

Office of the Revisor of Statutes

Administrative Rules



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

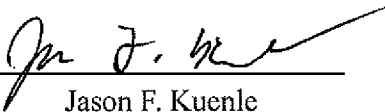
AGENCY: Bureau of Mediation Services

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1.1 **Bureau of Mediation Services**

1.2 **Adopted Permanent Rules Relating to the Minnesota Labor Relations Act and the**
1.3 **Public Employment Labor Relations Act**

1.4 **5500.0100 DEFINITIONS.**

1.5 Unless the language or context clearly indicates that a different meaning is intended,
1.6 the terms in parts 5500.0100 to 5500.2100 have the meanings given in Minnesota Statutes,
1.7 chapters 179 and 179A.

1.8 **5500.0200 PURPOSE, CONSTRUCTION, AND WAIVER.**

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

1.12 B. The commissioner may waive any requirement of parts 5500.0100 to 5500.0500
1.13 unless a party shows that the waived requirement prejudices the party.

1.14 **5500.0210 FILING.**

1.15 A document filed under parts 5500.0100 to 5500.1100 is effective according to part
1.16 5510.0320, subpart 2.

1.17 **5500.0300 PETITIONS.**

1.18 A petition for mediation filed under Minnesota Statutes, section 179.06, subdivision
1.19 1, must be in writing and include:

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

1.21 B. the name, address, e-mail address, and telephone number of the petitioner's
1.22 agent or attorney;

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

D. the name, address, e-mail address, and telephone number of the adverse party's attorney, 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 directly interested in the petition;

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

H. a clear and concise statement about the dispute and the petitioner's demands.

5500.0500 MEDIATION CONFERENCE.

Subpart 1. Conference.

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

(1) fix the time and place for a conference; and

(2) notify the parties to the dispute in writing of the conference's time and place.

B. A conference under this part is informal and limited by the commissioner to matters relative and material to settling the dispute. The conference is closed to the public and is limited to the parties and their representatives interested in the dispute.

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 5500.0700 to 5500.1100 govern the conduct of all proceedings before a commission appointed in labor disputes affecting public interests under Minnesota Statutes,

sections 179.07 and 179.08, and are to be liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

B. A commission may waive any requirement of parts 5500.0700 to 5500.1100 unless a party shows that the waived requirement prejudices the party.

5500.0800 APPEARANCES.

Subpart 1. **Party directly affected by dispute.** A party to or affected by a dispute may appear before the commission in person or through an attorney or a representative. 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. A party not directly involved in a dispute desiring to appear and have the same rights before the commission as parties directly involved must file a petition in writing with the commission setting forth the grounds upon which the party claims to be interested.

B. The commission must rule on all petitions filed under item A, and the parties to the dispute may present arguments and be heard on the question of permitting an appearance under this subpart. The commission must permit an appearance in person, by attorney, or by a representative to the extent and under terms as the commission determines necessary to help resolve the dispute and issue its report under Minnesota Statutes, section 179.07.

5500.0900 EXAMINING WITNESSES.

A witness must be examined according to part 5505.0700.

5500.1000 SUBPOENAS.

A subpoena and associated fees and mileage are as provided under part 5505.0800.

4.1 **5500.1100 HEARINGS.**

4.2 Subpart 1. **Conduct.**

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

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

4.7 Subp. 2. [See repealer.]

4.8 Subp. 3. [See repealer.]

4.9 Subp. 4. [See repealer.]

4.10 Subp. 5. [See repealer.]

4.11 Subp. 6. [See repealer.]

4.12 Subp. 7. [See repealer.]

4.13 Subp. 8. [See repealer.]

4.14 Subp. 9. **Record.** The record in the proceedings consists of:

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

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

4.17 C. proof of service of notice on the parties to the proceedings;

4.18 D. the objections of any person to the proceedings;

4.19 E. the rulings on the objections;

4.20 F. all motions, stipulations, exhibits, documentary evidence, and depositions;

4.21 G. the transcript, if kept; and

5.1 H. the commission's report.

5.2 **5500.1300 PURPOSE, CONSTRUCTION, AND WAIVER.**

5.3 A. Parts 5500.1300 to 5500.2100 govern the conduct of all proceedings before
5.4 labor referees appointed according to Minnesota Statutes, section 179.083, and are to be
5.5 liberally construed to effectuate the purposes and provisions of the Minnesota Labor Relations
5.6 Act, Minnesota Statutes, chapter 179.

5.7 B. A labor referee may waive any requirement of parts 5500.1300 to 5500.2100
5.8 unless a party shows that the waived requirement prejudices the party.

