, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Allina Health (United Hospital)</u> Minnesota Nurse's Association	Befort, Stephen F.	Termination	Nurse failed to follow dress code after 4 reprimands; violated cell phone policy; & yelled at supervisor.	Reinstated w/o back pay or benefits (12 mo susp.)	Unions claim that actions were due to safety concerns regarding Covid 19 was sufficient to mitigate termination.
			Unfair Labor Practice	Barred from talking union business in emergency room.	Denied	ER has right to policy that limits activity during working hours.
21POA0935	<u>Anoka County</u> Law Enforcement Labor Services	Gaertner, Susan	2 day Suspension entered intersection siren, struck by car		Denied	15 yr. ee, 2 priors. Preventable accident. Discipline consistent with other cases
20PA1427	<u>Carver County</u> AFSCME Council 65	Jacobs, Jeffrey W.	Termination	Child protection social worker failed to discharge duties in 5 cases - putting children at risk.	Reinstated w/o back pay or benefits	6 yr ee, no priors. 1 case not proven, 3 w relatively minor issues. No complaints on any other cases over 6 years.
20PA1286	<u>Chisago County</u> Teamsters Local 320	Foy, Terrence J.	Termination	Child protection aide verbally abused, coworkers and grabbed her.	Reinstated w/o back pay or benefits (10 mo susp.)	23 yr ee, 1 reprimand. Continued to work together w/o incident for 2 weeks while investigated. Zero tolerance policy never shared w employees.
21PA0843	<u>Hennepin County</u> AFSCME Local 5	Dunn, Richard J.,	PTO	Ee was in PTO as a non-rep ee, went to Teamsters position & chose Vac/Sick plan, then went to AFSCME & wanted to retain Vac/Sick.	Denied	Contract requires PTO if ee was ever covered by that plan. Teamster contract has no effect.
21PA0858	<u>Hennepin County</u> AFSCME Council 5	Altman, Robert	Out-of-Class Pay	Volunteers who worked as lead workers at Covid 19 housing sites should receive out-of-class pay as supervisors?	Denied	Site Lead was not comparable to work of Administrative Supervisors
21PA0859	<u>Hennepin County</u> AFSCME Council 5	Wallin, Gerald	5 day suspension	Disrespectful and confrontational with supervisor. U-lack of progressive discipline.	Denied	No need for multiple channels of discipline for different type of conduct.
21PA0860	<u>Hennepin County</u> AFSCME Council 5	Miller, Richard J.	2 day suspension	Case Management Asst. refused to give a breath test to a client due to COVID concerns - felt he deserved hazard pay.	Denied	Volunteered, trained & fitted w mask. Didn't state concerns until client arrived. No need for progressive discipline.

21PA0620	<u>Metropolitan Airports Commission</u> International Union of Operating Engineers,	Dunn, Richard J.	Termination	Ee took a damaged ladder w/o required permission for obtaining scrap material. 2nd charge of Ethics violation for using ER's account to obtain discount & sales tax forgiveness.	Denied	20yrs, failed to file request, he knew was required - constituted theft & supported termination. Ethics violation not proven,
21PA0359	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Malamud, Sherwood	DOT Certification	MTC's MN Occupational Health vendor didn't certify ee to drive a bus. The Mayo clinic did provide certification. U claims discrimination.	Denied	ER properly exercised discretion in selecting & relying on medical opinion of it's vendor.
21PA0177	<u>Minneapolis, City of</u> Jesse Crofton - Veteran	Miller, Richard J.	Termination - VP	Anti-Muslim articles posted to Facebook page, violated Dept's code of Ethics. Post didn't list name or police dept, Continued working 30 mos w exceeds rating before termination.	Denied	Veteran's filings for worker's comp & disability insurance, coupled with his testimony created credibility & fitness for duty issues.
20PN1381	<u>Minneapolis, City of (interest)</u> Minnesota Public Employees Assoc.	Beftor, Stephen F.	Interest	Dispatchers. Wages 1%, 1.5% (u 2.25%, 2%, e 0%, 0%); longevity step-n-e; certification pay-	2020 - 1.0% 2021 - 1.5%	Wages below pre-COVID pattern, (city deficit \$155.9m). Union didn't prove need for longevity. Cert-obsolete language.
20PA1495	<u>Minnesota, Veteran's Homes of</u> Minneapolis and Hastings AFSCME Council 5		Holiday Compensation	Ees sought to receive comp time for working Holidays vs cash. ER paid cash for 8 hours & comp for 4 hours premium claiming it was FLSA required	Sustained	Contract language is clear & not in . conflict with FLSA.
20PA1211	<u>Roseau County</u> Teamsters Local 320	Beens, Richard	Job assignment	Ee applied for Drug Task Force. Deputy selected had less seniority. Was denial de-facto discipline?-no.	Denied	Assignment was a transfer, not a new hire, nor a promotion. Mngmnt right. No loss of benefits or adverse impact.

March, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA1350	<u>Hennepin County</u> AFSCME Council 5	Altman, Robert	Banked Time	Can ER require banked Hol/Comp time use, before use of Vac/PTO time? - Yes.	Denied	Spelled out in Admin Manual;supr weren't authorized to allow practice; consistent county wide; no contract bar.

February, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
20PA2556	<u>Hennepin County</u> Teamsters Local 320	Jacobs, Jeffrey	Termination	Juv detention Officer made inappropriate & transphobic comments in therapy class. Therapist felt it was "grooming behavior."	12 mo. susp.	8 yr. ee with written & two 2 day susp. Termination based on sexual grooming allegation - did not rise to that level.
20PA2533	<u>Minnesota Department of Corrections</u> Nathan Knutson	Beens, Richard	Termination	Asst. Warden accused of violating ethical standards & told not to talk to anyone about the case.	1 month susp.	20 yr. Did not violate ethical standards. Disciplined for contacting co-workers which constituted insubordination.
21PA0097	<u>Minnesota, State of</u> MN Government Engineering Council	Kapsch, Frank	Procedural Arbitrability	Union filed grievance with MMB instead of immediate suprvrs in MPCA & MDOT.	Arbitrable	U acted reasonably & properly MPCA & MDOT told U - MMB was moving party.

Not listed	<u>Wilkin County</u> AFSCME Council 65	Jacobs, Jeffrey	Leave Time	Vacation/Sick/Holiday aren't considered hours worked for OT. U seeking to allow use at straight time if 40 hrs. are worked. (i.e. rain days when working 10hr shifts.)	Sustained	New contract language bars using non-worked benefit hours to calculate O.T., but didn't change benefit usage language.
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January, 2021

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	<u>Allina/Abbott Northwestern Hospital</u> SEIU Healthcare	Remington, John	Termination	Clerk refused to submit to reasonable suspicion drug test. Advised she would be terminated, changed her mind & agreed, but left before the tester returned.	Denied	Clearly stated penalty for refusing test based on reasonable suspicion. Fear of needles & possibility new medication caused symptoms not considered.
20PA0907	<u>Big Stone County</u> AFSCME Council 65	Yaeger, Thomas	Timeliness	ER unilaterally changed ee spouses cafeteria insurance benefit. U failed to select arbitrator within 90 days.	Denied	Arbitrator must be selected withing 90 days. Parties may have talked, but no Arbitrator selected - thus not arbitrable
21PA0002	<u>Duluth, City of</u> AFSCME Council 5	Yaeger, Thomas	Resignation/Job Abandonment	Ee w mental health issues failed to give required updates while on sick leave. ER claimed ee resigned when absent for 3 days after final deadline for update.	Sustained	ER allowing paid leave to continue past prior deadlines undermined compliance. Ee reinstated to position held on 4/8/20 on unpaid status until Dr. clears for work.
21PA0090	<u>Hennepin County</u> IUOE Local 49	Jacobs, Jeffrey	1 day suspension	Ee on workers comp, told not to come in to the office, kept asking until she got a different answer. At the office was told to leave and failed to do so.	Denied	20yr ee, 1 written reprimand. Refusal to leave from office was insubordinate. Discussion of Weingarten.
19PA0629	<u>Hibbing, City of</u> AFSCME Local 791	McCoy, A. Ray	Employer's ability to change shifts	Start time for shift changed from 7am to 3am for snow plowing. Contract "Any change change in hours of work must be made with mutual agreement."	Denied	Contract bars reducing workday to less than 8 hrs. with 20 minute paid lunch.
20PA0279	<u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015	Toenges, Rolland	OT Work Shifts	Staff shortages left 3rd shift in stockroom unfilled. U seeking OT to fill vacancies.	Denied	Management right. Superv getting parts was miniscule & didn't constitute U work.
FMCS	<u>Millennium Hotel</u> IUOE Local 70	McCoy, A. Ray	Eliminating Position	ER eliminated Lead Engineer position due to lack of work & discharged ee. Building engineer positions remained.	Sustained	Right to eliminate position doesn't automatically lead to discharge. Lack of just cause to terminate. Must reassign.
20PA2588	<u>Minnesota Department of Corrections</u> AFSCME Council 5	Jacobs, Jeffrey	Termination	Corrections officer, code of conduct viol. Directed offender outside during fire drill in Dec w/o shoes or jacket; callous disregard for well being using Learning Experience disciplinary list in a cavalier manner.	Denied	Prior oral reprimand, 2 day suspension. Coached 11 times for similar behavior re power play games to instill fear and nervousness in offenders.
21PA0008	<u>Ramsey County</u> Teamsters Local 320	Daly, Joseph	Arbitrability Timeliness	Substantively arbitrable? No contract language on issue of job posting but U cites LMC discussions.	Arbitration Required	Hearing required for testimony on claim. Grievd late, but only 1 day after ER provided their explanation.

