TITLE: Proposed Permanent Rules Relating to the Minnesota Labor Relations Act and the Public Employment Labor Relations Act

AGENCY: Bureau of Mediation Services

REVISOR ID: R-4677

MINNESOTA RULES: Chapters 5500, 5505, 5510, 5530, and 7315

INCORPORATIONS BY REFERENCE:


The attached rules are approved for publication in the State Register

Sheree Speer
Chief Deputy Revisor
1. Bureau of Mediation Services
2. Proposed Permanent Rules Relating to the Minnesota Labor Relations Act and the Public Employment Labor Relations Act

5500.0100 DEFINITIONS.

Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases in parts 5500.0100 to 5500.0500 shall have the same meaning and definition as is contained in the definitions used in Minnesota Statutes, chapters 179 and 179A.

5500.0200 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5500.0100 to 5500.0500 govern the conduct of all proceedings before the commissioner of mediation services involving mediation. Parts 5500.0100 to 5500.0500 shall and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act.

B. The commissioner or the commissioner’s agent may waive any requirements of parts 5500.0100 to 5500.0500 unless a party shows prejudice thereby that the waived requirement prejudices the party.

5500.0210 FILING.

A document filed under parts 5500.0100 to 5500.1100 is effective according to part 5510.0320, subpart 2.

5500.0300 PETITIONS.

A petition for mediation given under the Minnesota Labor Relations Act to the commissioner shall be in writing and shall contain the following:

A. the petitioner's name, address, e-mail address, and telephone number of the party filing the petition;
B. the name, address, e-mail address, and telephone number of the petitioner's agent or attorney representing petitioner;

C. the adverse party's name, address, e-mail address, and telephone number of adverse party in dispute;

D. the name, address, e-mail address, and telephone number of the adverse party's attorney for adverse party, if known;

E. if the petitioner or adverse party is an employers association, a list giving the names, addresses, e-mail addresses, and telephone numbers of all association members of the association directly interested shall be attached to the petition;

[For text of items F and G, see Minnesota Rules]

H. a clear and concise statement of the nature of the dispute and the petitioner's demands of the party filing the petition.

Forms for filing this information may be obtained from the office of the commissioner of mediation services.

5500.0500 MEETINGS MEDIATION CONFERENCE.

Subpart 1. Conference.

A. The commissioner, Upon receiving such a petition, shall under part 5500.0300, the commissioner must:

(1) fix the time and place for meetings of the parties to the dispute. Notice a conference; and

(2) notify the parties to the dispute in writing of the conference's time and place so fixed shall be given by the commissioner to said parties.
B. Such meetings shall be a conference under this part is informal and limited by the commissioner to matters relative and material to the settlement of settling the dispute. The meetings shall not be open conference is closed to the public and shall be is limited to the parties and their representatives interested in the dispute. Agreements reached shall only be binding when

C. If all parties agree, the conference may take place virtually through an online conferencing or videoconferencing tool.

Subp. 2. Agreement binding. An agreement reached under subpart 1, item B, is binding if agreed to by both parties and put in writing.

5500.0700 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5500.0600 to 5500.1100 govern the conduct of all proceedings before commissions a commission appointed in labor disputes affecting public interests under Minnesota Statutes, sections 179.07 and 179.08. Parts 5500.0600 to 5500.1100 shall, and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. The A commission may waive any requirement of parts 5500.0600 to 5500.1100 unless a party shows prejudice thereby that the waived requirement prejudices the party.

5500.0800 APPEARANCES.

Subpart 1. Party directly affected by dispute. Any A party to or party affected by the a dispute may appear before the commission in person or by through an attorney or by their a representative, and shall have the right. A party is entitled to offer competent evidence and to be heard on the issues at any commission hearing.
Subp. 2. **Party indirectly involved in dispute.**

A. Any party not directly involved in the dispute desiring to appear and have the same rights before the commission as parties directly involved shall file a petition in writing with the commissioner or the commission setting forth the grounds upon which such person claims to be interested.

B. The commission shall rule upon all such petitions filed under item A, provided, however, that the parties to the dispute may present arguments and be heard on the question of permitting such appearances. The commission must permit appearances in person, by counsel, or by a representative, to such extent and upon such terms as it may deem just, Minnesota Statutes, section 179.07.

5500.0900 **EXAMINATIONS OF EXAMINING WITNESSES.**

Witnesses shall be examined orally under oath, provided, however, that the testimony of all witnesses who reside outside of the state or who, through illness or other cause, are unable to testify in person before the commission may be taken by deposition in such manner and form as may be prescribed by the commission. A witness must be examined according to part 5505.0700.

5500.1000 **SUBPOENAS.**

Subpoenas requiring the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence, or documents relating to any matter pending before the commission, shall be issued in the name of the commission over the signature of one of the members thereof. Applications for the issuance of such subpoenas shall be filed with the commission by the party to the proceedings desiring the subpoena. Such application shall be timely and shall specify the names of the witnesses, the books,
5.1 records, correspondence, or documents required to be produced by the witness. Witnesses
5.2 summoned before the commission shall be paid fees and mileage in the same manner and
5.3 amounts as are paid to witnesses in the district court of this state. Witnesses whose
5.4 depositions are taken and persons taking the same shall be entitled to the same fees as
5.5 provided by law for taking of depositions for use in the district court of this state. Witness
5.6 fees and mileage shall be paid at the time of the service of the subpoena to the witness whose
5.7 attendance is required by the subpoena by the parties at whose instance the subpoena is
5.8 issued excepting witnesses subpoenaed by the commission who shall be paid as provided
5.9 by law. A subpoena and associated fees and mileage are as provided under part 5505.0800.

5.10 5500.1100 HEARINGS.

5.11 Subpart 1. Conduct. All hearings by the commission shall be open to the public. It
5.12 shall be the duty of the commission conducting the hearing to inquire fully into the facts in
5.13 dispute, to call, examine, and cross-examine witnesses, and to require the production of
5.14 such documentary or other evidence as it may deem necessary to fully acquaint it with all
5.15 the facts relating to the dispute.

5.16 A. A hearing under parts 5500.0700 to 5500.1100 must be conducted according
5.17 to part 5505.0600, subparts 2 to 8.

5.18 B. After conducting the hearing, the commission must meet and issue a report
5.19 according to Minnesota Statutes, section 179.07.

5.20 Subp. 2. [See repealer.]

5.21 Subp. 3. [See repealer.]

5.22 Subp. 4. [See repealer.]

5.23 Subp. 5. [See repealer.]

5.24 Subp. 6. [See repealer.]
Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. **Record.** The record in the proceedings shall consist of:

A. the order appointing the commission, under Minnesota Statutes, section 179.07;

B. the notice of hearing, to the parties under Minnesota Statutes, section 179.07;

C. proof of service of such notice upon the parties to the proceedings;

D. the objections of any person to the proceedings;

E. the rulings thereon, on the objections;

F. all motions, stipulations between the parties, exhibits, documentary evidence, and depositions;

G. the stenographic notes or record transcript, if kept; and

H. the commission's report of the commission.

5500.1300 **PURPOSE, CONSTRUCTION, AND WAIVER.**

A. Parts 5500.1200 to 5500.2100 govern the conduct of all proceedings before labor referees appointed according to Minnesota Statutes, section 179.083. Parts 5500.1200 to 5500.2100 shall, and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. The labor referee may waive any requirement of parts 5500.1200 to 5500.2100 unless a party shows prejudice thereby that the waived requirement prejudices the party.

5500.1400 **NOTICE OF CONTROVERSY.**

A written notice that a jurisdictional controversy exists, which is made the ground for picketing or declaring a strike or boycott, may be filed with the commissioner of mediation
services by a labor organization or organizations or by an employer or group of employers association. Such notice shall be addressed to the commissioner and shall contain the following information must include:

A. the petitioner's name, address, e-mail address, and telephone number of person or organization filing such notice, and the address of its principal office or place of business;

B. if the notice is filed by an employer or organization of employers association,

(1) names, addresses, e-mail addresses, and telephone numbers of all labor organizations involved in such jurisdictional controversy;

(2) the nature of the employer's business or industry; and

(3) the name, address, e-mail address, and telephone number, if known, of any representative or attorney for such employer or organization of employers association;

C. if the notice is filed by a labor organization, the:

(1) names, addresses, e-mail addresses, and telephone numbers of all employers and all other labor organizations involved in such jurisdictional controversy and;

(2) the nature of the employer's business or industry; and

(3) the name, address, e-mail address, and telephone number, if known, of any representative or attorney of such employer's organization employers association;

D. the classification of employment, the approximate number of employees in each classification, and the approximate total number of employees involved in the jurisdictional controversy;
E. the names of all labor organizations with whom the employer or employers
have association has labor agreements and the expiration date of such the agreements;

F. a clear and concise statement of the nature of the jurisdictional controversy;
the history of past collective bargaining experience between the parties involved; the date
on which the jurisdictional controversy arose which is made the ground for picketing or
declaring a strike or boycott; and whether such the jurisdictional controversy is made the
ground grounds for one or more of the following:

(1) picketing;
(2) declaring a strike; or
(3) declaring a boycott against such the employer or employers association;
and

G. if applicable, the name of the labor organization taking such an action under
item F, subitems (1) to (3).

Forms for filing this information may be obtained from the office of the commissioner
of mediation services.

5500.1600 REFEREE APPOINTMENT AND DUTIES.

Subpart 1. Definition. For purposes of this part, "serve" has the meaning given in part
5510.0310, subpart 19, and part 5510.0320 applies.

Subp. 2. Fixing hearing; notice.

A. If the governor in the governor's discretion commissioner appoints a labor
referee to hear and determine the jurisdictional controversy, said the labor referee shall
must:

(1) immediately fix a time and place for the first hearing before said referee;
and shall
(2) mail to at least five calendar days before the hearing, serve on each of the
parties to the controversy, at least five days before the date set for the first hearing, a notice
thereof, together with party:

(a) a notice of hearing;
(b) a copy of the notice under part 5500.1400; and
(c) a copy of parts 5500.1200 5500.1300 to 5500.2100; provided, that,

B. The notice under item A may be waived, or the time therefor to serve the notice
may be shortened by agreement of the parties.

C. The notice of such hearing shall must be given to all parties directly involved
in or affected by the controversy so far as named in the original notice under part 5500.1400
or known to the labor referee, and all such parties shall be deemed to be these parties are
parties to the proceedings. A copy of the original notice, relative to said jurisdictional
controversy, shall be sent by certified mail to each party with the first notice of hearing.

5500.1700 HEARINGS.

A. All hearings before the a labor referee shall must be conducted in
conformity with the following rules: according to part 5505.0600, subparts 2 to 8.

A. All hearings before the labor referee shall be open to the public. It shall be the
duty of the labor referee conducting the hearing to inquire fully into the facts in dispute, to
call, examine, and cross-examine witnesses, and to require the production of such
documentary or other evidence as the referee may deem necessary to fully acquaint him
with all the facts relating to the dispute.

B. Any party in interest to the proceeding shall have the right to appear at such
hearing in person, by counsel or representative and to call, examine, and cross-examine
witnesses and to introduce into evidence such documentary or other evidence as the labor
referee may deem admissible. In such proceeding the parties thereto shall be permitted to
introduce only competent evidence, as defined in Minnesota Statutes, section 179.01,
subdivision 12.

C. At any such hearing the parties to the dispute may enter into stipulation of facts
which shall have the same weight as though evidence had been adduced to prove the same.

D. Any objection with respect to the conduct of the hearing, including any objection
to the introduction of evidence, shall be stated orally, together with a statement of the grounds
of such objection, and included in the stenographic report of the hearing, if one is kept. No
objection shall be deemed waived by further participation in the hearing.

E. The labor referee may adjourn the hearing from day to day or from time to time
and from place to place as the referee may deem proper upon appropriate notice thereof to
the parties to said proceeding.

F. At the close of the hearing the parties to the proceeding shall be entitled to
submit the matter on either oral or written arguments as the labor referee may determine.
When permission for oral argument is granted, the labor referee shall fix the length thereof,
and such argument shall not be included in the stenographic record of the hearing unless it
is so directed by the labor referee. If the matter is submitted on written argument, the labor
referee shall fix the time for the filing thereof by the respective parties to the proceeding.

G. All or any part of the testimony of any witness may be disregarded by the
referee, if said witness shall refuse to answer any question which the referee has ruled to
be a proper one.

H. The record in the proceedings shall consist of:

(1) the order appointing the labor referee, under Minnesota Statutes, section
179.083;

(2) the notice of hearing, under part 5500.1600, subpart 2;
proof of service of such notice of hearing upon the parties to the proceeding;

(4) the objections of any person to the proceedings;

(5) the rulings thereon on the objections;

(6) all motions, stipulations between the parties, exhibits, documentary evidence, depositions, findings of fact and conclusions, if such are made;

(7) the stenographic notes or record transcript, if kept; and

(8) the labor referee's determination of the jurisdictional controversy by the labor referee.

5500.1800 EXAMINATION OF EXAMINING WITNESSES.

Witnesses shall be examined orally, under oath, provided, however, that the testimony of all witnesses who reside outside of the state or who, through illness or other cause, are unable to testify in person before the labor referee may be taken by deposition in such manner and form as may be prescribed by the labor referee. A witness must be examined according to part 5505.0700.

5500.1900 SUBPOENAS.

Subpoenas requiring the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence, or documents relating to any matter pending before the labor referee, shall be issued in the name of the referee over the referee's signature. Applications for the issuance of such subpoenas shall be filed with the referee by the party to the proceedings desiring the subpoena. Such application shall be timely and shall specify the names of the witnesses, the books, records, correspondence, or documents required to be produced by the witness. Witnesses summoned before the labor referee shall be paid fees and mileage in the same manner and amounts as are paid to witnesses in the district court of this state. Witnesses whose depositions are taken and persons taking the
same shall be entitled to the same fees as provided by law for taking of depositions for use in the district court of this state. Witness fees and mileage shall be paid at the time of the service of subpoena to the witness whose attendance is required by the subpoena by the parties at whose instance the subpoena is issued, excepting witnesses subpoenaed by the labor referee, who shall be paid as provided by law. A subpoena and associated fees and mileage are as provided under part 5505.0800.

5500.2000  FINAL DETERMINATION OF REFEREE.

On concluding the hearings and investigations

A. After ending the hearing and investigation under parts 5500.1300 to 5500.1900, the labor referee shall make a final determination of on the jurisdictional controversy. The determination shall

(1) be in writing and shall set forth in detail write the determination that details the labor referee's findings of the labor referee upon on all the issues presented and the referee's decision thereon on all issues presented; and

(2) the labor referee shall file simultaneously with the commissioner and the parties the record of the proceedings determination. In case, before a final determination is made;

B. If all parties to the controversy execute a written agreement shall before the labor referee's final determination:

(1) the agreement must be filed simultaneously with the labor referee and the commissioner, duly executed by all the parties to the dispute, settling all questions at issue;

and

(2) the labor referee shall cease his or her activities without making may not make a final determination and shall must include in the record of the proceedings said the parties' written agreement.
Subpart 1. Requesting reconsideration.

A. Any party to a jurisdictional controversy proceeding may request a reconsideration or clarification of the labor referee's final determination of the labor referee, on any or all of the following grounds:

1. that there is material evidence newly discovered, which, with reasonable diligence, could not be found or produced at the prior hearings hearing;
2. that the determination is not justified by the evidence; or
3. that any adverse party has been guilty of misconduct which materially affected the result.

B. A request shall under item A must be in writing and shall set forth the facts upon which it is based. Copies of such Within ten calendar days after the labor referee's determination under part 5500.2000, item A, is filed, a copy of the request shall must be served on all other parties to the proceeding and upon the labor referee.

Subp. 2. Determining reconsideration request; hearing.

A. After receiving a reconsideration request under subpart 1, the labor referee may then proceed to consider the request if the referee deems the grounds stated sufficient, according to subpart 1, item A; or may reject the same on deeming the grounds insufficient according to subpart 1, item A.

B. When determining to consider the request, the labor referee shall order a preliminary hearing thereon, notice of which shall be given as provided for the first hearing.
upon such jurisdictional controversy and give notice according to part 5500.1600, subpart 2.

C. After such the preliminary hearing, the labor referee shall must make an order granting or denying the request. If granting the request is granted, the labor referee shall proceed to must reconsider or clarify the determination and shall fix a time and place for a hearing thereon, of which, and give notice shall be given as for the first hearing according to part 5500.1600, subpart 2. The labor referee may by order limit the matters upon which the referee will receive new or additional evidence and must include in the order why the referee limited matters. Thereupon,

D. Further proceedings shall be had as upon the original notice or jurisdictional controversy must be held according to parts 5500.1700 to 5500.1900. At the conclusion thereof When the proceedings end, the labor referee shall must:

(1) affirm the original determination under part 5500.2000, item A; or shall

(2) make and file simultaneously with the commissioner and the parties an amended determination which shall supersede that supersedes the original determination.

5500.2200 APPLICABILITY.

A. Parts 5500.2200 to 5500.2800 shall 5500.2850 apply to all arbitration proceedings under bureau rules as provided under Minnesota Statutes, chapter 179A, subject to all applicable provisions of the law.

B. Unless the context indicates otherwise, a panel of arbitrators includes a panel consisting of only a single arbitrator.

5500.2210 DEFINITIONS.

Subpart 1. Scope. For purposes of parts 5500.2200 to 5500.2850, the terms defined in this part have the meanings given them.
Subp. 2. **Arbitrator.** "Arbitrator" means an arbitrator from the arbitration roster under:

A. chapter 5530;

B. Minnesota Statutes, section 179A.04, subdivision 3, paragraph (b); and

C. Minnesota Statutes, section 626.892, subdivision 4.

Subp. 3. **Award.** "Award" has the meaning given in part 5530.0300, subpart 3a.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Bureau of Mediation Services.

Subp. 5. **Party.** "Party" means a person subject to arbitration under bureau rules as provided under Minnesota Statutes.

Subp. 6. **Serve.** "Serve" has the meaning given in part 5510.0310, subpart 19, and part 5510.0320 applies.