5.9 **5500.1310 FILING AND SERVICE.**

5.10 Part 5510.0320 applies to a document filed or served under parts 5500.1300 to
5.11 5500.2100.

5.12 **5500.1400 NOTICE OF CONTROVERSY.**

5.13 A written notice that a jurisdictional controversy exists may be filed with the
5.14 commissioner by a labor organization or organizations or by an employer or employers
5.15 association. The notice must include:

5.16 A. the petitioner's name, address, e-mail address, and telephone number and the
5.17 address of the petitioner's principal office or place of business;

5.18 B. if filed by an employer or employers association, the:

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

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

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

C. if 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 the jurisdictional controversy;

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

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

D. the classification of employment, the approximate number of employees in each classification, and the approximate number of employees involved in the jurisdictional controversy;

E. the names of all labor organizations with whom the employer or employers association has labor agreements and the expiration date of 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, and whether the jurisdictional controversy is made the grounds for one or more of the following:

(1) picketing;

(2) declaring a strike; or

(3) declaring a boycott against the employer or employers association; and

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

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.~~

7.1 **~~Subp. 2. Fixing hearing; notice.~~**

7.2 A. If the commissioner appoints a labor referee to hear and determine the
7.3 jurisdictional controversy, the labor referee must:

7.4 (1) immediately fix a time and place for the hearing; and

7.5 (2) at least five calendar days before the hearing, serve on each party:

7.6 (a) a notice of hearing;

7.7 (b) a copy of the notice under part 5500.1400; and

7.8 (c) a copy of parts 5500.1300 to 5500.2100.

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

7.11 C. The notice of hearing must be given to all parties directly involved in or affected
7.12 by the controversy so far as named in the notice under part 5500.1400 or known to the labor
7.13 referee, and these parties are parties to the proceedings.

7.14 **5500.1700 HEARINGS.**

7.15 A. A hearing before a labor referee must be conducted according to part 5505.0600,
7.16 subparts 2 to 8.

7.17 B. The record in the proceedings consists of:

7.18 (1) the order appointing the labor referee under Minnesota Statutes, section
7.19 179.083;

7.20 (2) the notice of hearing under part 5500.1600, ~~subpart 2~~;

7.21 (3) proof of service of notice on the parties to the proceeding;

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

8.1 (5) the rulings on the objections;

8.2 (6) all motions, stipulations, exhibits, documentary evidence, depositions,
8.3 findings of fact, and conclusions;

8.4 (7) the transcript, if kept; and

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

8.6 **5500.1800 EXAMINING WITNESSES.**

8.7 A witness must be examined according to part 5505.0700.

8.8 **5500.1900 SUBPOENAS.**

8.9 A subpoena and associated fees and mileage are as provided under part 5505.0800.

8.10 **5500.2000 FINAL DETERMINATION.**

8.11 A. After ending the hearing and investigation under parts 5500.1300 to 5500.1900,
8.12 the labor referee must make a final determination on the jurisdictional controversy. The
8.13 labor referee must:

8.14 (1) write the determination that details the labor referee's findings on all the
8.15 issues presented and the referee's decision on all issues presented; and

8.16 (2) file simultaneously with the commissioner and the parties the
8.17 determination.

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

8.20 (1) the agreement must be filed simultaneously with the labor referee and the
8.21 commissioner; and

8.22 (2) the labor referee may not make a final determination and must include in
8.23 the record the parties' written agreement.

9.1 **5500.2100 RECONSIDERATION.**

9.2 **Subpart 1. Requesting reconsideration.**

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

9.5 (1) there is material evidence newly discovered that with reasonable diligence
9.6 could not be found or produced at the hearing;

9.7 (2) the determination is not justified by the evidence; or

9.8 (3) an adverse party has been guilty of misconduct that materially affected
9.9 the result.

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

9.14 **Subp. 2. Determining reconsideration request; hearing.**

9.15 A. After receiving a reconsideration request under subpart 1, the labor referee
9.16 must:

9.17 (1) consider the request if the referee deems the grounds stated sufficient
9.18 according to subpart 1, item A; or

9.19 (2) reject the request if the referee deems the grounds insufficient according
9.20 to subpart 1, item A.

9.21 B. When determining to consider the request, the labor referee must order a
9.22 preliminary hearing and give notice according to part 5500.1600, ~~subpart 2.~~

9.23 C. After the preliminary hearing, the labor referee must make an order granting
9.24 or denying the request. If granting the request, the labor referee must ~~reconsider or clarify~~

10.1 ~~the determination~~, fix a time and place for a hearing, and give notice according to part
10.2 5500.1600, ~~subpart 2~~. The labor referee may by order limit the matters upon which the
10.3 referee will receive new or additional evidence and must include in the order why the referee
10.4 limited matters.