2022 Arbitration Awards - Minnesota B.M.S.

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, 2022						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA0123	<u>St. Louis County</u> Law Enforcement Labor Services	Altman, Robert	Interest Award	Union asserts the ER violated the implementation of the arbitrator's award with regards to placement of current EEs onto the new salary schedule. Were not given 2 steps required under Civil Service Rules (as with a promotion/job reclassification). ER attests that placement consistent with all other bargaining units and Civil Service Rules not addressed in interest arbitration.	Denied	Arbitrator upheld ER's implementation, as focus of award was on Internal Equity, not Civil Service Rule placement guidelines.
21PA0469	<u>Duluth Public Schools ISD 625</u> Teamsters Local 320	Foy, Terrance J.	Sick Leave Usage	10 month Teaching Assistant worked additional summer hours at fee-based, childcare center. Attempted to use sick leave and was denied, as is not the academic Summer School program where sick leave usage is allowed per the CBA.	Denied	The contract clearly allows for sick leave usage for those working "summer school session". Childcare center is not an academic extension of the school year. Parties are free to negotiate different language if they intend it to be considered differently in the future.
23PA0177	<u>Chisago County</u> Teamsters Local 320	Miller-Levin, Nancy J.	Call-Out Pay	Equipment operators contacted on weekend and ordered to report for work at 10 am on Monday (scheduled holiday/day off) due to a forecasted snowstorm. EOs changed personal plans to work. At 8:30am called by supervisor and told not to come in at 10, but to stay by phone and available to work later in the day. Between 2-3p called again and told they wouldn't be working at all as snow did not arrive. ER refused to approve call-out pay because no work performed and CBA does not have provision for stand-by pay.	Sustained	ER implemented a call-out when it directed EOs to report to work on their day off. Regardless of whether work performed. CBA requires 2 hrs pay at OT rate.
22PA0700	<u>Hennepin County</u> Teamsters Local 320	Foy, Terrence J.	Termination	Security officer manning a security checkpoint found to have taken a visitor's can of mace back to his personal locker, rather than returning the item, or logging it in and storing in the designated lost and found. Employer considers it theft, and his efforts to cover up his actions egregious.	Denied	Termination justified for serious misconduct, theft by security officer even more egregious. Public trust broken, as is confidence in having access to County buildings, offices and confidential materials.
November, 2022						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PN1164	<u>City of Bloomington</u> AFSCME Co. 5	Yaeger, Thomas L.	Interest Arbitration	Wages 22 - U: No ATB if market adjustments done first yr. ER: 3% Wages 23 - U: 3% GWA or same as non-union, whichever is greater. ER: 3%. Union requesting Market Adjustment. ER opposed. Frontline Stipend - U: \$2000 ER: None. Union seeking change to Automobile and Travel Expense to mirror other staff with no monthly cap.	ER Awarded:	3% general wage increase 2022. 3% general wage increase 2023. No market adjustments. Union awarded \$2000 Frontline Stipend as provided to other City employees. Also awarded the Automobile and Travel Expense language without monthly cap.

20PA0445	<u>Metro Transit</u> ATU Local 1005	Toenges, Rolland C.	Subcontracting	Grievance filed after outside contractor hired to perform lighting retrofit of 10,000 fixtures in 9 facilities. Employer points out no provision in CBA limits the right of contracting, and it acted in good faith for a reasonable business purpose that did not adversely impact its employees.	Denied	Exercise of ER's inherent right to contract did not violate the CBA.
22PA0950	<u>Minnesota Management and Budget</u> Minnesota Nurses Association	Altman, Robert	Terminations	2 RNs caring for an inmate at Oak Park Heights Correction Facility with medical conditions needing round the clock care. Inmate died after further assessments not taken as his condition deteriorated. Employer terminated them for failure to comply with responsibilities outlined in their position description and comply with standards of nursing care. Union contends since Board of Nursing imposed no discipline they should be reinstated.	Denied	Board of Nursing's lack of discipline imposed on nurses or their licenses is not controlling of the ER's right to determine who remains employed. CBA requires just cause as threshold for discipline.
22PA1692	<u>Duluth Public Schools ISD 709</u> NCFO SEIU 956	Yaeger, Thomas L.	1. Vacancy Posting 2. Delay of Transfer 3. Posting (Promo)	Grievance filed over 1. how/where a vacancy was posted, 2. when the person selected for a lateral transfer was allowed to begin the new position in a different building, and 3. when the posting for the ensuing promotional "backfill" should have occurred. District showed past practice of delaying major disruptions in staffing until summer, as the domino effect of people switching buildings and positions can impact services during the school year	1. Sustained 2. Denied 3. Denied	1. The District must post vacancies per the process outlined in the CBA. 2. The District did not violate the contract by delaying the lateral transfer until the end of the school year. 3. The District did not violate the contract by not posting for a promotional opportunity during the school year.
22PA0568	<u>University of Minnesota</u> AFSCME Council 5	Yaeger, Thomas L.	Termination	Dispatcher terminated for incidents of adjusting work schedule and coming in late without supervisory approval, and appearing to claim pay for time not worked. Union contends communication was attempted, and termination is punitive rather than corrective.	Sustained in	Progressive discipline appropriate. While termination not justified, written reprimand and 3 day unpaid suspension upheld. Arbitrator ordered employee returned to same position and made whole, less the 3 days
21PA1547	<u>MMB Department of Human Services</u> AFSCME Council 5	Yaeger, Thomas L.	Termination	Employee at St Peter terminated for multiple policy violations and gross misconduct. Multiple incidents of disparaging, disrespectful social media posts about vulnerable adults and co-workers, threats of harm to patients, failure to report maltreatment and disclosing and misusing protected patient data.	Denied	Employer had just cause to discharge grievant for repeated incidents of egregious conduct indicating lack of respect for patients, co-workers and mission of the agency.
22PA1249	<u>Washington County</u> Teamsters 320	Foy, Terrence J.	Assignment	Grievance filed asserting those assigned Enhanced Supervisions clients should receive the differential assignment pay for those designated as part of the Enhanced Supervision Unit Probation Officers. ER contends the cases assigned do not carry with them the job expectations of the ES Unit.	Denied	No evidence that ER paying differential to those not specifically assigned to those cases. Assertion that someone transferred out of the ESUPO continued to receive assignment differential factually incorrect.

FMCS 220428-	<u>Gopher Resource, LLC</u> Teamsters Local 120	Remington, John	Termination	2 yr employee discharged after spray painting offensive graffiti at work site. ER pointed out 4 prior disciplinary warnings, including 3 for unsatisfactory work performance. Union argued termination was excessive discipline.	Denied	Company had sufficient cause to discharge grievant. Previous progressive discipline did not correct grievant's performance deficiencies
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22PN0971	<u>Todd County</u> Law Enforcement Labor Services, Inc.	Wallin, Gerald E.	Interest Arbitration	Comp Time: U-Status Quo, E-eliminate 100 hr max, add 80 hr carry over.HCSA Contributions:U-Status Quo, E-changes for those hired on or after 1/1/22. Wages: U-3% each yr of contract, E-2.5% each year of contract. U-Market Adjustments, E-No Market Adjustments, Task Force Pay:U-increase to \$1.75 E-Status Quo, Death Scene Investigations:U-New language and stipend for duties. E-No, and does not believe arbitrable.		Employer position awarded on comp time, no market adjustments and status quo for task force pay. Union position awarded for Health Care Savings Plan contributions and general wage increases in 22, 23, 24. No award issued for death scene investigation language or pay.
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October, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22PA1080	<u>MMB Department of Corrections</u> MAPE	Toenges, Rolland C.	Contract	Grievance filed after denial of a promotion/s to a higher classified position and a claim of retaliatory treatment for having filed a grievance. Claims failure to accept comparable qualifications and unequal treatment. ER indicates promotions not accepted due to not meeting minimum experience and training requirements. State maintains they have the managerial right to select and promote employees, and MAPE does not have standing to dictate who is selected for promotion.	Denied	Selection or non-selection of an employee for promotion in state service is an inherent managerial \ right established by statute and not subject to the CBA grievance procedure
22PN0949	<u>Metropolitan Airport Commission</u> Law Enforcement Labor Services, Inc.,	Bauman, Susan J.M.	Interest Arbitration	Prior to arbitration, parties came to agreement on grievance procedure language, and the general wage increases for 2021 & 2022 in line with the internal settlement pattern. Union seeking market adjustments for 21 & 22, and a salary schedule modification in 21 & 22.		No market adjustments awarded However, an additional 1% increase shall be added to the top step of the salary schedule effective 1/1/2022

September, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
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August, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS 255814	<u>Pan O Gold Baking Co</u> Teamsters, Local 289	Befort, Stephen F.	Delivery Commission	Union claims CBA violated by compensating Route Sales Representatives a private label commission rate rather than the higher commission rate for POG branded product deliveries when delivering "clear bag" products with no label. ER position is that it is consistent with delivery-only commission, vs the branded products that can include handling returns.	Denied	CBA language ambiguous as to whether clear bag product is private label or independent product for purposes of commission. However, practice is in line with commission paid for other delivery-only work.