**5500.2220 ARBITRATOR'S RESPONSIBILITY.**

Subpart 1. **Ensuring fair hearing.** An arbitrator must ensure that a fair and timely hearing is conducted in a manner that minimizes cost and expense to the parties and complies with:

A. parts 5500.2200 to 5500.2850; and

B. chapter 5530.

Subp. 2. **Recording hearing.** An arbitrator may record a hearing, and the recording is the arbitrator's personal property.

**5500.2300 ARRANGEMENTS FOR ARRANGING HEARING.**

Subpart 1. **Fixing hearing time and place.**

A. When a board panel of arbitrators has been appointed, it shall the panel must immediately fix a time and place for the first hearing before said board. At least five calendar
days before the hearing, the panel chair shall mail to must serve on each of the parties to the dispute, at least five days before the date set for the first hearing, party a notice thereof, together with a copy of parts 5500.2200 to 5500.2800; provided that of hearing.

B. The hearing notice may be waived, or the time therefor for the notice may be shortened by agreement of the parties.

Subp. 2. Virtual hearing. If all parties agree, the hearing may take place virtually through an online conferencing or videoconferencing tool.

Subp. 3. Adjourning hearing. Any arbitrator may adjourn the hearing may be adjourned to a certain time, which shall be announced at the close of the hearing, later time without further notice, but. If no time is fixed for further to continue the hearing upon adjournment, the arbitrator must give notice shall be given as for the first hearing according to subpart 1 of the time the hearing is to be continued.

Subp. 4. Requesting transcript or recording. If a party requests a transcript be made and a transcript request is not addressed in the contract or grievance procedure, the arbitrator must allow a transcript to be made if the party requesting the transcript:

A. arranges for the transcript;

B. pays for all transcript-related costs; and

C. provides:

(1) a free copy to the arbitrator; and

(2) a copy to the other party upon request, with the other party paying the full cost of the copy.
Subpart 1. **Representation.**

A. Any party to the dispute may be represented by a representative or an attorney at law. The first party requesting any action shall be called the moving party. The other party shall be called the defending party. Each party shall have the right to cross-examine the witnesses of the other party.

B. A panel may not conduct a hearing unless all parties or their designated representatives are present in person or virtually. This item does not apply if:

1. an absent party consents; or
2. a party fails to appear after due notice of the hearing or leaves the hearing without the panel's permission.

Subp. 2. **Order of proceedings.**

A. The order of the proceedings shall be as follows:

1. the moving party shall outline that with the burden of proof outlines the party's case, call witnesses, and present evidence; and
2. upon the completion of the case of the moving party under subitem (1) presents its case, the defending party shall outline that outlines the party's case, call witnesses, and present evidence. The opportunity to call witnesses in rebuttal shall be accorded to each party.

B. Each party may cross-examine the other party's witnesses, and each party may call witnesses in rebuttal.

C. Any party may offer exhibits may be offered by either party and when received in evidence by the board shall be made a part of the record.
D. After the parties have concluded the presentation of their evidence, they may make arguments in the same order as hereinbefore provided for submission of evidence, and thereupon the hearings shall be closed. The hearing closes after arguments end.

E. The panel may not present the case nor examine any party’s witnesses except as needed to amplify the testimony disclosed under this subpart.

Subp. 3. **Hearing record.** All proceedings and the hearing record thereof shall be confidential unless both parties agree in writing to the release thereof by the board. No member of the board shall present the case or examine the witnesses of any party to the dispute except so far as such examination may be necessary to amplify the testimony disclosed by the examination by the parties to the dispute.

5500.2500 **EVIDENCE.**

A. The board shall hear all evidence which is competent, relevant, and material to the issue. The board shall not conduct any hearing hereunder unless all parties to the dispute are present in person or by their designated representatives; provided, however, that a hearing may proceed in the absence of any party who consents thereto, or who fails to appear after due notice of the hearing, or who leaves without being excused by the board.

B. The board may, however, make any independent inspection of the subject matter of the dispute, or make such inquiries or obtain such information outside of the hearings not presented at the hearing as it may deem necessary and proper; provided, however, that the parties to the dispute shall for adjudicating the dispute. Unless waived by the party in writing, a party must be afforded an opportunity to examine any evidence so secured, and to introduce evidence in opposition thereto, unless the right to such examination and introduction of evidence is waived in writing. The parties shall furnish such rebutting panel evidence.
C. A party must provide evidence as the board may require, as far as possible and
the failure to produce such evidence when required may be considered by the board in
making requested under item B if the evidence is available to the party. A party's failure to
produce evidence under item B is a factor when the panel makes its award. The board may,
at its discretion, receive written briefs, and shall fix at the close of the hearings the time
within which the same shall be served upon the opposing parties and filed with proof of
such service.

5500.2510 BRIEFS.

A. The parties may submit briefs to the panel after the hearing closes. Before
briefs are submitted, the parties must agree on:

(1) the filing deadlines; and

(2) how to file the briefs with the panel and serve them on each party.

B. The panel must resolve any disputes or disagreements on filing deadlines or
service.

5500.2600 AMENDMENTS.

The original statement of the dispute may be amended by a supplemental written
agreement signed by all parties and filed with the board panel at any time before the final
decision. No issues shall be considered by the board except record closes. The panel may
only consider a dispute as specified in the original agreement statement or a supplemental
agreement executed and filed as herein provided under this part.

5500.2700 AWARD.

Subpart 1. Making award. When the board shall have concluded its hearings and
investigations, it shall After concluding the hearing and investigation, the panel must make
an award. The award shall be that is in writing, is signed by a majority of the arbitrators.
panel, and shall set forth in detail the panel's findings of the board upon all the issues before it and its decision thereon on the dispute and the panel's decision.

Subp. 2. Filing award. The board shall panel must simultaneously file with the commissioner the stenographic record of its proceedings, if kept, together with all exhibits and records and the parties the original findings, opinion, and award made by it. In case before a final award is made a written agreement shall The findings, opinion, and award must be filed according to part 5530.0800, subpart 9.

Subp. 3. Resolving dispute before award is filed. If the parties make a written agreement resolving the dispute before the panel files an award, the written agreement must be simultaneously filed with the board, duly executed by all of the parties to the dispute; settling all questions at issue, the board shall cease its activities without making an award and shall panel and the commissioner. The panel must then file its records, without its findings or an award, with the commissioner as hereinbefore provided.

5500.2800 RECONSIDERATION OF THE RECONSIDERING AWARD.

Subpart 1. Requesting reconsideration.

A. Any party to an arbitration proceeding may request a reconsideration of the award made by the board therein upon the panel to reconsider the award on any or all of the following grounds:

(1) that there is newly discovered material evidence, newly discovered, which with reasonable diligence could not have been found and produced at the prior hearings hearing;

(2) that the award is not justified by the evidence or is contrary to law; or

(3) that any adverse party has been guilty of misconduct which materially affected the result. Such
B. A request shall under item A must be in writing and shall set forth the facts constituting grounds upon which it the request is based. Copies Within ten calendar days after the award is filed under part 5500.2700, subpart 2, a copy of such the request shall must be served upon on all other parties to the proceedings, upon the panel chair of the board, and upon the commissioner.

Subp. 2. Determining request.

A. The board may then proceed to panel must:

(1) consider the request, under subpart 1 if it the panel deems the grounds stated sufficient, according to subpart 1, item A; or may

(2) reject the same request if it the panel deems the grounds insufficient according to subpart 1, item A. If the board determines to consider the request, it shall order a preliminary hearing thereon, notice of which shall be given as provided for the first hearing upon an arbitration agreement.

B. After such hearing considering a request according to item A, the board shall panel must make its order granting or denying the request. If granting the request is granted, the board shall proceed to panel must reconsider the award and shall:

(1) if the parties agree, receive briefs according to part 5500.2510; or

(2) fix a time and place for the a hearing thereon, of which and give notice shall be given as for the first hearing according to part 5500.2300, subpart 1, item A.

C. The board panel may by order limit the matters upon which it will receive new or additional evidence. Thereupon further proceedings shall be had as upon the original arbitration agreement and must conduct the hearing, if held, according to parts 5500.2400 to 5500.2510.
D. At the conclusion thereof the board shall After briefs are submitted under item
B or C, the panel must:

(1) affirm the original award filed under part 5500.2700, subpart 2; or shall

(2) make and simultaneously file with the parties and the commissioner an
amended award which shall supersede according to part 5500.2700, subpart 2, that supersedes
the original award.

5500.2850 ARBITRATOR FEES AND COSTS.

Subpart 1. Paying arbitrator fees and costs.

A. Except as otherwise provided by the express terms of the arbitration agreement, the parties must equally pay the arbitrator's fees and costs.

B. If there is a dispute between one or both parties and the arbitrator over the arbitrator's fees or costs, the party or parties contesting the fee may request arbitration of the fee dispute according to subpart 2.

Subp. 2. Resolving dispute over fees or costs.

A. If a party believes that the arbitrator's fees or expenses are inappropriate or incorrect and cannot resolve the issue with the arbitrator, the party may submit a written statement of protest to the commissioner within 30 calendar days of receiving the arbitrator's invoice of fees and expenses. The statement of protest must provide the basis for the objection, and the party must provide a copy of the statement to the arbitrator and the other party.

B. The commissioner must investigate and respond to the statement of protest. If the commissioner determines that the disputed fee or expense is inappropriate or incorrect, the commissioner must refer the statement of protest to a panel of the advisory committee under chapter 5530. The panel must:
investigate the statement of protest;

(2) provide all interested parties an opportunity to be fairly heard; and

(3) issue a written decision that is final and binding on the parties and the arbitrator.

5505.0100 DEFINITIONS.

Subpart 1. Scope. Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases in parts 5505.0100 to 5505.1500 shall have the same meaning and definition as is contained in the definitions used in Minnesota Statutes, chapters 179 and 179A. For purposes of this chapter, the terms defined in this part have the meanings given them.


Subp. 3. Competent evidence. "Competent evidence" has the meaning given in Minnesota Statutes, section 179.01, subdivision 12.

Subp. 4. Dispute. "Dispute" means a controversy regarding the representation of employees under Minnesota Statutes, section 179.16.

Subp. 5. Employee. "Employee" has the meaning given in Minnesota Statutes, section 179.01, subdivision 4.

Subp. 6. Employer. "Employer" has the meaning given in Minnesota Statutes, section 179.01, subdivision 3.

Subp. 7. Labor organization. "Labor organization" has the meaning given in Minnesota Statutes, section 179.01, subdivision 6.

Subp. 9. **Representative of employees.** "Representative of employees" has the meaning given in Minnesota Statutes, section 179.01, subdivision 5.

Subp. 10. **Serve.** "Serve" has the meaning given in part 5510.0310, subpart 19.

Subp. 11. **Unit.** "Unit" means a unit of employees determined under Minnesota Statutes, section 179.16.

5505.0200 PURPOSE, CONSTRUCTION, AND WAIVER.

A. Parts 5505.0100 to 5505.1500 govern this chapter governs the conduct of all proceedings before the commissioner of mediation services involving investigation and certification of for investigating and certifying representatives for collective bargaining under Minnesota Statutes, section 179.16. Parts 5505.0100 to 5505.1500 shall, and is to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. The commissioner may waive any requirement of parts 5505.0100 to 5505.1500 under this chapter unless a party shows prejudice thereby that the waived requirement prejudices the party.

5505.0210 FILING AND SERVICE.

Part 5510.0320 applies to a document filed or served under this chapter.

5505.0300 REQUEST FOR INVESTIGATION.

As provided under Minnesota Statutes, section 179.16, subdivision 2, a party may file a request for investigation by with the commissioner of mediation services of a question concerning the representation of employees for collective bargaining may be filed with the commissioner by any employee, group of employees, labor organization, employer, or group of employers. Such request shall be in writing in the form hereinafter prescribed. Forms for filing this information may be obtained from the office of the commissioner of mediation services.
REQUIRED INFORMATION.

The request shall be addressed to the commissioner of mediation services and shall contain the following information under part 5505.0300 must include:

A. the type of organization making the request, be it labor organization, employer, employee, or unorganized group of employees, and the petitioning organization's name, address, e-mail address, and telephone number of the petitioner or petitioners;

B. the name, address, e-mail address, and telephone number of the organization's agent or attorney who represents the petitioner or petitioners;

C. the adverse party's name, address, e-mail address, and telephone number of the opposing party in the dispute;

D. if known, the name, address, e-mail address, and telephone number of the adverse party's agent or attorney for the opposing party, if known;

E. the names, addresses, e-mail addresses, and telephone numbers of all other individuals or labor organizations known to have an interest in or claiming to represent any of the employees involved;

F. the nature of the employer's business of the employer;

G. the approximate total number of employees in the unit the petitioner petitioning organization claims is appropriate, and a statement as to the bargaining unit or units claiming the right of representation, whether employer unit, craft unit, plant unit, or other unit as proposed by the petitioner; and

H. a detailed list of the classifications in the proposed appropriate bargaining unit, indicating the number of employees in each classification.
5505.0500  NOTICE OF HEARING AND INVESTIGATION.

Subpart 1.  Investigating request; hearing. Upon receipt of receiving a completed request in proper form under part 5505.0300, the commissioner shall:

A. must investigate the controversy by any suitable means. The commissioner may investigate such controversy personally or through an agent appointed by the commissioner; and

B. The commissioner may provide for an appropriate hearing before the commissioner or agent.

Subp. 2. Giving notice.

A. The commissioner must serve notice of such an investigation or hearing shall be given to all parties directly involved in or directly affected by the controversy, so far as named in the request or known to the commissioner. All such dispute, and the parties shall be deemed parties to the proceedings. A copy of the notice shall must be posted in a conspicuous place at the place of employment of the employees therein referred to petitioning organization at least two days prior to before the scheduled date of investigation or hearing.

B. Together with the notice under item A, a copy of the request filed by the petitioner under part 5505.0300 must be given to a representative of each party, excepting individual employees, with the first notice, and shall be posted in a like manner according to item A.

Subp. 3. Hearing recording. If a hearing is ordered, the commissioner shall cause a stenographic report must maintain a recording of the hearing to be kept for 90 days.

5505.0600  HEARINGS.

Subpart 1. Conformity. All hearings before the commissioner shall under this chapter must be conducted in conformity with according to subparts 2 to 9.
Subp. 2. **Conduct.** All hearings before the commissioner shall be open to the public. It shall be the duty of the commissioner conducting the hearing to inquire fully into the facts in dispute, to call, examine, and cross-examine witnesses, and to require the production of such documentary or other evidence as the commissioner may deem necessary to be fully acquainted with all the facts relating to the dispute. The commissioner shall have the powers under Minnesota Statutes, section 179.16, subdivision 3.

Subp. 2a. **Virtual hearing.** If all parties agree, the hearing may take place virtually through an online conferencing or videoconferencing tool.

Subp. 3. **Testimony and evidence.** Any party in interest to the proceeding shall have the right to:

A. appear at such hearing in person, or by counsel or representative and to;

B. call, examine, and cross-examine witnesses; and to

C. introduce into evidence such only competent evidence, either documentary or other evidence as the commissioner may deem admissible. In such proceeding the parties thereto shall be permitted to introduce only competent evidence, as defined in Minnesota Statutes, section 179.01, subdivision 12.

Subp. 4. **Stipulation.** At any such hearing The parties to the dispute may enter into stipulation of facts which shall have the same weight as though evidence had been adduced to prove the same stipulate to agreed-upon facts and evidence.

Subp. 5. **Objections.**

A. Any objection with respect to the conduct of the hearing, including an objection to the introduction of evidence, shall be stated orally, together with a statement of the grounds of such objection, and be included in the stenographic report.
of the hearing if one is kept. No objection shall be deemed waived by further participation in the hearing recording.

B. A party does not waive its objection if the party continues to participate in the hearing.

Subp. 6. Adjournment. The commissioner may adjourn the hearing from day to day or from time to time and from place to place as he may deem proper as the commissioner deems necessary upon appropriate notice thereof to the parties to said proceeding.

Subp. 7. At close of hearing.

A. At the close of the hearing, the parties to the proceeding shall be entitled to submit the matter on either oral or written arguments as determined by the commissioner may determine under this subpart. When permission for

B. If the commissioner permits oral argument is granted, the commissioner shall fix the length thereof, and such argument shall not be included in the stenographic record of the hearing unless it is so directed by the commissioner must determine its length. Unless ordered by the commissioner, oral arguments are not part of the recording.

C. If the matter is submitted on there are written argument arguments, the commissioner shall fix the time for the filing thereof by the respective parties to the proceeding must determine the deadline for filing.

Subp. 8. Disregarding testimony. All or any part of the witness's testimony of any witness may be disregarded by the commissioner; if said the witness shall refuse refuses to answer any question which that the commissioner has ruled to be a proper one.

Subp. 9. Record.

A. The record in the proceedings shall consist consists of:

(1) the request for investigation; under part 5505.0300;
(2) the notice of hearing, under part 5505.0500, subpart 2, item A;
(3) proof of service of such notice upon the parties to the proceedings;
(4) the objections of any person to the proceedings;
(5) the rulings thereon, on the objections;
(6) all motions, stipulations between the parties, exhibits, documentary evidence, depositions, and findings of fact and conclusions, if such are made;
(7) the stenographic notes or record if kept, hearing recording; and
(8) the commissioner's final order of the commissioner.

B. The record must be kept for 90 days.

5505.0700 EXAMINATION OF EXAMINING WITNESSES.

Witnesses shall be examined orally under oath, provided, however, that the
Testimony of all witnesses who reside outside of the state or who, through illness or other
cause, are unable to testify in person before the commissioner may be taken by deposition
in such manner and form as may be prescribed by the commissioner.

5505.0800 SUBPOENAS.

Subpart 1. Issuing subpoenas. Subpoenas requiring the attendance and testimony of
witnesses and the production of evidence, including books, records, correspondence, or
other documents relating to any matter pending before the commissioner, shall a dispute
under this chapter must be issued in the name of by the commissioner over his or her
signature.