10.5 D. Further proceedings must be held according to parts 5500.1700 to 5500.1900.
10.6 When the proceedings end, the labor referee must:

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

10.8 (2) make and file simultaneously with the commissioner and the parties an
10.9 amended determination that supersedes the original determination.

10.10 **5500.2200 APPLICABILITY.**

10.11 A. Parts 5500.2200 to 5500.2850 apply to:

10.12 (1) all arbitration proceedings under bureau rules as provided under Minnesota
10.13 Statutes, subject to all applicable provisions of the law; and

10.14 (2) other proceedings before an arbitrator as provided under statute.

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

10.17 **5500.2210 DEFINITIONS.**

10.18 Subpart 1. **Scope.** For purposes of parts 5500.2200 to 5500.2850, the terms defined
10.19 in this part have the meanings given them.

10.20 Subp. 2. **Arbitrator.** "Arbitrator" means an arbitrator from the arbitration roster under:

10.21 A. ~~chapter 5530~~ part 5530.0700;

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

10.23 C. Minnesota Statutes, section 626.892, subdivision 4.

11.1 Subp. 3. **Award.** "Award" ~~has the meaning given in part 5530.0300, subpart 3a~~ means
11.2 an opinion or decision, including any damages, relief, and remedies, rendered by an arbitrator
11.3 in a dispute among two or more parties.

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

11.6 Subp. 5. **Party.** "Party" means a person subject to arbitration or other proceedings
11.7 under bureau rules as provided under Minnesota Statutes.

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

11.10 **5500.2220 ARBITRATOR'S RESPONSIBILITY.**

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

11.14 A. parts 5500.2200 to 5500.2850; and

11.15 B. chapter 5530.

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

11.18 **5500.2300 ARRANGING HEARING.**

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

11.20 A. When a panel of arbitrators has been selected, assigned, or appointed, the panel
11.21 must immediately fix a time and place for the schedule a hearing according to part 5530.0900,
11.22 subpart 6, or as otherwise provided under statute. At least five calendar days before the
11.23 hearing, the panel chair must serve on each party a notice of hearing.

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

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

12.5 Subp. 3. **Adjourning hearing.** An arbitrator may adjourn the hearing to a later time
12.6 without further notice. If no time is fixed to continue the hearing upon adjournment, the
12.7 arbitrator must give notice according to subpart 1 of the time the hearing is to be continued.

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

12.11 A. arranges for the transcript;

12.12 B. pays for all transcript-related costs; and

12.13 C. provides:

12.14 (1) a free copy to the arbitrator; and

12.15 (2) a copy to the other party upon request, with the other party paying the
12.16 full cost of the copy.

12.17 **5500.2400 PROCEEDINGS DURING HEARING.**

12.18 Subpart 1. **Representation.**

12.19 A. A party may be represented by a representative or an attorney.

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

12.22 (1) an absent party consents; or

13.1 (2) a party fails to appear after due notice of the hearing or leaves the hearing
13.2 without the panel's permission.

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

13.4 A. The order of the proceedings is as follows:

13.5 (1) the party with the burden of proof outlines the party's case, calls witnesses,
13.6 and presents evidence; and

13.7 (2) after the party under subitem (1) presents its case, the responding party
13.8 outlines the party's case, calls witnesses, and presents evidence.

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

13.11 C. Any party may offer exhibits, and offered exhibits accepted as evidence are
13.12 part of the record.

13.13 D. After the parties have presented their evidence, they may make arguments in
13.14 the same order as described under item A for submitting evidence. The hearing closes after
13.15 arguments end.

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

13.18 Subp. 3. **Hearing record.** All proceedings and the hearing record are confidential
13.19 unless both parties agree in writing to release the hearing record.

13.20 **5500.2500 EVIDENCE.**

13.21 A. A panel must hear all evidence that is competent, relevant, and material to the
13.22 dispute.

14.1 B. The panel may independently investigate the dispute or obtain information not
14.2 presented at the hearing as the panel deems necessary for adjudicating the dispute. Unless
14.3 waived by the party in writing, a party must be afforded an opportunity to examine any
14.4 panel evidence and to introduce evidence rebutting panel evidence.

14.5 C. A party must provide evidence requested under item B if the evidence is
14.6 available to the party. A party's failure to produce evidence under item B is a factor when
14.7 the panel makes its award.