22PA0394	<u>Dakota County</u> AFSCME Council 5, Local 450	Jacobs, Jeffrey W.	On Call Pay Past Practice	Union claims ER violated CBA and past practice of providing certain probation officers with 128 hours of on-call pay per week by changing to 40 hours of on-call pay per week (and less POs placed on-call at any one time).	Denied	Past practice was not formally repudiated during the course of relevant contract negotiation. On-going grievance does not serve as notice.
22PN1109	<u>Ramsey County</u> Teamsters 320	Jacobs, Jeffrey W.	Interest Arbitration	Holidays: ER-exchange floating holiday for Juneteenth. U - status quo. Uniform: U - \$800, \$1000, \$1000. ER - \$800 each yr. Severance: U - Modification. ER- status quo. Vacation: ER- 2.5x annual cap with 1 time spend down. U - status quo. Wages: U - 3.5% general increase each yr. ER - general increases of 1.5%, 2.25%, 2.25%. Salary Progression: ER- reduce each level by 1 yr. U - change from 20 yr to 15yr. Deferred Comp: U -increase from \$35 to \$45. ER- status quo. FTO pay:U -increase. ER- status quo. Hazard Pay - U - \$3 hr from 3/20/20. ER - none. Pandemic Pay:U-\$3000 ER - \$500 for those who worked from home/\$1000 for those reporting to work.		Holidays: ER-exchange floating holiday for Juneteenth. Uniform: Arbitrator awarded \$875 yr1, \$900 yr2&3. Severance: ER- status quo. Vacation: ER- 2.5x annual cap with 1 time spend down. Wages: ER - general increases of 1.5%, 2.25%, 2.25%. Salary Progression: ER- reduce as proposed. Deferred Comp: ER- status quo. FTO pay: ER- status quo. Hazard Pay - ER - none. Pandemic Pay: ER - \$500/\$1000.
22PN0542	<u>City of Crystal</u> Law Enforcement Labor Services, Inc.	Kapsch Jr, Frank E.	Interest Arbitration	Holiday Call Pay: U-earn call back rate of 2X for Christmas, 4th of July or Thanksgiving. ER - Maintain status quo. Health Insurance Opt Out Amount: U - \$225 ER- Maintain \$75 opt out. Market Rate Adjustments: U - 2.5% market adjustment each year of contract. ER - No market adjustment.		Holiday Call Pay: ER position maintain status quo Health Insurance Opt Out Amount: Union's proposal of \$225. Market Adjustment: ER position. No market adjustments beyond the General Wage Increase pattern established.
22PN0970	<u>Ramsey County</u> Teamsters Local 320	Miller, Richard J	Interest Arbitration	Holidays: ER- swap floating holiday for Juneteenth. U - status quo. Uniform Allowance:ER - \$850 each yr. U - \$875 yr1, \$900 yr2, \$925 yr3 Severance Pay: 60% cash pay out up to 1500 hrs. ER - status quo. Vacation Cap and Accrual: ER - change to 2.5x cap and one time annual spend down. U - status quo. Health Care Savings Plan: U- Increase contribution. ER- status quo. Wages: U - 4% general increase each yr. ER - general increase pattern (1.5%, 2.25%, 2.25%)		Holidays: ER - replace one floating holiday with Juneteenth. Uniform Allowance: U - will move to \$875 yr 1, \$900 yr 2&3. Severance Pay: ER- maintain current schedule. Vacation Cap & Accrual: ER - move to 2.5x cap w/ 1 time spend down. Health Care Savings Plan: ER - maintain status quo. Wages:ER - 1.5% yr1, 2.25% yr2, 2.25% yr3.

22PN0998	<u>Stearns County</u> Minnesota Public Employees Association	Miller, Richard J.	Interest Arbitration	Shift Differential:U -\$2 hr. ER-\$1.25 hr. FTO Compensation: U-1 hr OT. ER- maintain \$1. POST training Compensation: U - 1 hr OT per FTO shift. ER-\$2 hr. Schedule Change: U-OT rate if within 7 days. ER - status quo. Juneteenth: U -Add. ER - no. Clothing Allowance New Hires: U - 1st two qtrs up front. ER- receive quarterly allotment. Insurance Contribution: U-Increase contribution by premium incese each yr. ER - \$35 S/\$75 F increase each yr of contract. VEBA contribution: U-\$400. ER - \$350. VEBA Retirees: U-\$2000 ER- \$1000. IOD Pay:U-120 days worth. ER - 60 day status quo.General Wage Increase: U-5%, 4%, 4%. ER - 2% 1/1 - 2% 7/1 pattern. Canine Handler Pay: U - 1 hr OT. ER- 1/2 hr a day. SWAT/Dive Team Compensation:U-\$100 mth. ER-\$1 hr.Pandemic Pay: U-\$5000. ER - none. Hazard Pay: U- 2% base wage. ER - none. DMT/DRE Pay:U-\$200 annually. ER - none. Term of Agreement: U-1 yr. ER - 3 yrs.		Shift Differential: Arbitrator Awarded \$1.30. FTO Compensation: ER- maintain \$1. POST training Compensation: U - 1 hr OT per FTO shift. Schedule Change: ER - status quo. Juneteenth: ER - no. Clothing Allowance New Hires: U - 1st two qtrs up front. Insurance Contribution: ER - \$35 S/\$75 F increase each yr of contract. VEBA contribution: ER - \$350. VEBA Retirees: ER- \$1000. IOD Pay: ER - status quo.General Wage Increase:ER pattern. Canine Handler Pay: U - i hr OT. SWAT/Dive Team Compensation: Increase to \$50 a month.Pandemic Pay:ER - none. Hazard Pay: ER - none. DMT/DRE Pay: ER - none. Term of Agreement: ER - 3 yrs.
22RA1479	<u>Kowalskis Market</u> UFCW Local 663	Beens, Richard A.	Non-Union Workers	ER employed non-union staff to man the in-store Starbuck's kiosks feeling it was a separate business not subject to CBA. Union finds these indistinguishable from other food and retail services within the stores and are covered by the CBA.	Sustained	CBA language "All work in the store will be done by bargaining unit members" is clear and unambiguous, ER is required to staff the Starbuck's kiosks within their stores with UFCW 663 Union members.
July, 2022						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22PA1351	<u>St. Cloud Metropolitan Transit Commission</u> Teamsters Local 63B	Jacobs, Jeffrey W.	Forced Use of Leave Time	Grievant refused a forced shift assignment on her regular day off and the required use of accrued time was deducted from her vacation time.Since the grievant declined due to provide FMLA care to a parent, there was a question of if sick leave should have been deducted. Union contends no time should be lost, but other reprimand issued in its place.	Denied in Sustained in	ER did not violate the contract by requiring use of. paid hours before entitled to an unpaid leave. However, sick leave should have been used. Credit vacation time back and deduct from sick.
21PA0413	<u>Carver County</u> Teamsters 120	Altman, Robert	Suspension	Detention Deputy was issued a 168 hour suspension for violation of County policies and Sheriff's office policies following theft of food from huber lunch bags intended for inmates and violation of his paid administrative leave.	Denied	Relatively short term employee with prior discipline. Showed no recognition of serious nature of misconduct and no contrition.Violated terms of paid administrative leave by not being available to come into work if called.
22PA1883	<u>Meeker and Wright Special Education Coop.</u> Minnesota School Employees Association	Daly, Joseph L.	Contract Grievance	Union filed class action grievance alleging ER violated the collective bargaining agreement by adjusting salary step placement upward after initial hire. ER cites an error in previous service credit was corrected, and not limited by CBA. ER challenged arbitrability and timliness.	Denied	Determined to be unarbitrable.Union did not have standing to file grievance for single employee who did not wish to file one.

22PN0993	<u>City of Savage</u> Law Enforcement Labor Services, Inc.	Dunn, Richard J.	Interest Arbitration	Contract re-opener to meet and negotiate medical insurance contributions and H.S.A contributions.	See Decision	A 50/50 split of premiums savngs was ordered, to mirror agreement on how premium increases are to be divided. Maintained H.S.A contributions consistent with other city employees.
21PA1542	<u>MMB</u> AFSCME Council 5	Jacobs, Jeffrey W.	Termination	Grievant terminated for violation of HIPPA and other policies by posting derogatory comments about her vulnerable adult patients and workplace on social media.	Denied	Discharge upheld. Grievant violated several . policies. Progressive discipline unlikely to correct serious egregious behaviors
22POA1234	<u>Becker County</u> Law Enforcement Labor Services, Inc.	Swanson, Stephen D.	Discharge	Sheriff Deputy discharged for violating Sheriff's Dept policies, county personnel policies, and Minnesota POST Board policies when he engaged in a	Denied	Termination upheld. In spite of positive service record, the grievant did not use his de-escalation tactics and his behavior was intentional, dangerous and totally unacceptable. Concern that a repeat would threaten safety of public.

June, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22VP1474	<u>Hennepin County</u> Veterans Preference	Kundrat, Frank J.	Termination	Carl Bodene (Veteran) discharged for repeated violation of the ER's Non-Discrimination Respectful Workplace policy. County argues he is not entitled to double recovery (working another job while collecting full salary while on appeal for VP hearing)	Denied	Employer had cause to terminate. Grievant ordered to reimburse Hennepin County for any funds he earned in excess of the salary he drew while on fully paid veterans preference appeal status from date of notice of termination to the date of this decision.
22VP1564	<u>Hennepin County</u> Veterans Preference	Remington, John	Termination	Andy Knutson (Veteran) was suspended, then discharged, for failure to submit to reasonable suspicion drug and alcohol test after serious of previous incidents and progressive discipline.	Denied	Employer had cause to terminate.
FMCS Case 221129-01463	<u>Breakthru Beverage Minnesota</u> Teamsters Local 792	Remington, John	Vacation Pay	Disagreement as to calculation of vacation pay,	Denied	No violation in the calculation of vacation pay.
22PA0958	<u>Metropolitan Council</u> ATU Local 1005	Malamud, Sherwood	Discipline	Grievant issued Final Record of Warning and permanently demoted from Instructor to bus operator for incident where he moved the location of training without authorization or immediate disclosure.	Sustained in part.	ER did not violate CBA when imposing Final Record of Warning, but permanent demotion not just and merited. Grievant should be restored to former position if presently qualified with no backpay for the three years in demoted position.

May, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS Case 210209-0389	<u>Allina Health/Buffalo Hospital</u> SEIU Healthcare MN/Iowa	Daly, Joseph L.	Respectful Workplace Violation	Class Action Grievance filed for alleged hostile, abusive, and disrespectful behavior from a manager in the facility. ER contends small group resistant to change and being held accountable. Challenged arbitrability as no specific incident was cited within 20 day window for filing alleged grievances.	Denied	Testimony of employees who quit prior to the filing of the grievance was not considered. Examples of statements made, tone, etc. were deemed as being "conclusions" rather than "facts". Though arbitrable as grievance brought on behalf of a few current employees, just cause was not shown by a preponderance of the evidence.