Subp. 2. Applying for subpoenas. Applications

A. An application for the issuance of such subpoenas shall must be filed with the
commissioner by the party to the proceedings desiring requesting the subpoena. Such
B. The application shall must be timely and shall specify the names of the witnesses and the books, records, correspondence, or other documents required to be produced by relating to a dispute under this chapter that the witness must produce.

Subp. 3. Witnesses; fees and mileage.

A. Witnesses summoned before the commissioner shall must be paid fees and mileage in the same manner and amounts as are paid to witnesses in the district court of this state. Witnesses whose depositions are taken and individuals taking the same shall be depositions are entitled to the same fees as provided by law for taking of depositions for use in the district court of this state.

B. Witness fees and mileage shall must be paid at the time of the service of the subpoena to the party requesting the subpoena when the subpoena is served on the witness whose attendance is required by the subpoena, by the parties at whose instance the subpoena is issued, excepting.

C. Witnesses subpoenaed by the commissioner who shall must be paid as provided by law.

5505.0900 DETERMINATION OF DETERMINING REPRESENTATIVE.

After the hearing, the commissioner, upon the completion of the hearing, shall forthwith must determine:

A. who are the representatives of the employees for collective bargaining; or

B. the method to be used to ascertain for determining who shall be such will be the representatives as provided under Minnesota Statutes, section 179.16, subdivision 2.
Subpart 1. Taking secret ballot.

A. On determining to take a secret ballot of the employees, the commissioner may direct that such election take a secret ballot of employees, as provided under Minnesota Statutes, section 179.16, subdivision 2, to be conducted by a designated commissioner-designated agent in such manner as he or she may prescribe. Upon conclusion of such

B. After the secret-ballot election, the agent conducting the same shall must prepare a report containing a tally of the ballots and the result of such election results.

Subp. 2. Designating challenger. The employer and each person or organization claiming the right to act as representative of the employees may designate one person individual as a challenger, who shall be permitted to be present at the place of election during. Each designated challenger may observe the casting and counting of the ballots and counting thereof by the commissioner or designated agent.

Subp. 3. Sealing ballots. Immediately upon the completion of the after tallying of the ballots so cast, the agent conducting the election shall must place all ballots east and a copy of the tally sheet in an envelope, which shall must be:

A. immediately sealed;

B. endorsed across the seal by a challenger for each party, if such there be, any;

and retained in the files of

C. kept by the commissioner for a period of not less than 30 days, subject to inspection as hereinafter provided.

Subp. 4. Furnishing tally and election results. The parties to the proceedings shall must be furnished with a tabulation tally of the ballots cast in the election and the result thereof election results.
Subpart 1. Challenging right to vote.

A. The right of any employee to vote at an election held for the purpose of determining the representative of employees under part 5505.1000 may be challenged by:

(1) any authorized challenger designated as provided by under part 5505.1000, subpart 2; or by any

(2) an employee entitled to vote at the election.

B. The person making the challenge shall state fully the grounds thereof for the challenge, and a record thereof of the challenge must be made by the agent conducting the election.

C. After making a record, the agent shall:

(1) examine the challenged employee as to the employee's qualifications for voting; and shall

(2) make a record of the examination.

Subp. 2. Challenge not withdrawn.

A. If the challenge is not withdrawn, and the challenged employee insists on voting, the employee must be permitted to vote upon filing with the agent a statement in writing, signed by the employee and witnessed by the agent, alleging that he or she is eligible to vote and setting forth the employee's qualifications.

B. Ballots so received shall not be marked or otherwise distinguished from nonchallenged ballots.
Subp. 3. **Sending record of challenges to commissioner.** The agent conducting the election shall transmit the record of the proceedings upon all challenges to the commissioner with the returns of the tally sheet and election results.

Subp. 4. **Holding hearing on challenges.** If it appears therefrom that the number of challenged votes is sufficient to have affected the result of the election results, the commissioner shall hold a hearing on the question under this chapter after notice to:

A. all challenged voters,

B. persons or organizations voted upon as representatives, and

C. other parties, if any, to whom notice of the election was given.

Subp. 5. **Declaring election void.**

A. At the hearing under subpart 4, the commissioner shall determine whether or not:

(1) the respective challenged voters were eligible to vote; and whether or not the result of

(2) the election results might have been affected by votes cast by ineligible persons.

B. If the commissioner determines that the result of the election results might have been so affected by votes cast by ineligible voters, the commissioner may declare the election void and proceed further, as though no election had been held.
CONSENT ELECTION.

Subpart 1. Agreement to hold consent election.

A. Whenever a question or controversy has arisen concerning the representation of the employees of an employer within the meaning of Minnesota Statutes, section 179.16 under part 5505.0300, the parties to such controversy may agree in writing, subject to the commissioner approval of the commissioner, that an election may be held by said commissioner for the selection of a representative for the purposes of collective bargaining who may be certified by the commissioner as such representative without the necessity of a hearing concerning the controversy under this chapter.

B. Such agreement to hold a consent election must be in the form prescribed by the commissioner. The approval of such agreement by the commissioner shall be subject to the following conditions:

Subp. 2. Notice of consent election. A notice of the consent election in the form prescribed by the commissioner shall:

A. be posted in a conspicuous place at the place of employment of the employees therein referred to; and

B. state the election date and that an objection may be filed with the commissioner according to subpart 4.

Subp. 3. Objections to election.

A. Upon an objection being filed with the commissioner as provided in the notice under subpart 4, the commissioner may, on deeming it proper, revoke the acceptance and approval of the agreement under subpart 1 for a consent election.

B. With the consent of the parties to said agreement and upon notice to the person or persons filing such objections the objection, the commissioner may, on
deeming it proper, amend, in such manner as the commissioner may determine, the provisions
contained in said agreement for a consent election.

Subp. 4. **Filing objections.** All persons having any objections to such consent election
must file their objections thereto. An objection to the consent election must be filed in writing
with the commissioner at the commissioner's office in St. Paul, Minnesota, either in person
or by registered or certified mail, not no later than the date prescribed in the posted notice
of such consent election. Any person or persons failing to file their objections to such consent
election within the time hereinabove prescribed shall not thereafter be permitted to question
the holding of such election Unless permitted to do so by the commissioner under subpart
2. An objection filed after the prescribed date in the notice is void.

5505.1300 CERTIFICATION ORDER.

The commissioner shall, upon the completion of the proceedings hereinbefore described,
forthwith. After a completed election under part 5505.1000 or 5505.1200, the commissioner
must:

A. certify to the parties in writing the name or names of the representatives that
have been designated or selected; and

B. serve the certification order upon the parties to these proceedings.

5505.1400 OBJECTIONS TO CERTIFICATION.

Subpart 1. **Filing objection to certification.** Any A party to the proceedings may,
within seven days from the deposit of said certification order in the United States
mail of receiving the certification order under part 5505.1300, file with the commissioner
objections an objection to the certification.

Subp. 2. **Fixing hearing on objection.**

A. If it appears to the commissioner determines that such the objection under
subpart 1 may raise a substantial and material issue with respect to the correctness of said
on the certification, the commissioner shall must issue and cause to be served upon on the parties to the proceeding a notice fixing a time and place of hearing upon said objections for the objection.

B. The notice and the hearing are as provided under parts 5505.0500, subpart 2, and 5505.0600, respectively.

Subp. 3. Declaring certification void. On determining, after the close of such the hearing, upon and on the record made therein of the hearing that such objections are the objection is well taken, the commissioner shall forthwith must declare the certification void and shall proceed in the same manner as though no certification had been made.

Subp. 4. Staying certification. Upon application by any party to the dispute, the commissioner may must stay the operation of the order of certification order under part 5505.1300 until the hearing and determination of the objections to the order of certification under subpart 3.

5505.1500 RECONSIDERATION WITHIN ONE YEAR.

Subpart 1. Requesting new certification. If the commissioner has certified the representatives as provided in Minnesota Statutes, section 179.16, and if a question should arise within the period of one year from the date of such certification concerning the representatives so certified, then any employee, group of employees, labor organization, or employer may file a petition in like form as provided in part 5505.0400, and in addition thereto a statement which shall set forth in detail the reasons upon which are based the request for a new certification of representatives of employees. Within one year after a certification under part 5505.1300, any party may request a new certification according to part 5505.0300. The request must state the reasons for requesting a new certification.

Subp. 2. Investigating request for new certification. Upon receiving such a request under subpart 1, the commissioner, after such investigation as the commissioner may deem
necessary, shall notify all parties to the proceedings of his or her decision upon the request.

On determining that further proceedings shall be had thereon must investigate whether
sufficient reason exists, as required under Minnesota Statutes, section 179.16, subdivision
2, that requires the commissioner to approve a new certification.

Subp. 3. Approving new certification. If the commissioner approves a request for a
new certification, the commissioner shall proceed as hereinbefore provided for action on
an original request for investigation of the question of representation for collective bargaining
purposes must notify all parties to the proceedings according to part 5505.0500, subpart 2,
of the commissioner's decision to approve a new certification by completing an investigation
without a hearing.

5510.0110 APPLICATION.

Parts 5510.0110 to 5510.2310 apply to proceedings before the commissioner involving
matters of representation and fair share fee challenges under the Public Employment Labor
Relations act.

5510.0210 POLICY AND WAIVER.

A. Parts 5510.0110 to 5510.2310 shall are to be liberally construed to accomplish
the purposes and provisions of the act. Any requirements of these parts 5510.0110 to
5510.2310 may be waived by agreement of all parties and the commissioner approval of
the commissioner.

B. The commissioner shall grant approval must approve a waiver request under
item A unless the commissioner determines that waiving the particular requirements in
question is requirement would likely to result in significant harm to the general public or
to specific nonparties or is likely to result in substantial impairment or frustration of
substantially impair or frustrate the act's intent or purposes of the act.
C. The joint waiver request for waiver shall must be made in writing to the commissioner in a timely fashion. The commissioner shall must set forth in writing the reasons for granting or denying the waiver.

5510.0310 DEFINITIONS.

Subpart 1. General Scope. For the purpose of parts 5510.0110 to 5510.2310, the words terms defined in this part have the meanings given them.


Subp. 2. Amendment of certification or amendment of exclusive representative. "Amendment of certification" or "amendment of exclusive representative" means a change in the certification by the commissioner of a nature which the commissioner deems does not raise a question of representation.

[For text of subpart 3, see Minnesota Rules]

Subp. 3a. Appropriate unit or unit. "Appropriate unit" or "unit" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 2.

Subp. 4. [See repealer.]

[For text of subparts 5 and 6, see Minnesota Rules]

Subp. 7. Certification of exclusive representative or certification. "Certification of exclusive representative" or "certification" means the granting of the status of exclusive representative to an employee organization by a written order of the commissioner.

Subp. 8. Certification petition. "Certification petition" means a petition filed by an employee organization stating that at least 30 percent of the employees of a proposed appropriate unit, which is presently unrepresented, wish to be represented by the petitioner.
Subp. 8a. **Commissioner.** "Commissioner" means the commissioner of the bureau of Mediation Services or an authorized agent.

Subp. 9. **Decertification petition.** "Decertification petition" means a petition filed by an individual employee or group of employees stating that:

A. the current exclusive representative no longer represents the majority of the employees in an appropriate unit; and that

B. at least 30 percent of the employees no longer wish to be represented by the exclusive representative.

Subp. 10. **Determination of affiliation or affiliation.** "Determination of affiliation" or "affiliation" means the determination of determining the affiliation of a supervisory or confidential employee organization under Minnesota Statutes, section 179A.06, subdivision 2.

Subp. 11. [Repealed by amendment, L 1987 c 186 s 15]

Subp. 12. **Effective date of orders.** "Effective date of orders" means, for any commissioner-issued order issued by the commissioner, the day following after issuance unless otherwise provided.

Subp. 12a. **Employee.** "Employee" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 14.

Subp. 12b. **Employee organization.** "Employee organization" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 6.

Subp. 12c. **Employer.** "Employer" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 15.

Subp. 12d. **Exclusive representative.** "Exclusive representative" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 8.
Subp. 14. **Holiday or legal holiday.** "Holiday" or "legal holiday" means those dates designated by Minnesota Statutes, section 645.44, subdivision 5, as holidays for the state of Minnesota.

Subp. 15. **Open-window period.** "Open-window period" means the following period of time prior to the expiration of a labor contract expires:

Subp. 16. **Party.** "Party" means any:

A. an exclusive representative, employee organization, or public employer recognized by the commissioner whose legal rights, duties, and privileges will be determined in the proceedings under this chapter; or

B. any a public employee who has filed a fair-share fee challenge or decertification petition.

Subp. 18. **Representation petition.** "Representation petition" means a petition filed by an employee organization stating that:

A. the exclusive representative no longer represents the majority of employees in an appropriate unit; and

B. at least 30 percent of the employees in the appropriate unit wish to be represented by the petitioner.

Subp. 19. **Service or serve.** "Service" or "serve" means delivery of, unless another manner of service is required by law, delivering a document required by parts 5510.0110 to 5510.2310 electronically, in person, by facsimile, or by the United States Postal Service United States mail, postage prepaid and addressed to the bureau or a party at its last known
address, unless some other manner of service is required by law. Unless otherwise provided by these parts, service upon the commissioner or a party is effective upon receipt.

Subp. 20. **Showing of interest or interest.** "Showing of interest" or "interest" means the submission of authorization signatures in the form of individual authorization cards to show support for a petition filed with the commissioner.

Subp. 21. [See repealer.]

Subp. 22. **Transfer of exclusive representative status.** "Transfer of exclusive representative status" means the transfer of the rights and obligations of an exclusive representative to another employee organization.

Subp. 23. **Unfair election practice.** "Unfair election practice" means a practice or action that affects the result of a certification, representation, or decertification election, specifically:

A. any prohibition defined in part 5510.2110, or a violation of a commissioner-issued election order issued by the commissioner; and

B. any unfair practice as defined by under Minnesota Statutes, section 179A.13, committed by an:

   (1) employer or its agents;

   (2) employee organization or its agents;

   (3) employee, which affects the result of a certification, representation, or decertification election.

Subp. 24. **Unit clarification or clarification petition.** "Unit clarification" or "clarification petition" means a determination of the commissioner regarding an appropriate unit involving:

   [For text of items A to D, see Minnesota Rules]
FILING AND SERVICE.

Subpart 1. Effecting service. Unless otherwise provided under parts 5510.0110 to 5510.2310, service on the commissioner or a party is effective according to subpart 2.

Subp. 2. Filing; when effective.

A. Unless otherwise provided by law, a document filed under parts 5510.0110 to 5510.2310 is effective:

(1) upon receipt; and

(2) if it is received Monday through Friday before 4:30 p.m.

B. A document received Monday through Friday after 4:30 p.m. is effective the next working day that is not a legal holiday.

C. A document received on a Saturday, Sunday, or legal holiday is deemed to be filed on the next working day that is not a legal holiday.

Subp. 3. Filing method. Unless another manner of filing is required by law, a document may be filed:

A. in person, between only 8:00 a.m. and 4:30 p.m.;

B. by facsimile;

C. by United States mail, postage prepaid, and addressed to the bureau or a party at its last known address; or

D. electronically, with the express, prior written consent of the recipient that has provided an e-mail address for the filing purpose.

Subp. 4. Electronic filing.

A. Unless otherwise provided by law, a document filed electronically must contain an electronic signature.
B. For purposes of this subpart, "electronic signature" has the meaning given in Minnesota Statutes, section 325L.02, paragraph (h).

5510.0330 COMPUTING TIME.

When computing a period prescribed or allowed under parts 5510.0110 to 5510.2310, the day, act, or event on which the designated period begins to run is not included. The last day of the period is included unless it is a Saturday, Sunday, or holiday.

5510.0410 FILING PETITION.

Subpart 1. Conditions.

A. To file a petition, an employee organization or exclusive representative must have:

A. (1) have a written constitution or bylaws that provide for:

(1) (a) election of officers;

(2) (b) filling of vacancies in elected offices; and

(3) (c) a purpose which, in whole or in part, must be to deal with public employers concerning grievances and terms and conditions of employment; and

B. (2) have the petition signed by an authorized representative of the employee organization.

B. To file a petition, an employer must have the petition signed by an the employer's authorized representative of the employer.

C. To file a petition, a public employee must be included in an appropriate unit for which there is an exclusive representative, or be subject to a fair share fee assessment by the exclusive representative.
Subp. 2. Eligibility; single-party petition.

A. An employee organization may file a petition for:

[For text of subitems (1) to (3), see Minnesota Rules]

B. An employer may file a petition for:

[For text of subitems (1) to (4), see Minnesota Rules]

C. An exclusive representative may file a petition for:

[For text of subitems (1) to (4), see Minnesota Rules]

D. A public employee may file a petition for:

(1) decertification of exclusive representative; and

(2) challenge of fair share fee assessment; and

(3) challenge of affiliation.

Subp. 3. Eligibility; joint-party petition.

A. As provided under Minnesota Statutes, section 179A.12, subdivision 2, one or more employee organizations and an employer may file a joint petition for certification of exclusive representative.

[For text of item B, see Minnesota Rules]

C. Two or more employee organizations may jointly file a petition which a single employee organization has the right to file.

Subp. 4. Petition requirements. A petition must be in writing and shall contain include the name, address, e-mail address, and telephone number of:

[For text of items A to D, see Minnesota Rules]
LIMITATION ON FILING PETITION.

Subpart 1. Contract bar. If there is an exclusive representative and an effective labor contract in effect, the commissioner shall only consider a petition for clarification, decertification, representation, or certification only when the:

A. when the petition is submitted during the open-window period or after the contract's expiration date in the contract;

B. when the petition is submitted jointly by the employer and the exclusive representative; or

C. when the commissioner determines that the interests of good labor relations policy warrant consideration of the commissioner to consider the petition during the life of the existing contract.

Subp. 2. One-year election bar. Unless otherwise provided under Minnesota Statutes, section 179A.12, subdivision 12, when a certification election, representation election, or decertification election has been held, no petition seeking an election shall not be entertained for a one-year period from the date the commissioner has issued the order certifying the election results of the election.

Subp. 3. Transfer bar. The commissioner may not entertain a petition for transfer of exclusive representative status for a one-year period from the date of certification or from the date of transfer of exclusive representative status.