14.8 **5500.2510 BRIEFS.**

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

14.11 (1) the filing deadlines; and

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

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

14.15 **5500.2600 AMENDMENTS.**

14.16 The original statement of the dispute may be amended by a supplemental written
14.17 agreement signed by all parties and filed with the panel at any time before the record closes.
14.18 The panel ~~may~~ must only consider a dispute as specified in the original statement or a
14.19 supplemental agreement under this part.

14.20 **5500.2700 AWARD.**

14.21 Subpart 1. **Making award.** After concluding the hearing and investigation, the panel
14.22 must make an award that is in writing, is signed by a majority of the panel, and details the
14.23 panel's findings on the dispute and the panel's decision.

15.1 Subp. 2. **Filing award.** The panel must simultaneously file with the commissioner
15.2 and the parties the original findings, ~~opinion~~, and award. The findings, ~~opinion~~, and award
15.3 must be filed according to part 5530.0800, subpart 9.

15.4 Subp. 3. **Resolving dispute before award is filed.** If the parties make a written
15.5 agreement resolving the dispute before the panel files an award, ~~the written agreement must~~
15.6 ~~be simultaneously filed with~~ they must notify the panel ~~and the commissioner.~~ After being
15.7 notified, the panel ~~must then file its records, without its findings or an award, with the~~
15.8 ~~commissioner~~ may not make an award.

15.9 **5500.2800 RECONSIDERING AWARD.**

15.10 Subpart 1. **Requesting reconsideration.**

15.11 A. A party may request the panel to reconsider the award on any or all of the
15.12 following grounds:

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

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

15.16 (3) an adverse party has been guilty of misconduct that materially affected
15.17 the result.

15.18 B. A request under item A must be in writing and set forth the facts upon which
15.19 the request is based. Within ten calendar days after the award is filed under part 5500.2700,
15.20 subpart 2, a copy of the request must be served on all other parties, the panel chair, and the
15.21 commissioner.

15.22 Subp. 2. **Determining request.**

15.23 A. The panel must:

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

16.3 (2) reject the request if the panel deems the grounds insufficient according
16.4 to subpart 1, item A.

16.5 B. After considering a request according to item A, the panel must make its order
16.6 granting or denying the request. If granting the request, the panel must reconsider the award
16.7 and:

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

16.9 (2) fix a time and place for a hearing and give notice according to part
16.10 5500.2300, subpart 1, item A.

16.11 C. The panel may by order limit the matters upon which it will receive new or
16.12 additional evidence and must conduct the hearing, if held, according to parts 5500.2400 to
16.13 5500.2510.

16.14 D. After briefs are submitted under item B or C, the panel must:

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

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

16.18 **5500.2850 ARBITRATOR FEES AND COSTS.**

16.19 **Subpart 1. Paying arbitrator fees and costs.**

16.20 A. Except as otherwise provided by statute or the express terms of the arbitration
16.21 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:

- (1) 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. For purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. Commissioner. "Commissioner" means the commissioner of the Bureau of Mediation Services.

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

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

18.5 Subp. 5. **Employee.** "Employee" has the meaning given in Minnesota Statutes, section
18.6 179.01, subdivision 4.

18.7 Subp. 6. **Employer.** "Employer" has the meaning given in Minnesota Statutes, section
18.8 179.01, subdivision 3.

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

18.11 Subp. 8. **Party.** "Party" means an employee, group of employees, labor organization,
18.12 employer, or employers association affected by a dispute.

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

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

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

18.18 **5505.0200 PURPOSE, CONSTRUCTION, AND WAIVER.**

18.19 A. This chapter governs the conduct of all proceedings before the commissioner
18.20 for investigating and certifying representatives for collective bargaining under Minnesota
18.21 Statutes, section 179.16, and is to be liberally construed to effectuate the purposes and
18.22 provisions of the Minnesota Labor Relations Act, Minnesota Statutes, chapter 179.

18.23 B. The commissioner may waive any requirement under this chapter unless a
18.24 party shows that the waived requirement prejudices the party.

19.1 **5505.0210 FILING AND SERVICE.**

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

19.3 **5505.0300 REQUEST FOR INVESTIGATION.**

19.4 As provided under Minnesota Statutes, section 179.16, subdivision 2, a party may file
19.5 a request for investigation with the commissioner.

19.6 **5505.0400 REQUIRED INFORMATION.**

19.7 A request under part 5505.0300 must include:

19.8 A. the type of organization making the request and the petitioning organization's
19.9 name, address, e-mail address, and telephone number;

19.10 B. the name, address, e-mail address, and telephone number of the organization's
19.11 agent or attorney;

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

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

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

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

19.19 G. the approximate number of employees in the unit the petitioning organization
19.20 claims is appropriate, and a statement as to the unit or units claiming the right of
19.21 representation; and

19.22 H. a detailed list of the classifications in the proposed unit indicating the number
19.23 of employees in each classification.