22PA0882	<u>ISD 196, Rosemount-Apple Valley-Eagan</u> Teamsters Local 320	Dunn, Richard J.	Payroll Processing	Past practice of paying for optional summer work separate from regular amounts, but on the same every other Friday pay schedule. Unilaterally changed by the District when it established different cut off dates and schedules for regular pay vs additional pay. These changes made in 2020-21 without consulting Union. District challenged arbitrability as no contract language violation cited and no specific employee was named in grievance. Argues managerial right to shift payroll process Union defended right to file on behalf of group of members as their exclusive representative.	Sustained	Timelines for payment of extra work must be retained. Future changes should be the subject of negotiations. District will make the effected employees whole for the two week period b calculating the amount deferred and adding 2% interest.
21PN2575	<u>Ramsey County</u> Teamsters Local 320	Beens, Richard A.	Interest Arbitration	Single Issue of Seperation Pay for Chief Correctional Officers unit. Union seeking the same schedule as Deputy Sheriff Commanders. ER's position is to maintain current schedule.	ER position	Internal comparison asserting CCOs equal to DSC not compelling. Minimum qualifications and job duties differ as reflected in their historical pay ranges. And in the 2 unit's separation pay. DSCs obtained through quid pro quo in lieu of market wage adjustment. No such quid pro quo with CCO Failed to achieve through multiple collective bargaining sessions, not role of Interest Arbitration to grant benefits that could not be achieved at bargaining table.
FMCS 200518-0633	<u>North Shore Estates, LLC</u> SEIU Healthcare MN	Daly, Joseph L.	Termination	Long-term employee discharged for accepting gifts for her child from a vulnerable resident.ERs position is that even if gift was de minimus, she did not disclose the gift and federal laws, state laws, and ER policies are clear. Union argued a traumatic head injury impacted grievant's ability to remember signing a document saying she should not accept gifts on behalf of her family, & her long record of being a good employee should be considered.	Sustained in part	Though just cause to discipline, mitigating factors should be considered when looking at level of discipline. Grievant returned to work with no back pay.
20PA0840	<u>ISD 625, St. Paul</u> AFSCME Council 5	Befort, Stephen F.	Overtime Assignmen	Union argues the District did not properly assign overtime to distribution workers by seniority. ER supervisor had delegated OT assignment in his absence to 2 members of the bargaining unit who did make an error in one instance. Other instances outside the grievance timeline not given consideration.	Sustained in part	ER directed to comply with contract by offering overtime opportunities within the same job title in seniority order. Since unable to determine who would have accepted the OT if properly offered, no make whole remedy imposed.

April, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22PA0561	<u>Ramsey County</u> AFSCME Council 5	Jacobs, Jeffrey W.	Seniority	Union asserts ER violated contract and past practice by utilizing factors other than seniority when awarding internal position bids.Practice did differ from CBA language, but no discernable pattern in how selections were being made. ER notified union it was ending past practice as part of bargaining in order to fully use the contract language using "ability and capacity" as factors when filling vacancies.These are not routine jobs and needs of clients differ as well as differences in day vs night shifts.	Denied	Evidence presented of successful repudiation of past practice and lack of evidence ER has violated any provision of labor agreement. ER maintains the managerial right to select Ees it feels would best fit into a position.

22VP0607	<u>MMB DOC</u> Veterans Preference	Befort, Stephen F.	Termination	Scott Behrends (Veteran) discharged for misconduct and violation of several DOC policies through comments and actions that made subordinates and co-workers uncomfortable. Determined that he did violate Personal Code of Conduct, the Harrassment and Discrimination Prohibited Respectful Workplace, Statewide Sexual Harrassment Prohibited, thru asking EE if pregnant, discussing porn, simulating 20 yr EE with "Fragile X Syndrome" was discharged after incident of insubordination with manager, and using offensive language in front of other employees and customers.	Sustained in part	ER sustained in decision to remove Behrends from position of Corrections Program Director, but ER directed to reinstate his employment in Correctional Counselor position. Progressive discipline in form of demotion to non-supervisory role where previously successful appropriate.
FMCS 221201-0155	<u>Kroger Company</u> UFCW Local 536	Toenges, Rolland C.	Discharge		Denied	ER had just cause to discipline the grievant for insubordinate behavior and offensive language. Grievant had been trained on rules, and ER showed it had consistent pattern of uniform discipline when warranted.
21PA2668	<u>Ramsey County</u> Jonathan Witucki (Individual)	Miller-Levin, Nancy J.	Arbitrability	Mr. Witucki terminated after failure to comply with Last Chance Agreement. Union did not initiate or participate in a grievance challenging the discharge because of LCA. Private atty tried to process w/ER thru CBA but ER challenged as 1. exclusive rep not participating and 2. Wituki had waived his right to grieve his termination in his Last Chance Agreement from 2017.	Not Arbitrable	An individual cannot independently process a grievance under the CBA between union and employer. Request for arbitration hearing on merits of the discharge denied

March, 2022

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
February, 2022						
22PA0604	<u>Minnesota Management and Budget</u> AFSCME Council 5	Beens, Richard	Holiday Pay	Zoo staff previously allowed to bank holiday straight time & premium time (1.5 actual hours worked) into compensatory time bank. Violation of FLSA discovered and grievance filed when practice discontinued.	Denied	Contract language overly broad and contrary to federal law. ER put Union on notice twice it revoked consent to past practice.
22HA0002	<u>North Shore Health (Cook County)</u> SEIU Healthcare	Beens, Richard	Termination	Grievant had series of disciplinary actions for tardiness, ignoring of assigned tasks, violation of daily med check policy, patient abandonment, and falsification of records.	Denied	Employer followed progressive discipline and had cause to terminate for series of egregious policy violations. Grievant did not accept responsibility or appear to show remorse for actions/attitudes.
21PA1010	<u>ISD 625, St. Paul</u> Teamsters Local 320	Remington, John	Quarantine Leave	Union argued absent specific language up to 10 days quarantine leave should be granted per incident. ER position is that the maximum of 10 days is per contract duration and other leave time available for use if needed.	Denied	Employer did not violate the CBA by denying grievant Quarantine/Catastrophic leave time in excess of the 10 days provided and used.

22POA0516	<u>Minnesota Management and Budget</u> MN State Patrol Troopers Association	Gaertner, Susan	Termination	State Trooper discharged for falsifying commercial vehicle inspection reports, failure to pull vehicles with serious violations out of service and turning off squad cam video during drivers encounters creating safety risk and violation of public trust.	Denied	Despite no previous discipline history, ER had just cause to terminate for serious misconduct.
20PA2458	<u>MN Judicial Branch</u> Teamsters Local 320	Biggar, David M.	Contract Grievance	Union filed grievance because ER will not permit judge to change court reporter's pay from one step to another on negotiated salary schedule. Further complaints that some judges hiring new reporters at higher step than current tenured reporters.	Denied	No authority for judges to modify their court reporter wage rate after the reporter has been hired. Therefore no basis to find the ER violated the CBA by refusing to allow judge to adjust wages.
January, 2022						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22PA0729	<u>Hennepin County</u> AFSCME Council 5	Beens, Richard A.	Work Schedules	Union argued ER designee did not have the authority to close an office site impacted by power outage and possible gas leak.	Denied	ER designee authorized to close offices when determines an emergency situation exists.
22PA0341	<u>Metro Transit</u> ATU 1005	Altman, Robert	15 Day Suspension 10 Day Suspension	Case involved 2 disciplines and grievances related to multiple violations of Ers Cell Phone Policy. No dispute of use of phone, just level of discipline.	Denied	ERs consistent enforcement of cell phone policy justified. Grievant's reprehensible behavior during investigation did not compel a reduction in length of discipline.
22PA0426	<u>Metro Transit</u> ATU 1005	O'Toole, Carol Berg	Termination	Operator terminated for seeking permission to work overtime verbally from dispatcher rather than seeking written authorization from Rail Control Center Staff. ER viewed as theft of time. Union argued policy unclear	Sustained	Reinstated with no back-pay. Ers lack of training, and unavailable Rail Control Center Staff led to understandable confusion on authorization process for overtime. Could have been more careful, but not theft.
22PA0549	<u>Hennepin County</u> AFSCME Council 5	Jacobs, Jeffrey W.	Written Reprimand	Grievant issued written reprimand after multiple coaching and counseling sessions and multiple PIPS realted to lack of timely case documentation, case closure and time management. Union argued grievant was confused over expectations and possible consequences.	Denied	Employer had just cause and followed progressive discipline in dealing with on-going unaddressed performance issues.
22VP0003	<u>MMB MDVA</u> Teamsters Local 1B	Befort, Stephen F.	Termination	Recreation Program Assistant terminated for accepting wedding gift from resident in violation of Statewide Code of Ethics policy. Union argued did not solicit money, Vet was not cognitively impaired, and not clear policy applied to wedding gifts.	Sustained in part	30 day unpaid suspension appropriate progressive discipline for error in judgement rather than intentional malfeasance.

2023 Arbitration Awards - Minnesota B.M.S.

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, 2023						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA2625	<u>ISD 625 St Paul Public Schools</u> AFSCME Minnesota Council 5	Befort, Stephen F.	Demotion	Long-time EE demoted out of Student Wellness Clerk position following a series of poor performance evaluations and failure to correct via performance improvement plan. Union argued the new supervisor was seeking to remove her from the department.	Denied	ER had just cause to demote grievant for performance issues
23PA2624	<u>MMB</u> MGEC	Kundrat, Frank J.	Professional Dues	Grievance filed over failure to reimburse for MN Assoc. of Professional Development dues after concerns raised it appeared to be a part of the MN Government Engineering Council. MGEC negotiates terms and benefits of employment with MMB, so ER payment would appear to violate code of ethical conduct and questioned legitimate public purpose.	Sustained in part	MAPD is a distinct and separate entity from MGEC, and qualifies as professional organization. Dues paid by ER for MAPD membership are properly reimbursable except for that portion of dues allocated to direct reimbursement of professional licensure fees.EEs denied reimbursement made whole for portion NOT put towards professional license fees during 21-23 CBA
24PA0127	<u>Stearns County</u> AFSCME 65	Kelly, Patrick J.	Seniority Date/Arbitrability	Grievant's salary review date was adjusted per the CBA Denied the CBA due to an extended unpaid leave of absence. Grievance filed 5 years after the adjustment made. Union not informed of the change at the time to be able to file on Ees behalf. ER feels followed CBA, but issue is not arbitrable and should be denied due to missed timelines.	Denied	Not arbitrable, grievance timelines outlined in CBA not followed.
FMCS 230725-7895	<u>Guthrie Theatre</u> Twin Cities Musicians Local 30, AFM	Befort, Stephen F.	Bargaining Unit Work	Grievance filed after third-party non-union composer used non-union musicians, and did not fill out an incidental music agreement for a dramatic production. ER cites multiple other examples where this has occurred in the past. Union attempted to negotiate clarification into the CBA but were unsuccessful.	Denied	Past practice of ER both directly hiring musicians, or having a third-party composer hiring as a means to avoid its contract obligations, therefore no compelling reason to disturb status quo.
FMCS 230721-262633	<u>Tschiggfrie Properties, LTD</u> Teamsters 120	Daly, Joseph L.	Discharge following FMLA	Lead heavy-duty truck mechanic injured (not on the job). Light duty work was found, but need was exhausted and hours cut so went on short term disability. Took a voluntary layoff with hopes of coming back. Company assisted in filling out paperwork for 12 week unpaid leave under FMLA. He was still unable to return to the heavy-duty truck mechanic work, so was terminated. He was eligible and continued to receive long-term disability but wants to return to the light-duty work.	Denied	Termination upheld as allowed based on the Family Medical Leave Act law.