Subp. 4. Arbitration bar.

A. A petition raising a question of certification, representation, or decertification must not be considered after an impasse has been certified if:

(1) there is an exclusive representative and an effective labor contract; and
(2) an impasse in the negotiation of negotiating a successor contract has been certified for arbitration under Minnesota Statutes, section 179A.16, subdivision 1 or 2, a petition raising a question of certification, representation, or decertification shall not be considered following certification of impasse. This

B. A bar shall continue in effect under item A continues until the arbitration award is issued and a contract is executed pursuant according to Minnesota Statutes, section 179A.20, subdivision 1.

Subp. 5. [See repealer.]

Subp. 6. Constitution and bylaws. Unless on file with the commissioner, a current copy of the employee organization's constitution or bylaws, unless on file with the commissioner, in effect at the time of petition must accompany the following petitions:

[For text of items A to D, see Minnesota Rules]

Subp. 7. Petitions filed with served on commissioner. All petitions concerning representation matters or fair share fee challenges shall under parts 5510.0110 to 5510.2310 must be filed with served on the commissioner in person, by mail, or by facsimile.

5510.0610 WITHDRAWAL.

Subpart 1. Generally.

A. A certification, representation, or decertification petition or a showing of interest may be withdrawn by a party at any point prior to before the fifth day following issuance of after the commissioner issues an appropriate unit determination by the commissioner.

B. A clarification, transfer of exclusive representative status, fair share challenge, amendment of certification, or affiliation petition may be withdrawn at any time prior to the close of before the hearing on the petition closes.
C. A withdrawal must either be stated on the record at the hearing or be in writing and served as provided by under parts 5510.0110 to 5510.2310.

Subp. 2. Certification election.

A. For a certification election, if the an employee organization withdraws, and no other employee organizations have petitioned or intervened, the petition shall must be dismissed.

B. If another employee organization has also petitioned or has intervened, the matter shall must proceed under parts 5510.0110 to 5510.2310, but the withdrawing organization shall must not be listed on the ballot.

Subp. 3. Representation election.

A. For a representation election, if the an incumbent exclusive representative withdraws, the matter will must be processed as though a certification petition had been filed by the challenging employee organization.

B. A challenging employee organization which that withdraws in accordance with this chapter shall according to parts 5510.0110 to 5510.2310 must not be listed on the ballot. If all challengers have withdrawn, the petition shall must be dismissed.

Subp. 4. Decertification election.

A. For a decertification election, if the a petitioner withdraws and no other employee organization has petitioned or intervened, the petition shall must be dismissed.

B. If the petitioner withdraws, but another employee organization which that has petitioned or intervened does not withdraw, the matter shall must be processed as a representation petition.
48.1 5510.0710 CERTIFICATION, REPRESENTATION, AND DECERTIFICATION PETITIONS.

Subpart 1. Filing of petition. A petition for certification, representation, or decertification must include:

A. the name, address, e-mail address, and phone number of all other employee organizations or exclusive representatives known to have an interest in or claiming to represent any of the employees involved;

B. a statement regarding whether there is an effective labor contract in effect and its expiration date;

[For text of items C to H, see Minnesota Rules]

Subp. 2. Showing of interest.

A. Evidence of a showing of interest in the form of authorization signatures must accompany all petitions. An adequate showing of interest for the necessary to conduct of an investigation or hearing shall be constituted by authorization signatures from 30 percent or more of the estimated number of employees in the established or proposed appropriate unit.

B. Evidence of a showing of interest may continue to be submitted up to the close of until the hearing closes.

Subp. 3. Employer-provided information.

A. An employer must provide to the exclusive representative the name, home mailing address, and telephone number for all employees in the established appropriate unit if:

(1) the information is requested by the exclusive representative; or

(2) the commissioner orders the employer to release the information.
B. A request or order under this subpart must be consistent with Minnesota Statutes, section 13.43, subdivision 6.

5510.0810 AUTHORIZATION SIGNATURES.

Subpart 1. Confidentiality. Authorization signatures submitted in support of a petition shall be privileged and confidential information pursuant to Minnesota Statutes, section 179A.12, subdivision 6, and may only be withdrawn by the petitioner.

Subp. 2. Valid authorization signatures.

A. Authorization signatures submitted in accordance with Minnesota Statutes, section 179A.12, must be in the form of individual authorization cards which include:

A. (1) a statement clearly reflecting the employee's support for the petition's purpose;

B. (2) the clearly legibly printed name of the employee making the authorization;

C. (3) the employee's signature of the employee; and

D. (4) the date the employee signed the card.

B. Authorization cards may contain the employee organization's name, address, e-mail address, and phone number of an employee organization.

Subp. 3. Invalid authorization card. The commissioner shall consider an authorization card is invalid any authorization card which:

A. does not include the information and statements required by parts 5510.0110 to 5510.2310 under subpart 2;

[For text of items B and C, see Minnesota Rules]

D. is dated more than six months prior to the receipt of the petition by the commissioner.
Subp. 4. Effect of invalid authorization card.

A. The commissioner shall may not include invalid authorization cards in when determining whether a petition has the necessary showing of interest.

B. If there is evidence that authorization cards submitted to establish a showing of interest were fraudulently obtained or submitted in a fraudulent manner:

- (1) the petition or intervention will must be denied; and
- (2) a one-year election bar for that unit shall must be applied to the party submitting fraudulent cards.

5510.0910 UNIT CLARIFICATION PETITION.

A petition for unit clarification must include:

A. a statement regarding on whether there is an effective labor contract in effect and its the contract's expiration date;

[For text of items B to F, see Minnesota Rules]

5510.1110 CHALLENGE TO AFFILIATION PETITION.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Status of certification.

A. If the commissioner determines that the affiliation of an employee organization is determined to be improper according to Minnesota Statutes, section 179A.06, subdivision 2, the commissioner shall must:

- (1) withdraw the certification of the involved employee organization as the exclusive representative for the unit for which the challenge was raised; and
- (2) dismiss any matters pending before the bureau commissioner involving questions of representation or mediation.
B. If the commissioner determines that the affiliation of an employee organization is determined to be proper according to Minnesota Statutes, section 179A.06, subdivision 2, the commissioner shall must affirm its standing as a proper employee organization and dismiss the challenge petition.

Subp. 3. **Status of contract.** Upon the withdrawal of the status of exclusive representative pursuant to after a commissioner determination of improper affiliation, any labor contract is void on the date of the determination if:

A. the contract is within the meaning of Minnesota Statutes, section 179A.20; which;

B. the contract covers employees of the unit for which withdrawal was ordered; and

C. to which the involved organization is a party is null and void as of the date of the commissioner's determination to the contract.

5510.1210 **TRANSFER OF TRANSFERRING EXCLUSIVE REPRESENTATIVE STATUS.**

Subpart 1. **Filing petition.** A petition transferring exclusive representative status must include:

[For text of item A, see Minnesota Rules]

B. a copy of the incumbent exclusive representative's current effective constitution or bylaws, unless on file with the commissioner;

[For text of item C, see Minnesota Rules]

D. a copy of the current effective constitution or bylaws of the employee organization which has agreed to accept the transfer of the exclusive representative's rights and obligations, unless on file with the commissioner; and
E. a copy of the current effective labor contract and certification of the exclusive representative.

Subp. 2. Right to transfer. An exclusive representative may transfer its rights and obligations to another employee organization by complying with subparts 3, 4, 5, and to 6.

Subp. 3. Notice.

A. The exclusive representative must provide advance written notice of the proposed transfer to each member of the exclusive representative in the appropriate unit.

B. The notice must state the time and location of the meeting or meetings to be held by the exclusive representative relating to the proposed transfer.

Subp. 4. Meeting. The exclusive representative must hold a meeting or meetings to permit discussion of members to discuss the proposed transfer at a time and location which is reasonably convenient for the majority of the members of the exclusive representative in the appropriate unit.

Subp. 5. Election. The exclusive representative must conduct a secret-ballot election among its members in the appropriate unit to determine approval or rejection of approve or reject the proposed transfer in accordance with according to the exclusive representative's constitutional requirements of the exclusive representative or bylaws.

Subp. 6. Petition. The exclusive representative must file with the commissioner a petition if:

A. all employees in the appropriate unit have been afforded the opportunity to become members of the exclusive representative; and if

B. a majority of the exclusive representative's members voting in the election required by under subpart 5 vote in favor of the transfer; a petition shall be filed by the exclusive representative with the commissioner.
Subp. 7. Order. Based on the record of hearing or an investigation, the commissioner may must:

[For text of items A to C, see Minnesota Rules]

Subp. 8. Rights. The incoming exclusive representative shall have has all rights and obligations established by the effective labor contract in effect and the act; and must administer the existing labor contract until its expiration expires.

5510.1310 ABANDONMENT OF EXCLUSIVE REPRESENTATIVE STATUS.

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. Retention of Retaining rights and duties. An exclusive representative abandoning its status retains the rights and obligations under the act and under the labor contract until its expiration the labor contract expires.

[For text of subpart 4, see Minnesota Rules]

Subp. 5. Contract bar. If abandonment occurs, there shall be is no bar to the conduct of conducting a certification election.

5510.1810 JOINT-PARTY PETITION.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Unit clarification. In addition to complying with the other requirements of this chapter, A joint-party petition for unit clarification must include the name, title, and signature of the representative of both the exclusive representative and the employer.

5510.1910 HEARINGS OR INVESTIGATIONS.

Subpart 1. Policy. Stipulations or agreements reached by the parties are conducive to harmonious and stable labor and management relationships. The bureau will encourage the parties to enter into these agreements whenever possible and will The commissioner must
Accept stipulations which or agreements that are consistent with bureau policies rules and
the act.

Subp. 2. **Scope.** Hearings or investigations shall must address all issues raised by a
valid petition that are within the commissioner's jurisdiction of the commissioner.

Subp. 2a. **Virtual hearing.** If all parties agree, the hearing may take place virtually
through an online conferencing or videoconferencing tool.

Subp. 3. **Consolidation of hearings.** The commissioner may
consolidate one or more hearings or petitions to the extent if the commissioner determines
the that consolidation will serve the act's purposes of the act.

Subp. 4. **Procedures.** Upon receipt of receiving a petition under parts 5510.0410 to
5510.1810, the commissioner shall must:

A. hold hearings a hearing or conduct an investigation as required. Following
receipt of a petition, the commissioner may under Minnesota Statutes, section 179A.12,
subdivision 5; and

B. issue an order prohibiting negotiations and maintaining the status quo, in part
or in whole, of the employees' terms and conditions of employment.

Subp. 5. **Prehearing conference.**

A. The purpose of a prehearing conference is to:

(1) simplify the issues to be determined;

(2) obtain stipulations regarding foundation for testimony or exhibits;

(3) identify the proposed witnesses for each party;

(4) consider other matters that may be necessary or advisable;
(5) if possible, to reach a settlement without the necessity for hearing. Any final settlement, which if reached must be made a part of the record.

B. Upon the request of any party or upon the commissioner's own motion, the commissioner may, in his or her discretion:

(1) hold a prehearing conference prior to a hearing. The commissioner may:

and

(2) require the parties to file a prehearing statement containing items the commissioner deems necessary to fulfill the purposes of the prehearing conference.

C. The prehearing conference shall be informal. Agreements regarding the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an commissioner order by the commissioner.


A. Requests for subpoenas for the attendance of witnesses or the production of documents must be made in writing to the commissioner and:

(1) contain a brief statement demonstrating the relevance of the potential testimony or evidence sought;

(2) identify all persons to be subpoenaed; and

(3) identify with specificity any documents sought.

B. A subpoena must be served by the sheriff, the sheriff's deputy, or any other individual who is not a party in accordance with rule 45.02 of the Rules of Civil Procedure for the District Courts of Minnesota.

C. When a subpoena is served, the cost of service, fees, and expenses of any witness subpoenaed must be paid by the party at whose request the witness appears.
D. The person individual serving a subpoena must make proof of service by filing the subpoena and an affidavit of service with the commissioner.

E. Upon motion made at or before the time specified in the subpoena, the commissioner may quash or modify the subpoena on finding that it is unreasonable or oppressive.

Subp. 7. Intervenor.

A. The commissioner shall permit an employee organization which submits a 30 percent showing of interest to intervene on a certification, representation, or decertification petition.

B. The commissioner shall permit a group of employees submitting a 30 percent showing of interest wishing to decertify an exclusive representative to intervene on a representation petition.

Subp. 8. Hearing.

A. Parties shall have the right to present evidence, rebuttal testimony, and argument on the issues, and to cross-examine witnesses. Individuals or organizations having an appearance status shall only be allowed to review exhibits and make statements for the record.

B. Any party may be a witness or may present witnesses at the hearing. All oral testimony must be under oath or affirmation. At the request of a party or upon the commissioner's own motion, witnesses may be excluded from the hearing room so that they cannot hear the testimony of other witnesses.


A. The commissioner may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable prudent persons
are accustomed to rely in the conduct of their serious affairs. The commissioner shall must give effect to the rules of privilege recognized by law. Evidence which that is incompetent, immaterial, or unduly repetitious may be excluded.

B. All evidence to be considered in the case, including all records and documents in the possession of possessed by the commissioner or a true and an accurate photocopy thereof copy must be made a part of the record. Matters not part of the record may must not be considered in the determination of when determining the case.

C. The commissioner may seek additional evidence and examine witnesses to the extent the commissioner deems appropriate; but shall must do so on the record and with the opportunity for any a party to contest the evidence.

D. The commissioner may take judicial notice of undisputed facts not in dispute.

Subp. 10. The record.

A. The commissioner shall must maintain the record for 90 days in each case under this part. The record shall must contain:

A. (1) all pleadings, motions, and orders;

B. (2) evidence received;

C. (3) offers of proof, objections, and rulings on objections;

D. (4) all memoranda or data submitted by any a party in connection with on the case; and

E. (5) an audiomagnetic or stenographic a hearing recording of the hearing or transcript.

B. The commissioner shall retain must keep the audiomagnetic or stenographic hearing recording of the hearing or transcript for a period not less than 60 90 calendar days after issuing the order a determination under subpart 14.
Subp. 10a. **Requests for transcripts.** The audiomagnetic hearing recording of a hearing before the bureau may be transcribed in whole or in part upon the written request of any party or person, provided that if the party or person requesting the transcript:

A. makes a request within the 60-day 90-day retention period under subpart 10, item B; and

B. agrees in writing to pay the full costs of preparation for preparing the transcript.

Subp. 10b. **Preparation of case record on appeal.**

A. Any person or party appealing a determination of the commissioner under subpart 14 must agree in writing to pay for the:

1. cost of preparing the transcript of the hearing upon which the determination was based, as well as the;

2. costs of duplicating all relevant exhibits and other written case-file material.

B. An appealing individual or party may purchase a partial transcript and record if:

1. the appeal involves only a portion of the elements or factors decided by the commissioner; and

2. only parts of the hearing are relevant to that element or factor, a partial transcript and record may be purchased.

C. For a request under item B, the commissioner must determine, on the basis of the elements or factors under appeal, the extent of the transcript and record necessary to provide a complete record upon which that portion of the commissioner's determination
was based will be determined by the commissioner, based upon the scope of the issues under appeal.

D. However, any party to an appeal may request that a portion of the entire record be added to the record submitted by the commissioner. The party making such a request under this item must agree in writing to pay for the cost of preparing the additional record. Any partial transcript shall include all testimony and evidence relevant to the issues under appeal.

Subp. 11. Continuances.

A. The timely processing of petitions relating to questions of representation is in the public interest and of value to a constructive and stable labor relations environment. Accordingly, the commissioner will grant continuances or postponements of hearings on these matters only upon a showing of substantial cause.

B. All requests for continuances or postponements of a hearing under item A must be served in accordance with parts 5510.0110 to 5510.2310. Requests served less than six calendar days prior to a hearing shall be denied unless the commissioner determines that the request could not have been filed earlier and that the rights of a party will be substantially affected by denial.

C. The commissioner may, at the commissioner’s discretion, continue a hearing whenever the action appears necessary for determination of the commissioner determines a continuance is needed to determine the issues. In those instances, For a continuance under this item, the commissioner must give oral notice on the record by the commissioner is sufficient.
Subp. 12. **Conduct of Conducting hearing.** Unless the commissioner determines that the public interest will be otherwise served, the hearing under this part must be conducted substantially in the following manner: according to this subpart.

A. After opening the hearing, the commissioner must state the procedural rules for the hearing, including the following:

   [For text of subitems (1) and (2), see Minnesota Rules]

   (3) any objection to the conduct of the hearing, including the introduction of evidence, must be stated orally, together with a statement of the grounds for the objection;

   (4) no objection to the conduct of the hearing, including the introduction of evidence, shall be waived by further participation if the objecting party continues to participate in the hearing; and

   [For text of subitem (5), see Minnesota Rules]

B. Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing shall be entered into the record.

   [For text of item C, see Minnesota Rules]

D. After any opening statements, the party with the burden of proof shall present its evidence. The other parties shall follow in a sequence determined by the commissioner.

   [For text of item E, see Minnesota Rules]

F. When all parties and witnesses have been heard, final argument may, in the discretion of the commissioner, be permitted. The commissioner shall determine the timing and sequence of the argument, and whether the argument is presented in written or oral form, or both.

G. After final argument, the commissioner shall:
61.1 (1) close or continue the hearing; and

61.2 (2) order when the record of the proceedings closes.

H. The record of the proceeding shall be closed upon receipt of the final written memorandum, transcript, if any, or late-filed exhibits which the parties and the commissioner have agreed should be received into the record, whichever occurs later.

Subp. 13. **Disruption of Disrupting hearing.**

A. No television, newsreel, motion picture, still or other camera, and no mechanical recording devices, other than those provided by the commissioner shall or authorized by the commissioner with the consent of all parties, may not be operated in the hearing room during the course of the hearing.

B. No person shall: An individual may not:

61.12 (1) interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall; or

61.14 (2) interfere or threaten to interfere with the conduct of the hearing.