262633	<u>Gregory Contracting, Inc.</u> Doval Construction, LLC	Toenges, Rolland C.	Performance Liability	Gregory (contractor) entered into agreement with Doval (sub-contractor) to install siding on a residence in North Branch. The siding was not installed in accordance with manufacturer's specifications, resulting in loss of warranty and appearance quality. To satisfy property owner and provide product warranties, the siding will need to be removed and replaced with new siding installed with manufacturer's specifications.	Sustained. Doval is liable for the replacement of siding improperly installed.	Gregory Contracting is awarded the cost of replacement material plus labor costs and expenses for the siding replacement and awarded attorney' fees in the amount of \$6,600.00
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November, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA2371	<u>Hennepin County</u> AFSCME Local 2398	Altman, Robert	Exceptional Pay	Top performing county attorney did not receive expected exceptional pay following completion of his annual performance review. Though increase supported by supervisors, HR did not receive appropriate paperwork/documentation to process. As this was being worked through, new County Attorney suspended the exceptional pay program due to budget questions and no established criteria.	Denied	Employer did not violate the contract by not implementing an Exceptional Pay increase for grievant.
23PA2572	<u>Wadena County</u> Teamsters Local 320	Remington, John	Sick Leave Use	Class action grievance filed. Negotiated changes to the 22-24 contract at issue. Union states intent was to separate sick leave and create a separate bank of leave time for funerals. Ers position was it did not intend to create a new type of paid time off.	Sustained	Clear and concise language in the contract must prevail. ER violated contract when it required Ees to use accrued sick leave to attend funerals of immediate family members. Entitled to maximum of 5 days per incident, those who had to use sic kafter 1/14/23 shall have sick leave reimbursed.

October, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS 230535 06451	<u>Marsden Building Maintenance LLC</u> Service Employees Intl Union, Local 26	Daly, Joseph L.	Termination	Short term EE issued several disciplinary actions, and placed on Performance Improvement Plan over course a few months. ER continued to receive complaints about her work, her creation of safety hazards, and hostility and insubordination when dealing with direct supervisor.	Denied	Termination was for just cause. Immediate termination based on poor past performance and insubordination upheld. No mitigating circumstances for lesser discipline.
23PA2684	<u>City of Rochester</u> AFSCME 65	Failor, Gregory L.	Suspension	Asst clerk issued 5 day suspension without pay for on-going performance issues. Progressive discipline followed with continued concerns. Union argued minor infractions used as basis for discipline, and inconsistent work direction received from supervisor.	Sustained in Part	Suspension reduced from 5 days to 3 days without pay. ER did not address some of the performance issues at the time they occurred to allow for EE to address them.

23PA2464	<u>Ramsey County</u> IUOE 49	Jacobs, Jeffrey W.	Longevity Steps	Grievance filed for failure to provide longevity steps first full pay period following 1/1/23. Union asserted part of negotiated settlement. County asserted it has always granted longevity steps on anniversary date, and there was no intent to change that.	Denied	Compression of longevity steps was applied generally county-wide, with evidence that longevity steps was done on an individual's anniversary date. Plain meaning of contract language was applied.
23PA1313	<u>Chisago County</u> Teamsters, Local 320	Abelsen, James	Vacation Request Request	Grievance filed after past practice of balancing	Denied	Miscommunication about Available for Snow vs
23PA0720	University of Minnesota Teamsters, Local 320	Kapsch, Frank E.	Premium Pay	Grievance filed claiming delivery driver	Denied	Materials that grievant handles and transports in
24PA0066	<u>ISD 286 Booklyn Center</u> SEIU 284	Altman, Robert	Termination	Short-term EE terminated after investigation concluded conduct was highly disruptive, interfered with student's ability to feel safe and accepted, and alienated co-workers. Union argued grievant terminated for minor performance and communication issues that could and should have been dealt with through coaching.No effort to address concerns made until the termination.	Sustained	Grievant returned to former position, not necessarily former assignment. No backpay awarded. ER did not meet burden of proof to show termination was for Just Cause, that well documented progressive discipline was followed or that egregious conduct or insubordination occurred.
261832	<u>City of Minneapolis</u> AFSCME CO 5, Local 9	Befort, Stephen F.	Health Insurance for for P/T	Grievance filed for ER's failure to provide health insurance for part-time EE. Later determined EE had been hired into an "intermittant" position. CBA has no provision for medical coverage for part-time or intermittent EEs.Union argued past settlement agreement had effect of opening up insurance to part-timers. ER argued union . missed timelines to file grievance and grievant lack standing to file	Denied	Grievance not arbitrable on procedural grounds (failure to observe time limits for filing, and lack of standing by grievant to file). No further need to determine merits of the case.
23PN1372	<u>Steele County</u> MNPEA	Stromquist, Steven R.	Interest Arbitration	Single issue of Pay Scale and Steps considered. Union seeking to eliminate bottom 2 steps, add new step to top. Move those on 1&2 to 3, all other EEs placed on next higher step effective 1/1/23. ER postion to eliminate bottom 3 steps. Move those on 1-3 to 4, Step 4 to 5, all those not effected effected receive step on anniversary as outlined in in current CBA.	Employers	ER successfully argued that proposal is strong when compared to external competition, and more importantly, to . maintain internal consistency in its compensation structure. Uniform implementation of new wage schedule accepted by 91% of bargaining unit members in county
23PN0934	<u>Itasca County</u> Teamsters 320	Lundberg, James A.	Interest Arbitration	Number of issues certified, including updated Individual Rights language, new Sick Leave language, addition of Discipline language, and general wage increases and market adjustments. ER seeking the internal GWA pattern each year and no market increase. Union seeking 3% GWA each year, and additional 3% market increase in 22 and 23.	GWA: 2022	Arbitrator awarded updated Rights language, maintained status quo with regard to Sick Leave and Discipline language. Awarded ER's general wage adjustments to maintain internal equity. Awarded an additional 1% market adjustment each year to account for the external wage comparisons and the pressure on law enforcement market.
23PN0934	<u>Itasca County</u> (Clarification)	Lundberg, James A.	Interest Arbitration			No new discipline language will be added to the the collective bargaining agreement.

23PA2009	<u>Chisago County</u> Teamsters 320	Kundrat, Frank J.	Class Action Past	Multiple grievances filed for ERs non-negotiated change to past practice(s) of reporting to County site for paid breaks and meal breaks, advance notice and lead time for early snow removal, and when pay started in case of early start - non-emergencies (when work starts vs when contacted to come in). ER disputed arbitrability citing different timelines in expired 2022 CBA vs new 23-25 agreement.	Sustained	Arbitrator did not feel bound to timelines of CBA not in effect, so proceeded with case. Past practices upheld, absent conversation or or negotiation with the Union to alter.
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September, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS 23105- 02900	<u>Mayo Clinic St Marys</u> SEIU Healthcare	Beens, Richard A.	Mandatory Overtime	Grievance filed on behalf of Mayo Inventory Clinic staff working during COVID pandemic who felt ER was violating the CBA terms by requiring EES to work unreasonable overtime amounts by routinely requiring them to work more than their 8 hour shifts (including an additional 8 hour double). ER states nature of pandemic emergency and turnover rates of 45-67% necessitated the extra hours of remaining EEs while in "survival mode".	Denied	Under circumstances of providing healthcare during pandemic and declared National Emergency, it is impossible to consider the worked unreasonable. In the interest patient care, neither ER or EEs had any realistic choice. It is outside the Arbitrator's authority to issue a "cease and desist" for similar OT in the future. Parties must agree to shared definitions of reasonable or unreasonable at bargaining table, not thru arbitration.
23PA1827	<u>City of Elk River</u> IUOE, Local 49	Finklestein, Phillip	Written Reprimand Reprimand	Written Reprimand issued following accident	Denied	Good employee made serious mistake and level
23PA1027	<u>City of Moorhead</u> Law Enforcement Labor Services, Inc.	Daly, Joseph L.	Holiday Pay	Grievance filed for failure to pay 2x for non-scheduled hours picked up and worked on a holiday. ER argued since EEs volunteered for . open shifts prior to the shift, was "scheduled" and only eligible for 1.5X rate of pay on holiday	Sustained	Arbitrator determined "not scheduled to work" did include picking up shifts. Further, it was determined that there was a past practice of paying officers willing to work on a holiday double time.
23PA1728	<u>Hubbard County</u> Law Enforcement Labor Services, Inc.	Bauman, Susan J M	Step Progression Progression	Union filed grievance for failure to advance Ees on their anniversary date.	Sustained	Arbitrator determined modification to step progression negotiated as part of 2022 class and comp study. ER ordered to follow step progression contained in CBA.

August, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA1015	<u>City of North St. Paul</u> Teamsters Local 320	Jacobs, Jeffrey W.	3 Day Suspension Suspension	Grievant used city PO and vendor to order specialty bulbs for headlights. Later filed work order claiming to install on his work vehicle. Investigation showed bulbs not installed, nor do they fit, on his or any other city vehicle. Bulbs could not be located. ER issued 3 day suspension without pay alleging he took the bulbs.	Denied	While based on circumstantial evidence, the ERs conclusion is reasonable. The union's argument of supervisory conspiracy is not supported by the papertrail of parts orders, work orders, etc that tie back to the grievant. Level of discipline is appropriate as it was not a simple paperwork error. Theft typically is an egregious terminable offense.