Subp. 14. **Determinations.** All determinations issued by the commissioner must be based upon the record.

Subp. 15. **Order pending appeal.** Any unit determination, or unit clarification, or fair share fee challenge order which is appealed shall continue in effect unless stayed by the commissioner upon request of one or more parties or as directed by an appellate court.

5510.2010 **ELECTIONS.**

Subpart 1. **Showing of interest.** The commissioner shall may not order an election unless there is at least a 30 percent showing of interest for the unit determined appropriate.
Subp. 2. **Location.** If the commissioner orders an election for any purpose, it shall must be conducted by secret ballot either at a site of employment or by mail, as determined under Minnesota Statutes, section 179A.12, subdivision 7.

Subp. 3. **Order.** An election order shall must be mailed to served on all parties at least ten calendar days prior to before the date of the on-site election or the date of the for mailing of ballots for a mail-ballot mail-ballot election. The election order shall must:

*[For text of items A to G, see Minnesota Rules]*

H. if applicable, identify the date of for mailing ballots in a mail-ballot mail-ballot election;

I. include any other conditions which that are necessary for the conduct of a fair election; and

J. provide for an employer posting by the employer of the election order and attachments.

Subp. 4. **Voter eligibility.** All employees within in the appropriate unit who are employed on the cutoff date and are identified on a list established by the commissioner shall be are eligible to vote in an election subject to this chapter under parts 5510.0110 to 5510.2310.

Subp. 5. **Correction of Correcting voter-eligibility list.**

A. The commissioner shall must determine questions concerning the addition or deletion of on adding or deleting names on the voter-eligibility list.

B. Names shall must not be added to the voter-eligibility list after the close of the hearing closes on the election petition unless:

(1) names were inadvertently omitted; or
(2) the cutoff date for voter eligibility is changed because of an appeal or a court order.

C. Names shall be deleted from the voter-eligibility list based on if an:

(1) transfer, promotion, or demotion of an employee transfers, is promoted, or is demoted out of the unit which and the action is not prohibited by an order maintaining the status quo order under part 5510.1910, subpart 4, item B;

(2) an appeal or court action which delays the conduct of the election or changes the cutoff date for voter eligibility; or

(3) voluntary or involuntary termination of an eligible voter who is voluntarily or involuntarily terminated and has not appealed the termination.

D. The deletion shall be made immediately prior to the opening of before the polls open or tabulation of the ballots are tabulated.

D. E. A written request to correct the voter-eligibility list must be received by the commissioner within seven calendar days after the date of the election order.

Subp. 6. Right to vote. Eligible voters shall be permitted to vote during their work hours without loss of pay.

Subp. 7. Election ballot.

A. A certification election ballot shall contain the following choices:

(1) the name of the employee organizations which have organization that has submitted the required showing of interest; and

(2) no representation.

B. A representation election ballot shall contain the following choices:

(1) the exclusive representative's name of the exclusive representative;
(2) the name of the employee organizations which have organization that has submitted the required showing of interest; and

(3) no representation if the required showing of interest has been submitted in accordance with according to part 5510.0710, subpart 2.

C. A decertification election ballot shall must contain the following choices:

   (1) the exclusive representative's name of the exclusive representative;

   (2) the name of the employee organizations which have organization that has submitted the required showing of interest; and

   (3) no representation.

Subp. 8. Absentee ballot.

A. Any An eligible voter unable to be present vote at an on-site election may secure an absentee ballot by submitting an individual a written request to the commissioner which. The request must be:

   (1) received by the commissioner no later than specified in the election order.

   The written request must be under subpart 3; and

   (2) dated and contain the voter's name and home mailing address of the eligible voter, identification of the employer employer's name, voter's signature of the eligible voter, bureau case number, and election date of the election.

B. Upon receipt of receiving a timely request for an absentee ballot, the commissioner shall must mail to the voter a ballot, a return envelope, and a letter of explanation to the voter.

C. Absentee ballots must be received by the commissioner in the return envelope no later than specified in the election order.
Subp. 9. Election procedures.

A. An election shall must be held on the premises where the voters are employed during the hours the commissioner determines, unless the commissioner determines that the election shall must be held at another location, by mail ballot, or by a combination of on-site and mail balloting.

B. The parties to an on-site election may designate one observer who is permitted to be present at each polling location during the casting of the ballots and their tabulation while ballots are cast and tabulated. The commissioner may allow attendance of each party to have more than one observer per party.

C. The parties to a mail-ballot election may each designate one observer who is permitted to be present during the tabulation of the ballots while ballots are tabulated. The commissioner may allow attendance of each party to have more than one observer per party.

D. The role of an observer is to identify employees eligible to vote, and the observers are subject to commissioner orders of the commissioner.

Subp. 10. Marking ballot.

A. A ballot shall must be marked in accordance with the ballot instructions on the ballot. A ballot which is defaced or identifies the voter shall be voided. When a voter inadvertently spoils a ballot, the voter shall immediately return the ballot to the commissioner, who shall then destroy the spoiled ballot and provide another ballot to the voter.

B. When a voter states that, because of physical disability or inability to read or write, the voter cannot mark the ballot, the commissioner shall assist the voter privately in marking the ballot.

C. A voter who has been mailed an absentee ballot by the commissioner shall not be permitted to vote at the on-site election under any circumstances.
Subp. 11. **Status of scheduled election during appeal.**

A. In the event of an appeal, the commissioner must proceed with any pending election unless the commissioner determines that the nature of the appeal precludes a reasonable determination of the question of representation to be decided by the election. Any

B. A party wishing to stay an election pending resolution of an appeal shall notify the commissioner in writing within five calendar days of the appeal setting forth the reasons why the question of representation cannot be resolved during the pendency of the appeal. Any

C. The commissioner shall respond to the notification under item B in writing within ten calendar days.

Subp. 12. **Tabulation of ballots.**

A. All ballots cast by eligible voters shall be tabulated by the commissioner in the presence of the election observers, if any, at the site designated in the election order under subpart 3.

B. Envelopes containing timely mail or absentee ballots shall be opened in the presence of the election observers, if any, and shall be placed in the ballot box and mixed with other ballots before they are tabulated.

C. The commissioner shall immediately rule on each ballot as to whether it is valid, void, or blank; and the ballots must be separated into those categories accordingly.

D. Blank or void ballots shall not be counted as votes cast for purposes of the election.

E. Mail ballots returned by employees whose names have been deleted from the eligibility list shall not be counted.
Subp. 13. **Tabulation of election results.** Upon the conclusion of the election

A. After tabulating the ballots, the commissioner shall must prepare and sign a tabulation of election results. A copy of the tabulation of election results shall must be furnished to each observer present under subpart 9, item B or C. Following the completion of

B. After the tabulation, the commissioner shall retain must keep all election ballots and election materials for at least 60 90 calendar days.

Subp. 14. **Runoff election.**

A. When a ballot contains more than two choices and none of the choices receives a majority of the valid votes cast, a runoff election shall must be conducted between the choices receiving the greatest and second-greatest number of votes.

B. In a representation or decertification election, where the exclusive representative does not qualify for a runoff election, the election shall must be considered a certification election for purposes of tie votes.

Subp. 15. **Tie vote.** A tie vote in an election containing no more than two choices shall result in the following:

A. for a certification election; certification that no exclusive representative has been selected;

B. for a representation election; certification that the exclusive representative remains certified; or

C. for a decertification election; certification that the exclusive representative remains certified.
Subp. 16. **Certifying exclusive representative.** After an election, runoff election, or tie vote, the commissioner must certify the exclusive representative according to Minnesota Statutes, section 179A.12, subdivision 10.

**5510.2110 UNFAIR ELECTION PRACTICES.**

Subpart 1. **Definition of charges** Defining unfair election practice. The following acts are prohibited and constitute unfair election practices if committed by an employer or its agents, an employee organization or its agents, or an employee:

A. campaigning on the day of the on-site election;

B. congregating in or near the polling place during the time while the polls are open;

C. coercing or intimidating or otherwise unlawfully attempting to influence any eligible voter; or

D. committing an unfair practice as defined by Minnesota Statutes, section 179A.13; or

E. violating an election order.

Subp. 2. **Filing charges.**

A. A party to an election may file with the commissioner a charge of an unfair election practice with the commissioner, and a copy of the charge shall be served by the charging party on all other parties to the election. A charge shall:

1. be filed within ten calendar days from the date of the certification of election results. The charge shall be certified;

2. be in writing, be signed by the charging party, and state the name and address of the party against whom the charge is made. The charge shall
specify the alleged unfair election practice and the facts supporting the charge.

B. If a charge of an unfair election practice is filed, the commissioner may must:

A. (1) stay the election results pending conduct of a hearing or investigation according to part 5510.1910 if the commissioner finds that the alleged unfair election practice appears to may have materially affected the election results;

B. (2) conduct a hearing or investigation on the charge according to part 5510.1910; and

C. (3) rescind:

(a) the certification of exclusive representative if the commissioner determines an unfair election practice occurred; or

(b) the certification of election results according to subpart 3.

Subp. 3. Determination. Based on a hearing or investigation under subpart 2, item B, the commissioner shall must issue an order on the charge. If the commissioner determines an unfair election practice is established occurred, the commissioner must void the election may be voided and order a new election may be ordered according to Minnesota Statutes, section 179A.12, subdivision 11.

5510.2210 REQUEST FOR RECONSIDERATION.

Subpart 1. General. Unless otherwise provided, a party may file a request for reconsideration of orders issued by the commissioner a commissioner order under parts 5510.0110 to 5510.2310.

Subp. 2. Timeliness of request Filing deadline. A request shall must be filed within ten calendar days following after the order date of the order.
Subp. 3. **Form of Request Required form.**

A. The request shall be must:

1. be filed in writing with the commissioner;
2. be served on all other parties; and
3. contain a statement of the request and the grounds supporting the request required under part 5500.2800, subpart 1, item A.

B. A charge of an unfair election practice charges shall is not be a ground grounds for reconsideration.

Subp. 4. **Staying of order.** If the commissioner determines that the request raises substantial and material issues grounds supporting the request are raised under part 5500.2800, subpart 1, item A, the challenged order may must be stayed until a hearing or investigation according to part 5510.1910 has been held and a decision is issued.

**5510.2310 CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.**

Subpart 1. **Change or transfer of exclusive representative.**

A. Except as otherwise provided under this part, a new exclusive representative assumes all rights and responsibilities as an exclusive representative the day after certification when an incumbent exclusive representative is replaced by a new exclusive representative as a result of:

1. a representation election; or
2. the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.
A. B. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including the processing of pending grievances made known to the new exclusive representative.

B. C. Except in the case of a transfer, the employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following after the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin if the new exclusive representative has submitted signed authorizations from affected employees, the exclusive representative may begin deducting dues by payroll beginning with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied.

D. When a new exclusive representative has been certified as the result of a transfer, the employer shall continue previous payroll deductions of dues and fair share fees and transmit such deductions to the person or place designated by the new exclusive representative.

[For text of subparts 2 and 3, see Minnesota Rules]

5510.2410 APPLICATION.

Parts 5510.2410 to 5510.3210 govern:

A. the conduct of negotiations between an exclusive representative and an employer;

B. the conduct of mediation;

C. the certification of certifying unresolved items to arbitration.
D. the arbitration of arbitrating unresolved items; and

e. the notification of notifying an intent to strike.

5510.2510 POLICY.

A. Parts 5510.2410 to 5510.3210 must 5510.3005 are to be liberally construed to effectuate the act's purposes and provisions of the act. Any requirements of parts 5510.2410 to 5510.3210 5510.3005 may be waived by agreement of all parties and the commissioner approval of the commissioner.

B. The commissioner shall grant approval must approve a waiver under item A unless the commissioner determines that waiving the particular requirements in question is requirement would likely to result in significant harm to the general public or to specific nonparties or is would likely to result in substantial impairment or frustration of substantially impair or frustrate the act's intent or purposes of the act.

C. The joint waiver request for waiver shall must be made in writing to the commissioner in a timely fashion. The commissioner shall must set forth in writing the reasons for granting or denying the waiver.

5510.2520 FILING.

Part 5510.0320, subparts 2 to 4, applies to a document filed under parts 5510.2410 to 5510.3005.

5510.2610 DEFINITIONS.

The words, terms, and phrases in parts 5510.2410 to 5510.3210 5510.3005 have the meaning and definitions contained meanings given them in part 5510.0310.

5510.2710 NEGOTIATION NOTICE.

Subpart 1. Content of notice. A written notification of the desire to meet and negotiate an original contract, renewal of a contract, or a reopener of a contract must be served on
the other party and the commissioner. The notice must be served on forms available from the commissioner or in other written format which includes the following bureau and must include:

A. the exclusive representative's name, address, e-mail address, and phone telephone number of the exclusive representative;

B. the name, address, e-mail address, and phone telephone number of the exclusive representative's representative;

C. the employer's name, address, e-mail address, and phone telephone number of the employer;

D. the employer's representative's name, address, e-mail address, and phone telephone number of the employer's representative;

E. a description of the appropriate unit for which such the notice is being given;

F. the date of expiration of that the current effective labor contract expires, if any a contract exists;

[For text of items G to J, see Minnesota Rules]

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. Late notice penalty; fine.

A. A $10-per-day penalty shall be the only penalty for late notice of a desire to negotiate a subsequent labor contract and may be imposed by the commissioner Upon request by a party adversely affected by the another party's failure to provide timely notice according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b), or by the commissioner's own motion, the party failing to give timely notice is subject to a fine according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b).
B. A request or motion to assess a penalty shall be made in writing and served upon the commissioner and the other party to the labor contract:

(1) within ten calendar days of the requesting party's first knowledge of the other party's desire to negotiate; or,

(2) in the case of the commissioner's own motion, within 15 calendar days of the receipt of a request for mediation assistance involving the same parties and their contract.

C. A request from a party or motion by the commissioner shall:

(1) specify the date of first knowledge of the desire to negotiate, and the expiration date of the current effective labor contract; and

(2) include a brief statement of the adverse results or impact of the late notice.

D. Upon receipt of a written request or after the commissioner's own motion to assess a penalty for late notice, the commissioner shall investigate the matter pursuant to part 5510.1910. If the commissioner finds that the late notice did not prejudice the commissioner or the other party, the commissioner may waive all or a part of the penalty according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b).

E. The penalty must be payable credited to the state of Minnesota's general fund. The amount of the penalty and its waiver is not subject to appeal.

5510.2810 PETITION FOR MEDIATION.

Subpart 1. Petition. A petition for mediation must be served on the bureau by an exclusive representative, an employer, or jointly. Petition forms may be obtained from the bureau in accordance with Minnesota Statutes, section 179A.15.
Subp. 2. Commissioner-initiation of Commissioner-initiated mediation. When it is in the public interest, according to Minnesota Statutes, section 179A.15, the commissioner may initiate mediation without receiving a petition. Upon notice to the parties, mediation shall proceed in accordance with parts 5510.2410 to 5510.3210 5510.3005.

Subp. 3. Notice. Upon receiving a petition for mediation and concluding that mediation would be useful, the commissioner shall serve notice of the time and place for a mediation meeting of the exclusive representative and the employer.

Subp. 4. Obligation.

A. It is the duty and obligation of the parties to comply with the notice of the mediation meeting under subpart 3.

B. The parties must be represented by persons having the authority to negotiate in good faith and be prepared to identify unresolved issues and their positions regarding such on the unresolved issues.

Subp. 5. Mediation meetings.

A. The commissioner must schedule joint or separate mediation meetings of the parties. The commissioner may also determine whether the meetings shall be joint or separate. Mediation meetings are informal and must be limited by the commissioner to matters relevant to the settlement of the dispute. The parties must continue to participate in a mediation meeting until excused by the commissioner. Use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings.

B. In accordance with Minnesota Statutes, section 179A.14, subdivision 3, a mediation meeting may be closed to the public by the commissioner when, in the commissioner's judgment, unless the commissioner determines that closing the meeting will not facilitate a resolution of the dispute. In all cases, a meeting will be closed only after
receipt by the bureau of the commissioner receives a valid and timely petition for mediation or after initiation of the commissioner initiates mediation by the commissioner. The commissioner may close a meeting to the public prior to its start or at any time during the meeting.

Subp. 5a. Meetings of governing bodies.

A. When the commissioner determines that it is in the interest of resolution of resolving a dispute, the commissioner may authorize a closed meeting of the public employer's governing body for the purpose of to review and discussion of discuss the status of negotiations and the employer's positions.

B. No closed meeting may be authorized unless the bureau commissioner has received a valid and timely petition for mediation or unless mediation has been initiated by the commissioner.

C. No closed meeting may be authorized when the commissioner or a representative of the commissioner is not physically present at the meeting unless the bureau commissioner has received a timely and valid notice of intent to strike.

D. In the event The commissioner must authorize a closed meeting upon written notice to the employer's governing body and exclusive representative at least 24 hours before the closed meeting if the commissioner:

(1) determines that a closed meeting is necessary, but the commissioner according to item A; and

(2) cannot be physically present at the meeting and the commissioner has received a timely and valid notice of intent to strike has been received by the bureau, the commissioner may authorize a closed meeting upon written notice to the governing body and exclusive representative at least 24 hours prior to the closed meeting.

E. The written notice under item D must:
include the date, time, and place of the closed meeting of the governing body; and

(2) limit the purpose of the meeting to matters relevant to the dispute.

Subp. 6. [Repealed, 13 SR 1275]

5510.2905 CONFIDENTIAL INFORMATION.

Subpart 1. Mediation information; data classification.

A. The following data are classified according to Minnesota Statutes, section 13.7908, subdivision 2:

(1) information disclosed to the commissioner or an authorized agent by any party during mediation;

(2) all files, records, reports, documents, or other papers received or prepared by the commissioner during the performance of duties and responsibilities related to mediation of a dispute are classified as protected nonpublic data with regard to data not on individuals and as confidential data on individuals, except to the extent

B. The commissioner determines to may unclassify such data in the referral of a dispute to interest arbitration or to identify the general nature of or parties to a labor dispute under item A according to Minnesota Statutes, section 13.7908, subdivision 2.

Subp. 2. Final positions.

A. Until both parties have filed their final positions with the commissioner under part 5510.2930, subpart 4, item A, final positions submitted by a party in conjunction with a dispute that has been referred to interest arbitration are regarded as:

(1) protected nonpublic data with regard to data not on individuals;

and as
(2) confidential data on individuals until both parties have filed their final
positions with the commissioner under part 5510.2930, subpart 4.

B. The commissioner may release the information under item A to the arbitration
panel or arbitrator to fulfill procedural requirements of the act and parts 5510.2410 to
5510.3210 5510.3005, but the information shall remain nonpublic and confidential
until:

(1) the commissioner has affirmed that final positions have been filed by both
parties; or until

(2) an interest arbitration hearing is commenced by the arbitration
panel or arbitrator, at which time the final positions are classified as public data.

C. The final positions are public data after a condition occurs under item B, subitem
(1) or (2).

5510.2915 MEDIATION PERIOD.

A. For all public employees except teachers, mediation periods referred to in the
act commence on the day after a request for mediation is filed with the commissioner.

B. For teachers, mediation periods commence on the day that the first
mediation conference is convened.

5510.2930 CERTIFICATION TO INTEREST ARBITRATION.

Subpart 1. Certification.

A. The commissioner may certify a matter to arbitration when the
commissioner has determined that further mediation efforts would serve no purpose and:

A. (1) in the case of essential employees, either or both parties have requested
arbitration according to Minnesota Statutes, section 179A.16, subdivision 2; or
B. (2) in the case of nonessential employees, a request to arbitrate has been made by one party and has been agreed to by the other within 15 days of the request according to Minnesota Statutes, section 179A.16, subdivision 1.

B. Requests for arbitration and agreements to arbitrate:

(1) must be in writing and be served on the other party and filed with the commissioner under according to part 5510.0310, subpart 19. The requests and agreements 5510.0320; and

(2) are binding on the parties except to the extent they otherwise agree in writing. An offer to arbitrate for nonessential employees that has not been accepted in writing within the 15-day period shall be considered rejected and withdrawn.

Subp. 2. Form of arbitration. All interest arbitration shall must be conventional arbitration except:

A. if the parties agree in writing to limit the arbitrator's authority to final offer item-by-item or final offer total-package arbitration; or

B. if the case involves a unit of principals and assistant principals, the arbitration panel must use final offer item-by-item arbitration.

Subp. 3. Unresolved issues. In requesting or agreeing to interest arbitration, each party shall must list all issues, items, or matters not previously agreed upon on. Based upon on the submissions of the parties and prior efforts to mediate the dispute, the commissioner shall must determine the unresolved items that will to be submitted to arbitration for essential employees according to Minnesota Statutes, section 179A.16, subdivision 2.

Subp. 4. Final positions.

A. When an agreement or requirement to arbitrate has been established, and the commissioner has determined the items to be submitted to arbitration, the commissioner
shall must certify the matters to arbitration and direct each party to submit their final position on the items certified by the commissioner. Final positions shall must be:

(1) presented in the form of the contract language desired by each party to resolve the matter in dispute. Final positions must be submitted to; and

(2) filed with the commissioner within 15 calendar days of the certification date of certification, but the filing deadline for submitting final positions may be extended a reasonable period of time by the commissioner upon a party's adequate and timely showing of good cause by a party.

B. If the arbitration form is a final offer variety, the final positions of the parties may not be withdrawn or amended except by mutual written consent or to correct nonsubstantive errors of a clerical-technical nature or matters solely of form.

C. When final positions have been received from both parties, the commissioner shall must provide each party with a copy of the opposing party's final positions. The commissioner may provide copies of final positions to the arbitrator, but part 5510.2905, subpart 2, shall govern the protected nature of the final positions.

Subp. 5. [Repealed, 23 SR 1564]

Subp. 6. **Effect of untimely final positions; final offer.** The failure of a party to submit timely final positions on an item that has been submitted to final-offer arbitration shall:

A. must be noted by the arbitration panel or arbitrator; and shall result

B. results in a default award unless the delinquent party, in the sole discretion of the panel or arbitrator, can demonstrate good cause for the delinquency to the panel or arbitrator, in which case the panel or arbitrator may proceed as if the delinquency had not occurred.
81.1  **Subp. 6a. Effect of untimely final positions; conventional.** The failure of a party to submit timely final positions in a conventional arbitration matter shall:
81.2
81.3  A. must be noted by the arbitration panel or arbitrator; and
81.4  B. may be considered by the panel or arbitrator in weighing the testimony, evidence, and party's overall good-faith behavior of that party with respect to regarding the items before the panel or arbitrator.
81.7  **Subp. 7. Continued mediation.** The commissioner may continue efforts to aid the parties in resolving issues after a matter has been certified for arbitration under this part.
81.9  **5510.3005 STRIKES.**
81.10  **Subpart 1. Notice.** A notice of an intent to strike must be in writing and served upon the employer and the commissioner under parts 5510.2410 to 5510.3210. The notice is timely when the requirements of Minnesota Statutes, section 179A.18, have been fulfilled.
81.14  **Subp. 2. Dates that right to strike matures and terminates.**
81.15  A. The dates that the right to strike matures and terminates shall must be determined by the commissioner in accordance with Minnesota Statutes, section 179A.18, and the commissioner shall must provide written notice of the dates to the parties.
81.18  B. No strike shall commence must not begin during the first ten calendar days after receipt of the commissioner receives a notice of intent to strike.
81.20  **Subp. 3. Renewal of Renewing intent-to-strike notice.**
81.21  A. Except for teachers, a notice of intent to strike may be renewed by serving a written notice on the employer and the commissioner not sooner than five calendar days before the termination of a right to strike terminates. In the event...
a new ten-day waiting period shall apply and the commissioner shall reestablish the dates when the right to strike matures and terminates.

B. Teachers are limited to one intent-to-strike notice per contract negotiation period.

5510.5110 POLICY.

Parts 5510.5110 to 5510.5180 are to be liberally construed so as to effectuate the purposes of Minnesota Statutes, chapter 179A, the Public Employment Labor Relations Act.

5510.5120 APPLICATION.

Parts 5510.5110 to 5510.5180 apply when a public employer and an exclusive representative of public employees have not reached agreement on or do not have access to a contract grievance procedure as required by Minnesota Statutes, section 179A.20, subdivision 4, paragraph (a).

5510.5130 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 5510.5110 to 5510.5180, the words defined in this part have the meanings given them.

Subp. 1a. Appropriate unit. "Appropriate unit" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 2.


Subp. 2a. Commissioner. "Commissioner" means the commissioner of the bureau.

Subp. 3. Days. "Days" means calendar days.

Subp. 3a. Exclusive representative. "Exclusive representative" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 8.
Subp. 4. **Employee.** "Employee" means any a public employee who is employed in a position that is part of an appropriate unit for which an exclusive representative has been certified under Minnesota Statutes, section 179A.12.

Subp. 5. **Grievance.** "Grievance" means:

A. a dispute or disagreement regarding the application or interpretation of any on applying or interpreting a contract term or a contract required under Minnesota Statutes, section 179A.20, subdivision 1; or

B. if no contract exists between the exclusive representative and the employer, "grievance" means a dispute or disagreement regarding on the existence of just cause in the discipline of any an employee or the termination of nonprobationary employees.

[For text of subparts 6 and 7, see Minnesota Rules]

Subp. 8. **Service.** "Service" means personal delivery or service by the United States Postal Service, postage prepaid and addressed to the individual or organization at its last known mailing address has the meaning given in part 5510.0310, subpart 19, and part 5510.0320 applies. Service under parts 5510.5110 to 5510.5190 is effective upon deposit with the United States Postal Service, as evidenced by a postmark or dated receipt, or upon personal delivery.

5510.5131 **COMPUTATION OF TIME.**

In computing any period of time prescribed or allowed by under parts 5510.5110 to 5510.5190, the day or act or event upon which a period of time begins to run shall is not be included. The last day of the time period shall be is included unless it is a Saturday, Sunday, or holiday.

5510.5140 **STEP ONE.**

When an employee or group of employees represented by an exclusive representative has a grievance, the employee or an exclusive representative's agent of the exclusive
84.1 representative shall must attempt to resolve the matter grievance with the employee's immediate supervisor within 21 days after the employee, through the use of reasonable diligence, should have had knowledge of the event or act giving rise to the grievance. The supervisor shall must then attempt to resolve the matter grievance and shall must respond in writing to the grievant and the exclusive representative's agent of the exclusive representative within five days after the grievance is presented to the supervisor.

84.7 5510.5150 STEP TWO.

Subpart 1. Grievance not resolved. If the immediate supervisor has not been able is unable to resolve the grievance or has not responded in writing within the time period provided in under part 5510.5140 (step one), the exclusive representative may serve a written grievance may be served on the next appropriate level of supervision by the exclusive representative.

Subp. 2. Serving grievance. The written grievance shall provide a concise statement outlining must:

A. concisely state the nature of the grievance, the provisions of the contract or the just-cause just-cause situation in dispute, and a statement of the relief or remedy requested:

B. be served on the employer's representative within 15 days after the immediate supervisor's response was due under part 5510.5140 (step one).

Subp. 3. Attempt to resolve grievance.

A. The employer's representative shall must meet with the exclusive representative's agent of the exclusive representative within five days after service of the written grievance is served, and both parties shall must attempt to resolve the grievance.
B. The employer's representative shall **must** serve a written response to the grievance on the exclusive representative's agent of the exclusive representative within five days of the meeting.

C. The response shall contain a concise statement of **must** concisely state:

1. the employer's position on the grievance;
2. the remedy or relief the employer is willing to provide, if any.

### 5510.5160 STEP THREE.

**Subpart 1. Serving grievance on chief administrative agent.** If the grievance is not resolved under part 5510.5150 (step two), the exclusive representative may serve the written grievance upon the chief administrative agent of the employer or that person's designated representative within ten days after the written response required by part 5510.5150 (step two) was due.

**Subp. 2. Meeting.**

A. An exclusive representative's agent of the exclusive representative shall **must** meet with the chief administrative officer or designee within five days of service of the grievance, and they shall attempt to resolve the matter grievance.

B. The chief administrative officer or designee shall **must** serve a written response to the grievance on the exclusive representative's agent of the exclusive representative within five days of the meeting.

### 5510.5170 ARBITRATION.

**Subpart 1. Referral to arbitration.** If the response of the chief administrative officer or designee is not received within the period provided in part 5510.5160 (step three) or is not satisfactory, the exclusive representative...
may serve written notice on the employer of its intent to refer the case to arbitration within ten days after the response required by part 5510.5160 (step three) is due.

Subp. 2. **Selection of Selecting arbitrator.**

A. Within ten days of the service of written notice of intent to arbitrate, the employer's chief administrative officer or designee shall consult with the exclusive representative's agent of the exclusive representative and endeavor to mutually agree upon an arbitrator to hear and decide the grievance.

B. If the parties do not agree upon the selection of an arbitrator, either party may request a list of impartial arbitrators from the bureau commissioner under chapter 5530. The parties must alternately strike names from a list of seven names to be provided by the bureau commissioner until only one name remains, and the remaining name shall be the designated arbitrator. The determination of which party will commence the striking process must be made by mutual agreement or a flip of a coin flip. If one party refuses to strike names from the arbitration list provided by the bureau, the other party may serve written notice of this fact upon refusal on the bureau commissioner, with a copy to the offending party.

C. Unless it is confirmed that the parties have otherwise selected or agreed upon an arbitrator within three days of service of the notice of refusal or failure to strike names notice's service under item B, the bureau shall commissioner designate one name from the list previously provided to the parties, and the person so designated by the bureau shall have has full power to act as the arbitrator of the grievance.

Subp. 3. **Arbitrator's authority; award.**

A. The arbitrator shall have has no authority to amend, modify, add to, or subtract from the terms of an existing contract.
B. The arbitrator's decision and award of the arbitrator shall be final and binding upon both parties.

Subp. 4. Arbitration expenses.

A. The employer and the exclusive representative shall share equally the arbitrator's fees and necessary expenses. Cancellation fees shall be paid by the party requesting the cancellation, and any fees incurred as the result of a request for clarification shall be paid by the party requesting the clarification. Each party shall be responsible for compensating its own representatives and witnesses except to the extent as provided by under part 5510.5180, subpart 1.

B. For purposes of this subpart, "request for clarification" means a party's request to an arbitrator to clarify the arbitrator's decision and award under subpart 3.

Subp. 5. Briefs and transcripts and briefs.

A. Because arbitration is intended to provide a simple, speedy alternative to litigation processes, the use of transcripts and briefs should be considered only in exceptional circumstances. If a verbatim record is required, it may be prepared providing the party desiring the record pays the cost and makes a copy available to the other party and the arbitrator without charge. Briefs are as provided under part 5500.2510.

B. If a party requests a transcript be made, the arbitrator must allow a transcript to be made if the party requesting the transcript:

(1) arranges for the transcript;

(2) pays for all transcript-related costs; and

(3) provides:

(a) a free copy to the arbitrator; and
(b) a copy to the other party upon request, with the other party paying the full cost of the copy.

Subp. 6. Recording and notes. The arbitrator may maintain written notes of the hearing and may use an electronic recording device to supplement the note taking. These notes shall be considered. The arbitrator's notes are the arbitrator's private and personal property and shall must not be made available to the parties or another third party. If a recording device is used by the arbitrator to supplement the arbitrator's notes, the arbitrator shall retain the recording for a period of 90 days following the issuance of the award.

5510.5180 PROCESSING OF GRIEVANCES.

Subpart 1. Release time.

A. To the fullest extent feasible, the processing of grievances processed under parts 5510.5110 to 5510.5190 must be conducted during the employer's normal business hours of the employer. Employees designated by the exclusive representative shall must be released from work without loss of regular nonovertime earnings as a result of their necessary participation in meetings or hearings held pursuant according to parts 5510.5110 to 5510.5190, whenever such release is consistent with the ability of the employer to conduct safe and reasonable operations.

B. No more than three employees shall be are entitled to compensation for participating in a single meeting or hearing with respect to any one on a grievance.

[For text of subpart 2, see Minnesota Rules]

Subp. 3. Time limits.

A. A failure An exclusive representative forfeits its right to pursue the grievance if it fails to;
raise a grievance within the time limits specified in part 5510.5140; (step one); or to

(2) initiate action at the next step of the procedure in parts 5510.5140 to 5510.5170 within the time limits in these parts shall result in forfeiture by the exclusive representative of the right to pursue the grievance.

B. A failure of an employer representative to comply with the time periods and procedures in parts 5510.5140 to 5510.5170 shall require mandatory alleviation of the grievance as requested in the last statement by the exclusive representative. If an employer fails to comply with the time limits and procedures in parts 5510.5140 to 5510.5170, the employer must resolve the grievance as requested in the exclusive representative's last filing under part 5510.5160 (step three).

5530.0100 APPLICATION.

A. This chapter applies to the empanelment, referral, conduct, and removal of persons arbitrators on the arbitrator commissioner-maintained roster maintained by the commissioner, excluding under Minnesota Statutes, sections 179.02, subdivision 4; and 179A.04, subdivision 3, paragraph (a), clause (13), but does not apply to:

(1) the list of arbitrators maintained under Minnesota Statutes, section 179A.04, subdivision 3, paragraph (e)(b), for teacher discharge or termination hearings;

or

(2) the roster of arbitrators under Minnesota Statutes, section 626.892, subdivision 4, except as otherwise provided under Minnesota Statutes, section 626.892, subdivision 12.

B. This chapter applies to all:

(1) all persons on the arbitrator roster, members;
(2) to all applicants for placement on the roster;

(3) to all parties and users of the roster; and

(4) to all arbitration proceedings conducted as the result of a referral from the roster.

C. Nothing in this chapter is intended to limit the right of the parties to jointly select any arbitrator or arbitration procedure which is acceptable to them.

5530.0200 POLICY.

A. It is the policy of the state of Minnesota to promote orderly and constructive relationships between labor and management and to avoid unresolved disputes that can be injurious to the public as well as the parties. The use of collective bargaining procedures and binding arbitration to resolve grievances and certain interest disputes between labor and management are encouraged.

B. This chapter shall be liberally construed to effectuate these policies.

5530.0300 DEFINITIONS.

Subp. 1a. Advisory committee. "Advisory committee" means a committee consisting of three union representatives, three employer representatives, and two roster members appointed by the commissioner under Minnesota Statutes, section 15.014, subdivision 2, to advise the commissioner regarding the appointment and removal of persons to the arbitrator on appointing arbitrators to and removing arbitrators from the roster. The committee shall not expire as provided by Minnesota Statutes, section 15.059.
Subp. 2a. **Arbitrator.** "Arbitrator" means an individual who is either selected or appointed to arbitrate a dispute.

Subp. 3. **Arbitrator roster or roster.** "Arbitrator roster" or "roster" means a listing of persons determined by arbitrators the commissioner to be determined qualified and available for referral as an arbitrator of labor disputes under this chapter.

Subp. 3a. **Award.** "Award" means an opinion or decision, including any damages, relief, and remedies, rendered by an arbitrator in a dispute among two or more parties under an agreement to arbitrate or referral to arbitration.

Subp. 4. **Bureau.** "Bureau" means the Bureau of Mediation Services.

Subp. 5. [See repealer.]

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the bureau of Mediation Services.

Subp. 6a. **Exclusive representative.** "Exclusive representative" has the meaning given in Minnesota Statutes, section 179A.03, subdivision 8.

Subp. 7. [Repealed, 21 SR 583]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 9a. **Grievance procedure.** "Grievance procedure" means the grievance procedure required under Minnesota Statutes, section 179A.20, subdivision 4, paragraph (a).

Subp. 10. **Panel.** "Panel" means a listing of roster members compiled by the commissioner for referral to the parties, from which they may subsequently select an arbitrator.

Subp. 11. **Party or parties.** "Party" or "parties" means:
92.1 A. an employer or exclusive representative directly involved and affected by a dispute for which a roster member has been requested or referred; or a

92.2 B. the employer's or exclusive representative's designated representative.

Subp. 12. [See repealer.]