FMCS 231024-00584	<u>Mille Lacs Health System</u> IAEP Local 107 SEIU Local 5000	Hoffmeyer, Steven G.	PTO - OT Calculation	After negotiations for a first contract concluded, Union filed grievance when discovered Paid Time Off hours used were not counted towards overtime pay calculation. Feel "Employees will be paid PTO as hours worked" in the PTO article should apply to overtime. ER contends the language is an reflection of its broader PTO policy that does not/has never counted those hours towards OT. Throughout negotiations issue was framed as a language proposal, not an economic change to current practice.	Denied	ER did not violate the collective bargaining agreement. Union did not clearly declare its intent for overtime effect on PTO time used, nor was there any ER acknowledgment of a change. Union's arguments based on unverified assumptions, not a meeting of the minds.
FMCS 230508-05882	<u>Wellman Dynamics Corporation</u> IUOE Local 234	Toenges, Rolland C.	Discharge	X ray Technician terminated for 4th active disciplinary action, which is subject to discharge per the CBA in effect at time. Union argued change in language that was later ratified should be applied.	Denied	ER had just cause to terminate for number of active disciplines related to attendance, work process, quality and confidentiality. Discharge was in accordance with applicable CBA provisions, as contract extension agreement in place that included discipline article.
FMCS 230316-	<u>CenterPoint Energy</u> IBEW 949	Befort, Stephen F.	Discharge	Technician terminated after failing to detect presence of a gas line at scene of house fire. ER cited neglect of duty for failing to follow policies and training with respect to fire and gas leaks. Union argued EE relied on information given by Fire Marshall and visual inspection conducted at chaotic scene, not having been provided address or other property details in advance. Even had grievant checked electronic database, it had not been updated to show gas service line to the house vs. propane	Sustained in part	Discharge reduced to a two week suspension without pay. Grievant's error of judgement was contributed to by a number of unusual circumstances. Was an unintentional mistake versus intentional misconduct due to neglect of duty.
FMCS 220406-	<u>Fairview University of Minnesota</u> AFSCME Council 5	Befort, Stephen F.	Discharge	NST terminated after audit showed she had accessed a fellow employees medical chart to section outlining medical appointments and reasons for the visit. ER pointed to clear policy and federal law breaches, as well as the . irreparable damage done to the work relationship in that unit. Union argued level of discipline inappropriate and inconsistent with other similar violations.	Denied	Discharge upheld.Grievant violated ER policies and federal law by accessing co-s. worker's e- medical records without business need. Level of discipline consistent with other similar violations.
23PA1094	<u>City of International Falls</u> IAMAW W33	Beens, Richard A.	Scheduling of Shifts	Grievance filed after Union believed practice of having night shift slot assigned to part-time, non union EMT changed in negotiations to allow for full-time union Paramedics to bump into them. ER contends it did not change existing practice or contract language, nor is it foregoing any managerial rights.	Denied	Contract language is clear and unambiguous, as is scheduling past practice. ER has managerial right to determine schedules, staffing and control for overtime. Union Paramedics cannot bump non-union pt EMTs out of shifts.There is no inherent right to overtime.

23PA1511	<u>Chisago County</u> Teamsters Local 320	Loconto, Michael T.	Unilateral Health Insurance Implementation	Grievance filed after ER went forward with implementation of 2023 health insurance plan changes, despite not having bargained to agreement over the changes. Union cites MN Statute violation, ER asserts that would be considered an Unfair Labor Practice that must be heard by PERB, not a contract violation to be determined by an arbitrator.	Denied	The Employer did not violate the contract when it implemented the 2023 health insurance plans covering members of the Union's five bargaining units. ER met its minimal disclosure obligations in the CBA. Arbitrator does not have the authority to issue an Award based on the claim that Minnesota Statute 471.6161 was violated.
23PA1932	<u>Minneapolis Park and Recreation Board</u> LiUNA 363	Jacobs, Jeffrey W.	Verbal Reprimand	Grievant issued verbal reprimand for refusing to comply with supervisors work directive not to climb trees while trimming that day, asserting he knew better than his foreman, and not doing the ground base tasks assigned. Union argued grievant had skills and knowledge to safely climb trees and that supervisor was disparate when issuing discipline. ER points out clear case of insubordination and progressive discipline was followed.	Denied	Grievant was insubordinate when actively ignoring clear, repeated work directive from supervisor. Level of discipline was appropriate.
July, 2023						
BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA0914	<u>City of Northfield</u> IUOE Local 70	O'Toole, Carol Berg	Bargaining Unit Work Assignment	City created non-union Horticulturist position without notice to the union. Position consisted of majority of tasks previously performed by bargaining unit member. Union had no opportunity for unit clarification or challenge of position at negotiations.	Sustained	Employers actions resulted in loss of overtime and low morale for bargaining unit members. The Employer is ordered to cease and desist from assigning bargaining unit grounds keeping work to non-unit employees.
23PN0954	<u>City of Barnesville</u> Teamsters Local 120	Altman, Robert	Interest Arbitration		Implemented new base wage amounts, and general wage increases of 3.5% for 23 and 24.	Arbitrator guided by market adjustment and general wage increase recommendations of consultant hired to conduct salary survey. Maintained all current classifications, regardless of incumbants in position, and maintained incentive pay to be dealt with quid pro quo in future negotiations.
FMCS 220829-08795	<u>Essentia Health</u> SEIU HC	Hoffmeyer, Steven	"Me Too" Market Adjustment	ER increased salaries to non-bargaining unit Ees in common job titles and in same labor market without making adjustments to bargaining unit Ees.	Sustained	ER has violated the Market Differential article in the CBA. Union positions below the \$15 minimum wage rate should have received the same market adjustment via the same process used for non-bargaining staff.

June, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS 2209 29-09667	<u>St. Paul Automobile Dealers Association</u> IAMAW No 77	Befort, Stephen F.	Premium Pay	Different levels of allowable labor time standards in place for repair work paid for by individual customers and warranty work that is covered by the manufacturer. CBA allows for premium pay for performing warranty work that specifically excludes factory maintenance. Union claimed premium should be applied to Pre Delivery Inspections, though never discussed in negotiations for CBA. ER does not consider PDIs to be a repair, or eligible for premium.	Denied	Work preformed during the Pre-Delivery inspection are not considered a "warranty repair" and are not paid at the artificially low labor time standard. The Warranty Period begins when the vehicle is first delievered and put in use, it is warranty work performed after this time that is eligible for the CBA premium.
23PA0632	Special School District 1, Minneapolis	Jacobs, Jeffrey W.	MOA Continuity /Past Practice	MOA limiting school administration to one meeting per week with teachers (in effort to increase student contact and thus student acheivement/test scores) developed in 2015- 2017 negotiations. Did not included sunset date or continue in effect language, and was not attached as part of any future contracts. Parties agreed to its renewal via mediation in 17-19. District put union on notice in 21-23 bargaining of its intent to discontinue, and no new language or MOA renewal was negotiated. Union grieved after post strike agreement in place arguing MOA is part of on-going contract and cannot be unilaterally ended.	Denied	District sent repudiation notice a) not continue MOA and b) ending any past practice(s) related to it. There was no negotiation of new language or extension to the MOU in latest round of negotiations. It was specifically not incorporated into post-strike CBA, and union signed anyway after request to do so was denied.
23PA0957	<u>ISD 625, St Paul</u> Teamsters 320	Kundrat, Frank J.	FMLA - Sick Leave Bank Usage	EE facing major medical issue had exhausted all paid leave, been granted unpaid FMLA leave, qualified for, requested, and was granted donated hours from established sick leave bank. SLB donations occur after 5 days in unpaid status and are paid in \$\$\$. Union argues District should consider these as hours paid to extend paid status and eligibility for active status health insurance contribution rather than unpaid/inactive COBRA coverage.	Denied	Language in the CBA and Sick Leave Donation MOU very clear. Donations paid out in cash once all other paid leave exhausted and in unpaid status for 5 days. Insurance coverage for active employees ends the month they switch to unpaid status and they are given COBRA notice for continued coverage as inactive moving forward. District provided clear and consistent communication on this. No evidence that the District erred in its adminstration of FMLA health care coverage and sick leave bank usage. Issues raised with the actual language or application of sick leave bank donations are open for negotiation during future bargaining.

May, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS 230331-04818	<u>City of Orono</u> OPEIU 12	Jacobs, Jeffrey W.	Vacation Accrual	CBA grants those with 0 - 5 years employment 10 days vacation. ER and Union had agreement for salary placement deviation consideration for new hires. MOAs drafted showing agreed upon salary placements, but no mention of, or agreement to, alternate vacation accruals. Union grieved when discovered ER also granting new hires various levels of vacation accrual without notice or agreement from Union. ER asserted it maintained discretion to negotiate with new hire candidates not yet in the bargaining unit and that the contract set a floor, not an upper limit for accruals and City is free to negotiate upwards from those levels.	Sustained	CBA requires those with 0 - 5 years service to earn 10 days of vacation. No more, no less. Inherent inequity exists because of ERs unilateral action. Though likely fixed moving forward, those harmed should be made whole. Remedy ordered to grant aggrieved EEs 15 days vacation from the first time ER granted new hire 15 days or from their date of hire, whichever is later, until the aggrieved EEs also reach 5 years of employment with the city.
23PA1682	<u>Rice County</u> Minnesota Pulic Employees Association	Altman, Robert	Termination	17 year EE terminated for theft of time, falsification of records and neglect of duties when evidence showed multiple incidents over a 5 month period of paid hours spent in break room without evidence of significant productive work performed.	Sustained in part	Grievant reinstated to position without backpay. Longterm EE with no previous . disciplinary record should have been given opportunity to correct behavior via progressive discipline prior to termination.
23PA0109	<u>Rice County</u> Law Enforcement Labor Services, Inc	Osthus, Marlin O.	Leave Accrual	Grievant denied full vacation and sick accruals when receiving workers compensation payment for time missed after contracting COVID (injury on duty). Employer claimed past practice of not crediting employees in unpaid leave status or when receiving workers compensation. Contract and policy are silent to workers comp	Sustained	Employer violated the collective bargaining
23PA0567	<u>City of Medina</u> Law Enforcement Labor Services, Inc.	Paulson, Kristi	Sick Leave Severance Payout	Grievant denied sick leave payout after timing of his written notice versus previous verbal and text notifications and discussions with his supervisor occurred about his intent to leave for other employment.	Sustained	Grievant fulfilled requirement under CBA by providing required notice and leaving in good standing. Is entitled to payout of 1/3 of accumulated sick leave hours.
22PA0901	<u>Hennepin County</u> Hennepin County Deputies Association	Osthus, Marlin O.	Hiring/Assignment	Parties submitted positions, evidence and briefs . to arbitrator seeking an order on whether or not the ER violated the contract, despite having resolved the issue that led to the initial grievance being filed	Sustained	The Employer violated Article 7, Section 6 of the parties' collective bargaining agreement when it hired two individuals who were not employed in the unit as deputies and when it did not perform the review and selection process set forth is Paragraph C of Section 6 of Article 7.