Subp. 13. Renewal appointment. "Renewal appointment" means the appointment of an existing roster member to an additional term as a roster member.


5530.0400 ROLE OF BUREAU.

A. The role of the bureau under this chapter is limited to matters relating to the appointment of persons to and removal or referral of names from the arbitrator appointing arbitrators to the roster, removing arbitrators from the roster, and referring arbitrators from the roster.

B. The bureau has no role, responsibility, or authority under this chapter to:

A. (1) compel parties to agree to arbitrate;

B. (2) enforce an agreement to arbitrate;

C. (3) compel parties to appear before an arbitrator;

D. (4) influence, alter, enforce, or set aside the decisions or awards of arbitrators;

or

E. (5) except as provided under part 5500.2850, compel, deny, or modify the payment of fees and expenses to an arbitrator, except as provided in part 5530.1000, subpart 6.
5530.0410 ADVISORY COMMITTEE.

The advisory committee continues after its initial expiration under the commissioner's discretionary authority given under Minnesota Statutes, section 15.059, subdivision 6.

5530.0500 STATUS OF ARBITRATORS.

Persons listed on the Roster members, whether or not selected or appointed to hear matters under this chapter, do not become employees or agents of the state of Minnesota or the bureau by virtue of their placement on the roster or their subsequent selection or appointment as an arbitrator. Except for the reporting and performance requirements of this chapter under parts 5530.0800, subpart 10, and 5530.1200, the arbitrator's relationship is solely with the parties to a dispute.

5530.0600 ARBITRATOR APPLICANT QUALIFICATIONS.

Subpart 1. General Labor relations background. Persons seeking appointment to the arbitrator roster must have substantial knowledge of collective bargaining and labor relations matters in the public or private sectors, be well versed in applicable state and federal law, and be experienced and knowledgeable in the field of labor arbitration.

Labor relations background in the public sector and be qualified according to Minnesota Statutes, section 179A.04, subdivision 3, paragraph (a), clause (13).

Subp. 2. General abilities. Potential applicants for placement on the roster must be willing and able to:

A. travel throughout Minnesota;
B. fairly and impartially conduct hearings in a fair and impartial manner;
C. analyze and evaluate testimony and exhibits;
D. write clear and concise awards in a timely manner; and
E. be available for hearings within a reasonable time after the request of the parties.
Subp. 3. [See repealer.]

Subp. 4. Demonstrating qualifications.

A. An applicant has the burden for establishing to demonstrate qualifications for appointment on the roster is on the person seeking appointment. The commissioner will examine the evidence to determine the complexity of issues the applicant claims experience in, and the technical, theoretical understanding the applicant has demonstrated in handling such matters, and shall must make appointments to the roster pursuant according to part 5530.0700, subpart 6.

B. Evidence of an applicant’s qualification may be advanced. An applicant must demonstrate the applicant’s qualifications for appointment to the roster in one or a combination of the following ways:

A: (1) submission of by submitting six or more arbitration awards or contested case decisions that were authored and signed by the applicant in the 24-month period preceding application;

B: (2) a minimum of by having at least six years' experience as a full-time labor relations advocate and submission of by submitting six arbitration awards in which the applicant acted as the principal representative for either labor or management the labor organization or the employer;

C: (3) a minimum of by having at least six years' experience as a full-time labor mediator, including substantial grievance mediation experience;

D: (4) a minimum of by having at least six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration;

E: (5) membership in by being a member of the National Academy of Arbitrators; and or
F. (6) satisfactory completion of a formalized course of instruction and internship in a program that has been approved by the commissioner in advance of participation or enrollment by the applicant by completing a mentorship with a roster member.

C. The program mentorship under item B, subitem (6), must include the writing of not less than two mock awards under the supervision and guidance of an arbitrator already admitted to the roster or otherwise member and must be approved in advance by the commissioner.

Subp. 5. Domicile.

A. To be eligible for appointment or continuation on the roster, individuals an applicant must maintain a principal place of residence in Minnesota or one of its contiguous states. The maintenance of a mailbox or mail delivery point is not sufficient to satisfy the requirement of this subpart.

B. The residency requirement under item A may be waived on an appointment-by-appointment basis by the commissioner for individuals who have served at least three years on the current or immediately preceding bureau roster.

5530.0610 ARBITRATOR QUALIFICATIONS.

Subpart 1. Advocacy disqualification. A roster member may not advocate for a public- or private-sector employer, employee, or employee organization in labor management relations.

Subp. 2. Domicile. To be eligible to remain on the roster, a roster member must comply with part 5530.0600, subpart 5.

5530.0700 APPOINTMENT TO ROSTER.

Subpart 1. Size of Roster. The size of the arbitrator roster shall be not fewer than 25 nor more than 60 members arbitrators. Annually, the commissioner shall determine
whether or not to add members to the roster based on the number of referrals over the preceding 12 months and projected referrals from the roster over the next 12 months.

Subp. 2. Procedure; initial appointments.

A. When, pursuant to subpart 1, the commissioner determines that it is appropriate to make additional appointments to the roster, if the commissioner must increase the size of the roster, the commissioner shall:

   (1) publish notice in the State Register or on the bureau's website for not less than at least 30 days, indicating that applications for appointment are being accepted and establishing a deadline for the applications;

   (2) in conjunction with the advisory committee, conduct interviews of applicants selected for further consideration, to further assess an applicant's qualifications and suitability for appointment to the roster according to subpart 6;

   (3) advise all applicants each applicant in writing regarding the commissioner's final determination with respect to their application;

   (4) actively solicit qualified applicants who will help provide balance in the roster's racial and gender composition of the roster; and

   (5) conduct an initial review of applications received and select or reject applicants for further consideration based on the:

      (a) information provided in the application; and reference checks; and

      (b) arbitrator qualification requirements of this chapter, select or reject applications for further consideration under part 5530.0600. The commissioner may conduct additional investigations regarding the application if necessary to obtain a full understanding of the applicant's qualifications.
B. If the commissioner determines that additional information is needed after reviewing the information under item A, subitems (2) and (5), the applicant must provide additional information on the applicant's:

(1) qualifications according to subpart 6; and

(2) arbitrator qualification requirements under part 5530.0600, application, and reference checks.

Subp. 3. Procedure; renewal appointments.

A. The commissioner shall must notify all roster members not less than at least 120 calendar days before the expiration of their appointment expires of the procedures necessary for reappointment to the roster. Persons desiring to renew their appointment on the roster shall a renewal appointment.

B. A roster member seeking a renewal appointment must submit a written application and a fee to the commissioner not less than at least 60 calendar days before the expiration of their roster member's appointment expires. Following receipt of

C. After receiving a renewal application under item B, the commissioner shall must review available referral, performance, and activity records of the applicant and proceed the roster member's performance measures under part 5530.1200 and evaluate the roster member according to subpart 6.

Subp. 4. Application forms.

A. Individuals who wish to be considered for initial or An applicant or a roster member seeking a renewal appointment to the roster must complete an application on forms available from the bureau.

B. Writing samples must accompany the application.
Subp. 5. Application fee and renewal fees.

A. A nonrefundable application fee of $50 for initial appointments and $25 for renewals must accompany each application for appointment or renewal. Application and renewal fees are as provided under Minnesota Statutes, section 179A.04, subdivision 3, paragraph (a), clause (10).

B. The fee must be in the form of a check or money order made payable to "State of Minnesota, Bureau of Mediation Services."


A. In determining whether or not to appoint or reappoint a member to the roster, the commissioner shall evaluate each application for evidence of the applicant's competence, proficiency, and qualifications in the following areas:

1. knowledge and understanding of labor relations systems and collective bargaining processes and dynamics;

2. knowledge and understanding of applicable contract, employment, and labor relations law and rules;

3. ability to hear and decide complex labor relations issues in a fair and objective manner;

4. ability to communicate, both orally and in writing, in a clear and concise manner;

5. ability to conduct orderly and effective arbitration hearings in a variety of various settings and locations throughout Minnesota; and

6. reputation in the labor-management community for high professional standards of competence, ethics, and integrity.
B. In addition to meeting the standards for appointment under item A, a roster member seeking reappointment or renewal appointment must satisfy the requirements of part 5530.1200, subparts 2, 3, and 7.

Subp. 7. Disposition of applications Appointing applicants.

A. If the commissioner determines that the applicant or roster member has satisfied the requirements of subparts 3 to 6, if applicable, the commissioner shall appoint the applicant or reappoint the applicant roster member to the roster.

B. If the applicant or roster member fails to satisfy the requirements of subparts 3 to 6, the commissioner shall reject the application in writing, including the reasons for the rejection. In the event that there are more qualified applicants than vacancies on the roster, the commissioner shall appoint applicants in rank order of their qualifications or by lottery where qualifications are relatively equal.

Subp. 8. Term of appointment. Appointments An appointment to the roster shall be for a term of three years.

5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

Subpart 1. Scope. The criteria and standards in subparts 2 to 10 under this part apply to all persons on the roster, roster members, and failure to comply with these provisions constitutes grounds for disciplinary action or removal from the roster according to part 5530.1300.

Subp. 2. Professional and ethical responsibilities; incorporation by reference. Except as otherwise provided in this chapter, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes approved and published by the National Academy of Arbitrators Federal Mediation and Conciliation Service, 2007 and as subsequently amended, is incorporated by reference and is applicable to and shall govern
governs the professional behavior of persons appointed to the roster members. The code is not subject to frequent change and is available from the bureau's website. The code is available through the Minitex interlibrary loan system.

Subp. 3. Conflicts of interest. The arbitrator must disclose to the parties and the commissioner any personal or professional relationships, including direct or indirect past employment, consultative relationships, or affiliations with one of the parties, which may give an appearance of partiality. The burden of disclosure is on the arbitrator.

Subp. 3a. Biographic sketch.

A. Annually, the commissioner must review and publish on the bureau's website a biographic sketch of each roster member using information provided by the roster member and from other publicly available information. A biographic sketch must include:

(1) information on the roster member's background, education, and experience;

and

(2) data on the roster member's fee schedule.

B. Roster members must ensure the accuracy of all biographic and fee data under item A.

Subp. 4. Communication with parties.

A. Arbitrators shall not solicit parties for selection to cases. All matters involving a case or contact with the parties must be handled in a manner that fosters the impartiality of the arbitrator.

B. The arbitrator shall not communicate, directly or indirectly, in connection with any issue of fact or law with any person or party, except upon notice and opportunity for all parties to participate. This item does not apply when an
arbitrator discusses a case with another arbitrator, consistent with the incorporated code under subpart 2.

C. When this chapter authorizes communications contrary to this part subpart, the communications shall be limited to only those matters permitted by this chapter. The arbitrator roster member may communicate regarding dates or procedures for the hearing without violating this part subpart.

[For text of subpart 5, see Minnesota Rules]

Subp. 6. Timeliness. It is the responsibility of the arbitrator to A roster member must:

A. schedule time commitments in a manner consistent with the needs of the parties and the expeditious handling of disputes. The arbitrator must; and

B. adhere to the time limits of Minnesota Statutes, section 179A.16, and the parties' arbitration procedure. When initially accepting and scheduling a case, or at the first reasonable opportunity to become aware of the time limits, the arbitrator must indicate whether or not the applicable time limits will present a problem in the timely handling of the case. Although the time limits specified in a grievance arbitration procedure may be waived or extended by the parties, it is improper for an arbitrator to routinely request or suggest extensions. If, after accepting and hearing a case, the arbitrator is unable to render an award within the time limits specified in the grievance arbitration procedure, the arbitrator shall notify each party in writing of the reason for the delay and shall seek approval for establishing an alternate date for completion of the award. A request for an extension of the timeline for an interest arbitration award must be submitted directly to the commissioner subdivision 7.

Subp. 7. Administrative or cancellation fees. Arbitrators If any administrative or cancellation fees are noted on the biographic sketch under subpart 3a, the roster member may charge:
Subp. 8. Arbitration fees and expenses.

A. Except as provided under subpart 7, all fees charged by an arbitrator selected under this chapter shall be based on the per diem fee schedule in the biographic sketch on file with the commissioner under subpart 3a.

B. The arbitrator must maintain reasonable time and expense records related to each case and, in the event of a dispute over the reasonableness of fees and expenses in a case, must make the records available to the parties or the commissioner, upon written demand. Disputes over the reasonableness of fees may be resolved under part 5530.1000, subpart 6.

Subp. 9. Filing copies of awards.

A. Unless one or both parties have specifically requested that an award not be provided to the commissioner, arbitrators shall electronically submit copies of all awards to the commissioner an award involving a Minnesota work site or location, regardless of the source of appointment or selection.

B. Except as provided under item A, public and private-sector awards must be submitted electronically to the commissioner.

C. Except as otherwise limited by law, awards under items A and B filed with the commissioner are public documents.

D. An award submitted electronically is subject to part 5510.0320.
Subp. 10. **Arbitrator fee and summary report.** For each award filed with the commissioner, whether originating from a bureau referral or other source, the arbitrator shall provide a fee and summary report in a form prescribed by the commissioner that discloses the following:

A. case identification information, including the:

1. arbitrator's roster member's name;
2. case file number or, if any, bureau case number, if any;
3. name and location of the employer and employer's representative; and
4. name and location of the exclusive representative and the exclusive representative's agent of the exclusive representative;

B. case processing information on the case-processing date information, including the:

1. date arbitrator that the roster member was notified of selection by parties;
2. date of hearing;
3. final date for submission of briefs or other written material, if any; and
4. date that the award was issued; and

C. arbitrator fee and expense information for all awards resulting from a referral by the commissioner, including the:

   [For text of subitems (1) to (7), see Minnesota Rules]

5. amount of the total costs to be paid by each party.

Forms for reporting this information must be furnished by the bureau.
Subpart 1. Applicability. This part applies only to a roster member under Minnesota Statutes, section 626.892.

Subp. 2. Definitions. For purposes of this part, the terms defined in this subpart have the meanings given them.

A. "Agency" has the meaning given in Minnesota Statutes, section 16A.011, subdivision 2.

B. "CE" means continuing education.

C. "CLE" means continuing legal education.

D. "Office of Higher Education" or "office" means the Minnesota Office of Higher Education under Minnesota Statutes, chapter 136A.

E. "School" has the meaning given in Minnesota Statutes, section 136A.62, subdivision 3.

Subp. 3. Training required. A roster member must complete training as required under Minnesota Statutes, section 626.892, subdivision 10.

Subp. 4. Training providers.

A. Required training must be obtained from any of the following:

(1) the American Arbitration Association, the Federal Mediation and Conciliation Service, or the United States Federal Labor Relations Authority;

(2) another state agency;

(3) a CLE or CE provider that provides training for licensed professionals;

(4) one of the following:
(a) a school registered with the office under chapter 4840;  
(b) a school licensed with the office under chapter 4880;  
(c) the University of Minnesota under Minnesota Statutes, chapter 135A;  
(d) an exempt school under Minnesota Statutes, sections 136A.653 to 136A.658; or  
(e) a designated college or university under Minnesota Statutes, section 136F.10; or  
(5) a nonprofit company or a training provider, either of which has a stated mission of providing training on cultural competency, racism, implicit bias, community diversity, or peace-officer-related training.  

B. For a roster member to comply with this part, the roster member must receive training on specified topics under Minnesota Statutes, section 626.892, subdivision 10, paragraph (a), clauses (1) and (2).  

C. A roster member may receive training from one or more providers under item A to achieve the number of required training hours under Minnesota Statutes, section 626.892, subdivision 10, paragraph (a), clauses (1) and (2).  

D. If a roster member is completing a certificate or other program lasting longer than six months, the roster member must still receive the number of required training hours under Minnesota Statutes, section 626.892, subdivision 10, paragraph (a), clauses (1) and (2), by the deadline under Minnesota Statutes, section 626.892, subdivision 10, paragraph (b).
Subp. 5. **Proof of training.**

A. For each training provider under subpart 4, item A, that a roster member receives training from, the roster member must submit to the commissioner proof of training by providing:

   1. the training's title and description;
   2. the completed hours of training;
   3. information on whether the training was in person, online, hybrid in person and online, or some other format;
   4. the training start and end dates; and
   5. the individual who provided the training, and, if available, the training provider's name, address, e-mail address, and telephone number.

B. If the commissioner determines that the information under item A does not prove that the roster member has complied with this part, the commissioner must notify the roster member in writing and the roster member must complete the training according to this part.

C. If the commissioner cannot determine proof of training with the provided information under item A, the roster member must provide any other training information necessary for the commissioner to determine whether the roster member has complied with this part.

Subp. 6. **Record required.** A roster member must maintain proof of training for the duration of the roster member's appointment.
PANEL SELECTIONS AND REFERRALS.

Subpart 1. Request for panels. Individuals or organizations desiring A party or parties that request a panel of arbitrators drawn from the roster shall must submit to the commissioner individual or joint written requests that include the following:

A. the employer's name and location of the employer and the employer's representative's name, address, e-mail address, and telephone number of the employer's representative;

B. the employee organization's name of the employee organization and the organization's representative's name, address, e-mail address, and telephone number of the employee organization's representative;

C. a brief statement of the nature of the dispute being submitted to arbitration, for example, discharge or overtime pay;

D. the nature or type of business of the employer;

E. a description of the type of bargaining unit involved, for example, clerical, maintenance, dietary, or teacher; and

F. the date the grievance or dispute was first made known to the employer.

Subp. 2. Size and selection of panels.

A. Unless a single arbitrator is to be appointed under subpart 3, All panels submitted by the commissioner shall must contain seven names roster members. When If the parties' arbitration agreement provides for panels of fewer than seven names roster members, the parties may use the striking procedures in subpart 5 to reduce the size of a seven-member panel. This item does not apply if:

(1) a single roster member is appointed under subpart 3, item A;
(2) a single roster member is mutually agreed on according to Minnesota Statutes, section 179A.16, subdivision 4;

(3) the arbitration proceeding is as provided under Minnesota Statutes, section 179.09 or 179.38; or

(4) as otherwise provided by law.