FMCS 210922-10265	<u>MORRISON (COMPASS GROUP)</u> SEIU Healthcare MN/IA	Toenges, Rolland C.	Premium Pay	Contract interpretation of when double time paid for shifts beyond the 6th consecutive day questioned. Grievant did not believe receiving double time (record shows she was), and was trying to include her normally scheduled days into the following week as double time.	Denied	The grievant was being paid double time for shifts picked up beyond the 6th consecutive work day that were not part of her normally scheduled days as outlined in the collective bargaining agreement.
23PA0856	<u>Metro Transit</u> ATW Local 1005	Toenges, Rolland C.	Termination	Bus operator was discharged after 4th responsible accident in a rolling three-year period, a violation of the maximum accident policy.	Denied	Employer followed progressive discipline when enforcing long standing safety policies.
FMCS 21082	<u>Mercy Hospital</u> Minnesota Nurses Association	Befort, Stephen F.	Contract Grievance Implementation of Staffing Grids	Union grieved implementation of revised staffing grids. ER asserts it followed the CBA requirements to discuss and engage in mediation prior to implementation. Was shown the ER did consider . and change positions prior to reaching impasse and implementation	Denied	While parties must bargain in good faith to reach an agreement, the employer retains the ability to break an impasse by implementing its last, best, final offer. Same premise applies and was found to be followed in this instance.
FMCS 2211	<u>International Paper Company</u> United Steel Workers Local 264	Befort, Stephen F.	Termination	Long-time EE terminated for violation of attendance policy and misconduct for failing to interactively participate in the process required under the American with Disabilities Act. Union challenged termination was without cause and in violation of CBA article allowing up to 18 months of non-work related illness or injury prior to termination.	Sustained in	Reinstated to position but not made whole (awarded backpay) for the year absent without authorization.

April, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23VP0129	<u>State of Minnesota, MMB</u>	Remington, John	Veterans Preference	State Patrol officer discharged after failing to report a pursuit that ended in a crash to dispatch in a timely manner, failing to request a medical response or take an active role providing medical attention to the parties, failing to report factual information to responding officers about the pursuit, and failing to activate his body mic at the scene. Union argues lack of progressive discipline and the extreme delay in conducting the investigation and making the decision to terminate.	Denied	Employer had just cause to terminate after serious misconduct. The great authority vested in State Troopers comes with great responsibility.

March, 2023

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA0201	<u>ISD 115, Cass Lake-Bena</u> Cass Lake -Bena Education Association	Jacobs, Jeffrey W.	Seniority	Teacher originally hired in 2011 left the District for a year in 2016, returning in 2017. Seniority list reflects adjusted date of service to 2017. Union argues contract states "initial date of service" should stand at 2011. District argued past practice of adjusting when staff have a break in service and return to the District.	Denied	Absent clear contract language to the contrary, when a teacher with continuing contract status leaves the District they do not carry seniority with them if they are re-hired by the District later. Would result in people achieving more seniority than those who had not had a break in service.

259598	<u>City of Minneapolis</u> Laborers Local Union #363	Remington, John	Termination	Public works EE with CDL license and prior record of testing positive for controlled substances was discharged after testing positive for alcohol via random drug and alcohol test during the work day. Union argued the result level was below the city standard cited in policy.	Denied	City had just cause to terminate the grievant
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2024 Arbitration Awards - Minnesota B.M.S.

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.

August, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
24POA1094	<u>Mower County</u> Law Enforcement Labor Services, Inc.	Hassan, Jeffrey A.	Termination	County Patrol Sergeant involved in high speed pursuit of vehicle fleeing from a City law enforcement officer. Delay in activating emergency warning lights. Fleeing vehicle crashed resulting in injuries to the two teenage occupants. Initially discharged for discrepancies in reporting and violation of multiple policies. Union points out lack of progressive discipline, grievant's previous service record and ER's treatment of other officers in like circumstances.	Sustained in part	Just cause exists for discipline, but termination, demotion, and/or written reprimand are not the appropriate discipline. Arbitrator upheld a 6 month suspension without pay, and a return to work in his supervisory role.

July, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA2512	<u>ISD 535, Rochester</u> Teamsters 320	Kapsch, Frank E.	Sick Leave	EE's request for specific Sick/Hospitalization leave under the CBA was denied prior to surgical procedure. Was approved to use regular accrued sick leave. Grievance filed upon return from leave months later. ER challenged arbitrability on grounds of timeliness. It had clearly communicated what leave was /was not available for use prior to the surgery.	Denied	Grievance is not arbitrable. Grievant failed to move grievance forward when made aware of the ERs position prior to taking his leave.
24PA1576	<u>Hennepin County</u> AFSCME Co 5	Miller-Levin, Nancy J.	Implementation of Healthcare Plan	County-wide healthcare labor management committee process failed to reach consensus on the benefit plan design and premium changes for following year. Contract indicates if consensus not reached the ER has sole discretion to set these. Grievance filed for failure to negotiate the impacts of these implemented changes with the union when previous plans no longer available under new plan provider.	Denied	While the original 4 tiered plan design no longer possible since former provider no longer exists, the County's ability to change from a 4 tiered plan to a 1 tiered plan is the outcome of the 2022 consensus process.No consensus was reached, therefore the ER had sole discretion and did not violate the CBA. The ERs obligation to negotiate the effects of a change made by a vendor is not an issue that was included in the original grievance or framing of the issue for arbitration.
FMCS 2023-537	<u>M Health Fairview - St. John's Hospital</u> Minnesota Nurses Association	Befort, Stephen F.	Temporary Reassignment vs Arbitrability	Grievance filed after ER mandated reassignment rather than offering an absent day to account for staffing imbalances. ER challenges arbitrability as union failed to move grievance to Step 2 months beyond the timelines required in the collective bargaining agreement.	Denied	Grievance is not arbitrable. Union failed to follow time limitations outlined in grievance procedure.

FMCS 241109-01010	<u>Lyman Roofing</u> Teamsters 120	Toenges, Rolland C.	Termination	Greivant terminated following progressive discipline for repeated absences and violation of the ERs Work Rules and Attendance policy.	Denied	ER had just cause to terminate under progressive discipline provisions of the contract.
24PA1087	<u>Hubbard County</u> Law Enforcement Labor Services, Inc.	Daly, Joseph L.	Out of Class Pay	Jailers acting as Team Lead paid additional \$1.50/hr for when no sergeant on duty that shift. Grievance filed by union claiming they are doing majority of sergeant duties and should received Out of Class pay vs Team Lead stipend. ER points out no one is being assigned to act as sergeant, and that the Team Lead is not supervisory.	Denied	Those functioning as Team Leads in the absence of a sergeant are being compensated correctly under the contract for the limited additional duties involved. They are not being assigned to work in the higher classification of sergeant.
24PA0974	<u>Hubbard County</u> Law Enforcement Labor Services, Inc.	Daly, Joseph L.	Out of Class Pay	Jailers acting as Team Lead paid additional \$1.50/hr for when no sergeant on duty that shift. Grievance filed by union claiming they are doing majority of sergeant duties and should received Out of Class pay vs Team Lead stipend. ER points out no one is being assigned to act as sergeant, and that the Team Lead is not supervisory.	Denied	Those functioning as Team Leads in the absence of a sergeant are being compensated correctly under the contract for the limited additional duties involved. They are not being assigned to work in the higher classification of sergeant.
24PA1008	<u>Metro Transit</u> ATU Local 1005	Daly, Joseph L.	Termination	Long-time bus operator with previous discipline for violation of ER policies regarding deescalation and respectful interactions with passengers was terminated for engaging with aggressive passenger and using profanity.	Sustained in	Discharge reduced to a two month suspension without pay for use of profanity and taunting. Previous discipline about to fall off record, and prior trainings (absent role-playing) insufficient to prepare driver for this situation.

June, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
22VP0968	<u>Metropolitan Council</u> Veteran	Foy, Terrance J.	Veterans Preference	EE with documented PTSD placed on PIP plan for attendance issues. Terminated prior to completion of PIP. Argues ER did not follow progressive discipline in but jumping to discharge. ER cites attendance policies in place, and the burdens created on co-workers by on-going short notice absences leading to understaffing, forced overtime, etc.	Sustained in part	Discharge reduced to 20 day suspension and EE reinstated to former position. While violation of ER attendance policies occurred, progressive discipline was not followed. EE was responsive to the Performance Improvement Plan in place.
24PA0846	<u>Kanabec County</u> City Employees Union, Local 363	Osthus, Marlin O.	Termination	EE discharged for data breach after downloading files related to herself onto thumbdrive and taking home. ER was informed other EEs could access protected data on colleague by performing a basic search, and EE was concerned about the access to her information. ER terminated on grounds of willful violation of county policy and state law regarding data practices.	Sustained in part	EE returned to position, but with a three month loss in pay which the ER may record as a suspension. However, may not use this as part of disciplinary history in any future discipline issued to her. No evidence grievant surreptitiously accessed or read confidential data without a business need, did not share data with others and lack of security safeguards in place to limit access.