B. In assembling a panel, the commissioner shall:

(1) use a random selection system that results in a reasonably equal number of opportunities for referral among roster members who have been on the roster for three or more years. When possible, no more than three arbitrators who have been on the roster for less than three years shall be included on a single panel, but the commissioner shall provide greater referral opportunities for those individuals. In assembling panels, the commissioner shall;

(2) seek to avoid potential conflicts of interest and shall include or exclude roster members pursuant to mutual requests of the parties.

C. If requested by all parties to the dispute, the commissioner must consider geographic location or unique and special circumstances and technical expertise when the parties request that those factors be considered.

D. At least five members of the panel must be residents of Minnesota.

Subp. 3. Direct appointment by commissioner. The commissioner shall appoint one person from the roster to serve as the arbitrator whenever:

A. the agreement to arbitrate or other joint agreement of the parties provides for direct appointments; or

B. applicable under Minnesota Statutes, section 179.09.
Subp. 4. **Replacement names or panels or names.**

A. Upon the joint request of the parties, the commissioner shall must appoint a new roster member or issue a new panel of seven names roster members to replace a prior roster member or panel under subpart 2 or 3.

B. The commissioner may not honor single-party requests for replacement names roster members or panels will not be honored unless the commissioner determines that a bona fide conflict of interest exists regarding the matter in dispute between one or more parties and one or more members of the panel. If the commissioner determines that a conflict is found by the commissioner, exists, the commissioner must issue a replacement roster member or panel will be issued.

If the appointment of individuals to particular panels would present the appearance of a conflict of interest because the individuals are closely associated with firms or organizations that function as advocates, the commissioner shall disqualify those individuals.

Subp. 5. **Selection Selecting from panels.** The parties shall must select an arbitrator a roster member or arbitrators from the panel under the terms of according to Minnesota Statutes, section 179A.16, subdivision 4, or of their grievance procedure. In the absence of an agreement If there is no grievance procedure for binding arbitration, the selection shall must be made by alternately deleting names from the panel until the required number of names remain. Determining which party shall delete the first name shall be accomplished by a toss of a coin according to part 5510.5170, subpart 2.

Subp. 6. **Scheduling.**

A. Notifying the arbitrators of their selection and the scheduling of the arbitration hearing is the responsibility of the parties. When the parties select one or more roster members according to this part, they must notify the roster members and work with the roster members to schedule the hearing.
B. Once the initial arbitration hearing has been established scheduled, the party who that requested the panel shall must notify the commissioner of the:

   (1) arbitrators roster members selected;

   (2) the date that the selection was made; and

   (3) the date of the initial arbitration hearing.

Subp. 7. [See repealer.]

Subp. 8. Jurisdiction of bureau.

A. Submission of Submitting a panel or appointment of an arbitrator appointing a roster member under this chapter signifies nothing more than compliance with a request and is not a determination as to the legitimacy of the dispute or the competency of the arbitrators panel or roster member to resolve it.

B. The bureau does not have jurisdiction or responsibility for enforcement, resolution, or compliance with any aspect of the arbitration process other than providing the services specifically established by under this chapter.

5530.1200 PERFORMANCE MEASURES.

Subpart 1. Renewal criteria. When reviewing an application for a renewal appointment to the roster, the commissioner shall must use the criteria in subparts 2 to 7 in under this part when determining whether or not to reappoint.

Subp. 2. Selection rate.

A. The commissioner shall must develop and maintain reliable data concerning the frequency with which individuals roster members are selected by:

   (1) parties from panels referred by the bureau;

   (2) parties' mutual agreement; and
(3) the commissioner according to part 5530.0900, subpart 3.

B. A selection frequency that falls in the upper three quartiles of the frequencies of all arbitrators on the roster members is evidence that an arbitrator a roster member has established acceptability among the parties who use the roster, but a selection rate in the lowest quartile shall not be the sole basis for failure to reappoint unless the arbitrator roster member has been in the lowest quartile for two three consecutive years and was selected for fewer than three cases in the most recent 12-month period.

Subp. 3. Scheduling. A lack of substantiated written complaints from parties that an arbitrator roster member has failed to offer a reasonable number of at least three dates on which the arbitrator roster member is available to hear a case within 60 90 calendar days of the arbitrator's roster member's notification of selection is evidence that an arbitrator the roster member is meeting the availability standards of this chapter.

Subp. 4. [See repealer.]

Subp. 5. Evaluation by parties. The commissioner shall encourage evaluations of the Parties may evaluate a roster member's performance of roster members by the parties. The commissioner must consider both individual and summary evaluation information shall be considered by the commissioner.

Subp. 6. [See repealer.]

Subp. 7. General professional criteria. All roster members are required to Each roster member must maintain proficiency and competency in under the areas in part 5530.0700, subpart 2 6. Failure of an arbitrator roster member to comply with this chapter, including the submission of failing to submit awards, fee and summary reports, or other information or reports, shall be is grounds for removing or not reappointing the commissioner to remove or to not reappoint a roster member.
112.1 5530.1300 DISCIPLINARY OR REMOVAL PROCEDURES.

Subpart 1. General.

A. Membership on the roster is a privilege and no arbitrator has a right to placement on the roster. The commissioner has authority to investigate all complaints and allegations against roster members regarding the professional performance and compliance with this chapter by members of the roster.

B. The commissioner shall must advise, counsel, suspend, or remove a roster member when the results of an investigation demonstrate violation by the arbitrator of that a roster member has violated the performance, professional, or ethical standards established by under this chapter.

Subp. 2. Preliminary investigation.

A. When the commissioner receives a complaint regarding of a roster member's violation of this chapter by a member of the roster, the commissioner shall must conduct an informal investigation of the matter to determine if there is probable cause to believe that a the roster member has violated any requirements requirement of this chapter. In the absence of

B. If there is no probable cause to believe that a violation occurred, the commissioner shall take no may not take further action.

C. If further action on the matter is warranted the commissioner determines that probable cause exists, the commissioner shall must suspend the roster member from further referrals pending the conclusion of proceedings under this chapter part.

Subp. 3. Notice.

A. When the commissioner finds probable cause to believe that a violation of this chapter has occurred and that removal or disciplinary suspension of a warrants the commissioner to remove or suspend the roster member should be considered, the
commissioner shall must provide written notice to the roster member and the advisory committee.

B. The written notice must:

(1) contain the nature of the action being considered and the reasons for it. The notice shall state that the commissioner is determining whether to remove or suspend the roster member and the commissioner's rationale for the action;

(2) provide an opportunity for the roster member to respond in writing; and shall

(3) fix set a date for a hearing on the matter before the commissioner or a designated representative, if the roster member wishes to contest the proposed action.

Subp. 4. Hearing. If a hearing on a disciplinary matter is requested by the affected roster member, the commissioner or the commissioner's representative must must convene and conduct a hearing pursuant according to part 5510.1910, subparts 2a, 6, 8, 9, 10, 12, 13, and 14. Advisory committee members may attend the hearing or may review, if any, the audio-magnetic hearing recording from the proceedings or transcript.

Subp. 5. Determination.

A. The commissioner shall must determine the action to be taken with respect to on the roster member's status on the roster, based on the basis of:

(1) on the record of the hearing, the record if a hearing is conducted under subpart 4;

(2) recommendations of from the advisory committee; and

(3) performance, professional, or ethical standards under this chapter.

B. The commissioner's determination is a final decision.
7315.0210  SCOPE.

This chapter applies to procedures governing independent review pursuant to under Minnesota Statutes, section 179A.25.

7315.0300  POLICY.

Parts 7315.0200 to 7315.0800 shall This chapter is to be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

7315.0400  DEFINITIONS.

Subpart 1. Other words, terms, and phrases. Except as otherwise provided in this chapter under subpart 2, the words, terms, and phrases in this chapter shall have the same meaning and definition as defined meanings given in part 7300.0100 5510.0310.

Subp. 2. Party. "Party" means any public employee, public employer, exclusive representative of public employees, public employee organization, or public employer organization whose legal rights, duties, or privileges will be are directly determined in an independent review.

7315.0410  FILING AND SERVICE.

Part 5510.0320, subparts 2 to 4, apply to a document filed or served under this chapter.

7315.0500  PETITION.

Subpart 1. Authority to petition.

A. As provided under Minnesota Statutes, section 179A.25, an employee may petition the board commissioner in writing for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such another procedure exists does not exist to hear that the grievance.

B. The petitioner must provide file the petition with the commissioner and serve on all parties a copy of the petition at the time of filing with the board when it is filed.
Sub. 2. Petition contents. The petition must contain:

A. include the petitioner's name, address, e-mail address, and telephone number of the petitioner;

B. include the names, addresses, e-mail addresses, and telephone numbers of the other parties; and

C. a concise statement specifying state:

(1) the terms and conditions of employment claimed to be violated;

(2) whether the terms and conditions of employment claimed to be violated are established by law, rule, contract, or practice policy;

(3) the law, rule, contract provision, or practice policy claimed to be violated;

(4) the conduct which is claimed to violate the law, rule, contract, or practice policy;

(5) the relief requested; and

(6) why independent review of the grievance is not available under any other procedure.

7315.0650 ANSWER.

Within 15 calendar days after receipt of a petition, all other parties shall file with the board commissioner and provide to the other parties an answer to the petition. The answer must contain a concise statement specifying whether:

A. whether the terms and conditions of employment claimed to be violated are established by law, rule, contract, or practice policy;

B. whether the law, rule, contract provision, or practice policy has been violated by the respondent;
C. if a violation is found, what relief requested is appropriate; and

D. whether independent review of the grievance is not available under another procedure.

### 7315.0750 JURISDICTION.

The board commissioner, on its own motion or on a party's motion of any party, may dismiss a petition if the board commissioner lacks jurisdiction. The board may conduct a hearing on the question of jurisdiction. The commissioner may dismiss a petition:

A. by granting summary judgment after reviewing the parties' written briefs without a hearing; or

B. after conducting a hearing according to part 7315.2100.

### 7315.0900 PRESIDING OFFICER; BOARD OR PANEL GRIEVANCE HEARING.

Subpart 1. Procedure to hear grievance. The board, as a full body or as a panel of three of its members, may hear and decide an independent review. Whenever possible, a panel must consist of an equal number of representatives of public employees and public employers, and the member who represents the public at large. The commissioner must either:

A. conduct a hearing on the grievance according to part 7315.2100; or

B. follow the requirements for selecting an arbitrator under Minnesota Statutes, section 179A.16, subdivision 4.

Subp. 2. Arbitrator duties. An arbitrator selected under subpart 1, item B:

A. has the same authority and duties as the commissioner under parts 7315.1100 to 7315.2300; and

B. must have the arbitrator's fees and expenses paid equally by the parties.
117.1 7315.1100 BRIEFS.

A. The board commissioner may request the parties to submit a written brief if the written brief will assist the board in making its help the commissioner make the determination under part 7315.2200. If briefs are necessary requested, the board commissioner must establish a briefing schedule and notify the parties of the dates for submission of submitting the briefs.

B. All briefs must be served on the other parties, and proof of service must be filed with the commissioner.

117.9 7315.1200 NOTICE OF HEARING; NOTICE AND FORMAT.

Subpart 1. Hearing notice. At least 15 calendar days before the hearing date, the board commissioner must provide to serve on all parties by certified mail a notice of hearing providing:

A. the hearing's date, time, and place of hearing;

B. a statement of the grievance to be determined;

C. the rights of the parties to representation; and

D. that failure failing to appear may prejudice the a party's rights.

A copy of this chapter must be included with the notice of hearing.

Subp. 2. Virtual hearing. If all parties agree, the hearing may take place virtually through an online conferencing or videoconferencing tool.

117.20 7315.1300 CONTINUANCE OF CONTINUING HEARING.

A request for continuance of hearing, if mutually consented to by all of the parties, must be granted by the board's executive director. If there is no mutual consent, the board must consider the request for continuance at its next meeting and may grant the request upon good cause shown. If a board meeting is not scheduled that provides the opportunity
for the board to consider the request and provide a timely response, the board chair has the authority to consider and decide the request to continue a hearing must be served on the commissioner and all parties at least six calendar days before a hearing. The commissioner must grant or deny a request according to part 5510.1910, subpart 11.

7315.1400 RIGHT TO REPRESENTATION.

Any party may be represented by a designated agent in an independent review proceeding before the board.

7315.1500 INFORMAL DISPOSITION.

A. Informal disposition may be made of any grievance or any issue by stipulation, settlement, or agreement at any point in the proceedings so long as the stipulation, settlement, or agreement does not violate any law and is approved by the board. At any time after a petition is filed and before the determination under part 7315.2200 is made, the parties may enter into a stipulation or settlement agreement.

B. A stipulation or settlement agreement made under this part must be entered into the record.

7315.1600 DEFAULT.

The board commissioner may decide a grievance adversely to a party who fails to appear after receiving due notice and an opportunity for hearing.

7315.1700 INTERVENTION.

The board may, upon timely application, commissioner must allow a person to intervene in an independent review proceeding if:

A. the person files a request with the commissioner before a hearing under part 7315.2100 begins; and
B. the applicant establishes that its commissioner determines that the person's legal rights, duties, or privileges will be directly determined in the matter proceeding.

7315.1800 SUBSTITUTION OF SUBSTITUTING PARTY'S REPRESENTATIVE.

Substitution of a party's representative may be allowed only if notice of the substitution is served on all other parties and the board at least seven calendar days before the hearing date. Until a hearing under part 7315.2100 begins, a party may substitute its representative if the party serves notice of the substitution on all other parties and the commissioner.

7315.1900 CONSOLIDATION.

Subpart 1. Basis. The board commissioner may consolidate cases either on its own motion or on motion of any party if it determines that:

A. separate grievances present substantially the same issues;
B. a decision in one case would affect the rights of a party in another case; and
C. consolidation would not substantially prejudice any party.

Subp. 2. Stipulation. Notwithstanding the requirements of subpart 1, the parties may stipulate and agree to consolidation. A stipulation under this subpart must be in writing and filed with the commissioner and is subject to board commissioner approval according to subpart 1.

Subp. 3. Order. The board commissioner must serve on all parties the order of consolidation under subpart 1 or 2.

Subp. 4. Severance from consolidation.

A. Within seven calendar days of receipt of the order of consolidation, a party may file with the board commissioner a written petition for severance from consolidation which. The petition must include the reasons explain why the requirements of subpart 1 are were not met.
B. Upon receiving a petition under item A, the commissioner must approve or disapprove the petition after determining whether the requirements of subpart 1 were met.

C. The commissioner must serve on all parties the commissioner’s determination under item B.

THE HEARING.

Subpart 1. How conducted. The hearing must be conducted as follows: according to part 5510.1910, subparts 6, 8, 9, 12, and 13.

A. It shall be the duty of the presiding officer to inquire fully into the facts in dispute, to call, examine, and cross-examine witnesses and to require the production of documentary or other evidence as the presiding officer may deem necessary to be fully acquainted with all facts relating to the case.

B. Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, must be stated orally, together with a statement of the grounds of the objection and included in the record of the hearing. No objection shall be deemed waived by further participation in the hearing.

C. The presiding officer may admit evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The presiding officer shall give effect to any rule or privilege recognized by law.

D. Witnesses must testify under oath and shall be subject to cross-examination by all parties.

E. Upon a showing of good cause the presiding officer may allow the taking of depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules of Civil Procedure.
Subp. 2. **Transcript of board Hearing record.** A verbatim record must be taken by a hearing reporter or recording equipment of any hearing conducted pursuant to subpart 1.

A. The hearing record must be maintained according to part 5510.1910, subpart 10, and it must be kept for 90 calendar days after the commissioner issues the determination under part 7315.2200.

B. A party may request to have the hearing recording transcribed by submitting a written request to the commissioner and by:

1. making the request within 90 calendar days after the commissioner issues the determination under part 7315.2200; and

2. agreeing to pay the full costs for transcribing and preparing the transcript.

Subp. 3. [See repealer.]

7315.2200 **BOARD DECISIONS AND COMMISSIONER'S DETERMINATION AND OTHER ORDERS.**

A. All decisions and orders issued by the board must be issue a determination on the petition under part 7315.0500 in writing and must be accompanied by a statement of the reasons therefor. All decisions must be based on the record and served on all parties.

B. The commissioner's determination and other orders shall be binding on all parties and served on all parties to the case.

7315.2300 **REQUEST FOR REHEARING REQUESTING RECONSIDERATION.**

Subpart 1. **Requesting reconsideration.**

A. The board on its own motion or on petition of any party and for good cause shown, may reopen, rehear, and redetermine an independent review decision. The petition for rehearing by the parties must be served on all parties and the board within 15 calendar...
days of the date of the board's written decision. A party may request that the commissioner reconsider the determination under part 7315.2200 by filing a request in writing that details the required grounds for reconsideration and why the request should be reconsidered.

B. The party must serve a copy of the request on the commissioner and all other parties. To be considered under subpart 2, a request must be served within ten calendar days of the commissioner's determination.

C. The required grounds for requesting reconsideration are as provided under part 5500.2800, subpart 1, item A.

Subp. 2. Considering, granting, and determining request.

A. The commissioner must consider, grant, and make a determination on a request according to part 5500.2800, subpart 2.

B. If the commissioner grants a request, the hearing and briefs are according to this chapter.

RENUMBERING INSTRUCTION. Each part of Minnesota Rules listed in column A is renumbered with the number listed in column B. Cross-reference changes consistent with the renumbering are made.

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REPEALER. Minnesota Rules, parts 5500.0400; 5500.0600; 5500.1100, subparts 2, 3, 4, 5, 6, 7, 8, and 9; 5500.1200; 5500.1500; 5510.0310, subparts 4 and 21; 5510.0510, subpart 5; 5510.1410; 5510.1510; 5510.1610; 5510.1710; 5510.2710, subparts 2 and 3; 5510.5190; 5530.0300, subparts 5, 8, 9, and 12; 5530.0600, subpart 3; 5530.0900, subpart 7; 5530.1000;
5530.1200, subparts 4 and 6; 7315.1000; 7315.2100, subpart 3; 7315.2400; 7315.2500; 7315.2600; 7315.2700; 7315.2800; and 7315.2900, are repealed.