24PA0453	<u>MNSCU</u> AFSCME Council 5	Abelson, James	Layoff Vacancy Rights	Grievance filed after EE denied ability to "claim" a position in another state agency after electing not to bump a less senior EE and no other vacancies existed. ER denied ability to "claim" as the grievant did have options within their own employer. ER also challenged timeliness and arbitrability of grievance.	Denied	Grievance is arbitrable, but denied. No contract violation occurred. ER has contractual obligation to provide actual and anticipated vacancies in the Notice of Layoff. Internal vacancies that become available prior to the date of layoff are to be considered before right to "claim" external position. ER was within its right to inform the other state agency the grievant was not eligible to claim a position.
24PA1149	<u>Metropolitan Airports Commission</u> IAFF Local S-6	Kelly, Patrick J.	Prior Service Credit/ Arbitrability	Union filed grievance related to denial of prior service credit adjustments for 2023. ER argues its decision to refuse to consider adjustments is not subject to the grievance process, and challenges arbitrability.	Denied	Contract language states adjustments made or denied are not subject to Article 22 (the grievance process). Grievance dismissed and found not to be arbitrable.
23PN2507	<u>Itasca County</u> Teamsters Local 320	Foy, Terrance J.	Interest Arbitration	Union seeking to make enhancements to comp time, on-call and call out compensation. Requesting ability to be removed from county . insurance plans/pool and move to Teamsters 320 benefit plan. Seeking changes to vacation conversion, bereavement leave and sick leave severance. Seeking GWA of 3% each year of contract and market adjustments of 2% each year of contract. ER seeking language updates to comply with FMLA law, and accurately reflect health insurance plans currently provided. Offering internal pattern for wages and maintain status quo on other items.	ER position awarded. No market adjustment(s). Pattern GWA 2022:2% 2023:2% 2024:2.65%	County's position awarded in all areas. Union failed to support its requests to deviate from the established settlement pattern. In addition to maintaining pay equity and internal equity balance, there is no external comparison group, nor recruitment or retention concerns for positions that are filled through internal promotions. Number of issues sought by union should be subject of quid pro quo bargaining for a successor agreement.
24PA1353	<u>MN Guardian Ad Litem Board</u> AFSCME Council 5	Daly, Joseph L.	Termination	EE terminated after being reported for making inappropriate comments related to client's weight, hair, culture and job status. Union argued just cause was not met to support termination of long term EE with good work history. Arbitrator noted the investigation into the allegations was lacking.	Sustained in part	EE returned to work, but with 8 month unpaid suspension. ER did not show just cause for skipping progressive discipline and choosing to terminate for policy violations, but EE did show insensitivity and implicit bias with her comments.

May, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
24PA0817	<u>Minnesota Management and Budget</u> AFSCME Council 5	Kelly, Patrick	Mileage Calculation	Grievance filed regarding how the 35 mile from work location calculated. Union cites different layoff bumping options exist if calculated "as the crow flies". ER maintains has historically determined 35 miles based on road miles driven, not drawing a straight line between points.	Denied	No violation of CBA exists. ER demonstrated 50 year consistent practice of using road miles . driven to determine 35 mile factor used throughout the collective bargaining agreement.
23PA1872	<u>Minnesota Management and Budget</u> Minnesota Association of Professional Employees	Jacobs, Jeffrey W.	Termination	Grievant terminated for off-duty criminal charges. Union filed grievance arguing disparate treatment as similar infractions received lesser discipline, and that ER relied on inconsistent and incomplete police reports rather than an internal investigation.	Sustained in Part	Discharge was out of line with actual facts. Discipline reduced to a written reprimand, which is consistent with similar infractions in similar cases. Grievant reinstated and made whole.

24PA0487	<u>University of Minnesota</u> University Education Association	Kapsch, Frank E.	Paid Parental Leave	Grievance filed after EE was denied paid parental leave after missing the "within 13 weeks after" birth requirement by one day. Union claims count should start the day after the birth, ER has history of count starting the day of the birth/adoption.	Denied	No violation of the CBA language occurred with the interpretation and application of leave time. ER has been consistent with this manner of counting for a variety of leaves.
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April, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23PA2644	<u>City of Golden Valley</u> Law Enforcement Labor Services, Inc.	Paulson, Kristi J.	Severance Payout	EE denied payment of his earned vacation and severance/termination pay after ER alleged did not leave "in good standing" by giving proper notice.	Sustained	EE shall be made whole as he did what was within his control around the timing of leave request and notice of resignation. The ER lacked timely or appropriate responses which indicated an acceptance of resignation and last date of employment.
24PA0438	<u>Hennepin County</u> AFSCME Council 5	Beens, Richard A.	Virtual Meeting Past Practice	Grievance filed alleging ER unilaterally instituted virtual meetings for "meet and confer" rather than returning to the pre-pandemic practice of meeting in person.	Denied	ER has managerial right to determine method of operation and use of technology for meet and confer (non-negotiation meetings). Contract does not require meetings to be in person, no one advantaged or disadvantaged by virtual meeting, and those traveling to be in person without ER agreement had no right to be reimbursed for travel time or expenses.
24PA0166	<u>Chisago County</u> Teamsters 320	Paull, David S.	Harrassment	Grievance filed alleging violation of contract language and county policy occurred when union activist subjected to harrassment and offensive comments by supervisor.	Sustained	The grievant was harrassed in violation of Article 22 by Department Supervisors. The improper treatment was motivated, in whole or in part, by the Grievant's activities as a Union Steward. Ordered to cease and desist, and to post decision and award in workplace.
230309-04142	<u>Harvard Building Maintenance</u> SEIU Local 26	Hoffmeyer, Steven G.	Submission of Dues/EE Contact Information	Grievance filed alleging how the submission of membership information and dues to the union was in violation of the contract requirements.	Sustained	The ER is to compile the required data into one spreadsheet and submit to the union on a monthly basis.

March, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
263898	<u>City of Minneapolis</u> AFSCME Council 5	Lundberg, James A.	Termination	Grievant terminated on grounds of 4 civil service rule violations: failure to perform at minimum standards, willful or negligent damage to city property, interference with the work of others, and violation of policies, procedures work rules after applying his own standards to . property assessments rather than using the new ER assessment tool. Resulted in need for all properties to be re-assessed. Also disciplined for working unauthorized overtime. Union argued communication regarding new assessment tool unclear.	Sustained in part	No just cause existed for termination (no history of misconduct or long-standing performance issues). No clear order was given. Discipline reduced to a one day suspension for violation of the overtime policy. Reinstated and made whole with directive to employer to re-train on expectations and assessment tool upon return to work.

February, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
24PA1062	<u>Hennepin Healthcare Services, Inc</u> AFSCME Council 5	Peterson, Sabin S.	Differential Pay	MRT position accreted into bargaining unit in 2021. Union challenged whether these positions had been expressly designated to perform lead worker responsibilities and therefor eligible for the lead worker responsibility differential pay . previously negotiated.	Sustained in part	Issue of arbitrability sustained. Grievance itself denied on merits. These positions called "Lead" before accreted into bargaining unit, with no previous consideration given for the types of duties associated with those designated lead worker responsibilities for positions covered by CBA. No intent or understanding in 2019 to trigger lead responsibility differential.
24PA0504	<u>Hubbard County</u> Teamsters 320	Osthus, Marlin O.	Bereavement Leave	Grievant's request to use bereavement leave following miscarriage of twins denied. Was told to use PTO or EIB for time missed as miscarriage noted as pregnancy related disability. Disagreement as to definition of child, ER argued MN Statute does not recognize miscarriage as a child since no death certificate issued.	Denied	The ER did not violate the collective bargaining agreement when denying use of bereavement leave following a miscarriage. No past practice exists, Bereavement language silent, but miscarriage included as a pregnancy related . disability eligible for using other types of leaves available.
23PA2304	<u>Hennepin County</u> AFSCME Council 5	Jacobs, Jeffrey W.	Suspension leading to Termination	Grievant with history of discipline for disrespectful and inappropriate attitude and communication was issued a suspension for similar communication with a supervisor, and subsequently terminated for forwarding sensitive, private client information to herself and union steward.	Sustained in part.	Just cause existed to issue the 1 day suspension. Termination reduced to 10 day suspension. EE returned to work with full backpay and benefits, minus the 10 days.
23PA2605	<u>Metro Transit</u> ATU Local 1005	Toenges, Rolland C.	Termination	Grievant terminated under terms of Last Chance Agreement for failure to follow procedures and training resulting in a series of preventable accidents/incidents.	Denied	Just cause existed to terminate. Last Chance Agreement was violated by another preventable accident/incident.
23PA2508	<u>Special School District 1, Minneapolis</u> Minneapolis Principals Forum	Odonnell, John J.	Suspension	Principal given 10 day suspension for failure to follow a number of District policies and procedures, poor decision making and failure to engage her supervisor.	Denied	Just cause existed to issue suspension(s) related to actions surrounding death of a student and media interviews conducted in violation of District policies.

January, 2024

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
23RA1084	<u>Lunds Food Holding</u> UFCW Local 663	Before, Stephen F.	1. Arbitrability, if so 2. Retirement Contributions	Grievance filed related to contract language interpretation vs perceived past practice of vacation payouts to retirement plans. ER challenged arbitrability based on timeliness.	Sustained in part	Issued determined to be arbitrable, but denied on its merits.
23PA1764	<u>ISD 625, St. Paul</u> St. Paul Principals Association	ODonnell, John J.	403(B) Contributions	Disagreement as to the intent and interpretation of contract language related to 403B contributions involving a \$1000 non-matched . contribution for all, and whether the employer match amount up to \$2750 includes or is in addition to, the \$1000 match	Sustained	No back-pay awarded, but moving forward Principals/Asst Principals shall be allowed to contribute and receive a District 403B match up to \$2750. The District shall also contribute \$1000 annually to each Principal/Asst Principal's 403B account.