20.1 **5505.0500 NOTICE OF HEARING AND INVESTIGATION.**

20.2 Subpart 1. **Investigating request; hearing.** Upon receiving a completed request under
20.3 part 5505.0300, the commissioner:

20.4 A. must investigate the dispute; and

20.5 B. may provide for a hearing before the commissioner.

20.6 Subp. 2. **Giving notice.**

20.7 A. The commissioner must serve notice of an investigation or hearing to all parties
20.8 directly involved in or directly affected by the dispute, and the parties are deemed parties
20.9 to the proceedings. A copy of the notice must be posted in a conspicuous place at the place
20.10 of employment of the petitioning organization at least two calendar days before the scheduled
20.11 date of investigation or hearing.

20.12 B. Together with the notice under item A, a copy of the request under part
20.13 5505.0300 must be given to a representative of each party and posted according to item A.

20.14 Subp. 3. **Hearing recording.** If a hearing is ordered, the commissioner must maintain
20.15 ~~a recording of the hearing~~ recording for 90 calendar days.

20.16 **5505.0600 HEARINGS.**

20.17 Subpart 1. **Conformity.** All hearings under this chapter must be conducted according
20.18 to subparts 2 to 9.

20.19 Subp. 2. **Conduct.** All hearings before the commissioner are open to the public. The
20.20 commissioner has the powers under Minnesota Statutes, section 179.16, subdivision 3.

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

20.23 Subp. 3. **Testimony and evidence.** A party to the proceedings is entitled to:

21.1 A. appear in person or by attorney or representative;

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

21.3 C. introduce only competent evidence, either documentary or other evidence as
21.4 the commissioner deems admissible.

21.5 Subp. 4. **Stipulation.** The parties to the dispute may stipulate to agreed-upon facts
21.6 and evidence.

21.7 Subp. 5. **Objections.**

21.8 A. An objection on the conduct of the hearing, including an objection to the
21.9 introduction of evidence, must be stated orally, together with a statement of the grounds for
21.10 the objection, and be included in the recording.

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

21.13 Subp. 6. **Adjournment.** The commissioner may adjourn the hearing as the
21.14 commissioner deems necessary upon appropriate notice to the parties.

21.15 Subp. 7. **At close of hearing.**

21.16 A. At the close of the hearing, the parties are entitled to submit either oral or
21.17 written arguments as determined by the commissioner under this subpart.

21.18 B. If the commissioner permits oral argument, the commissioner must determine
21.19 its length. Unless ordered by the commissioner, oral arguments are not part of the recording.

21.20 C. If there are written arguments, the commissioner must determine the deadline
21.21 for filing.

22.1 Subp. 8. **Disregarding testimony.** All or any part of a witness's testimony may be
22.2 disregarded by the commissioner if the witness refuses to answer any question that the
22.3 commissioner has ruled proper.

22.4 Subp. 9. **Record.**

22.5 A. The record in the proceedings consists of:

- 22.6 (1) the request for investigation under part 5505.0300;
- 22.7 (2) the notice of hearing under part 5505.0500, subpart 2, item A;
- 22.8 (3) proof of service of notice on the parties to the proceedings;
- 22.9 (4) the objections of any person to the proceedings;
- 22.10 (5) the rulings on the objections;
- 22.11 (6) all motions, stipulations, exhibits, documentary evidence, depositions,
22.12 and findings of fact and conclusions;
- 22.13 (7) the hearing recording; and
- 22.14 (8) the commissioner's final order.

22.15 B. The record must be kept for 90 calendar days.

22.16 **5505.0700 EXAMINING WITNESSES.**

22.17 Witnesses must be examined orally under oath. Testimony of witnesses who reside
22.18 outside the state or who are unable to testify in person before the commissioner may be
22.19 deposed as prescribed by the commissioner.

22.20 **5505.0800 SUBPOENAS.**

22.21 Subpart 1. **Issuing subpoenas.** Subpoenas requiring the attendance and testimony of
22.22 witnesses and the production of evidence, including books, records, correspondence, or
22.23 other documents relating to a dispute under this chapter, must be issued by the commissioner.

23.1 **Subp. 2. Applying for subpoenas.**

23.2 A. An application for the issuance of subpoenas must be filed with the
23.3 commissioner by the party to the proceedings requesting the subpoena.

23.4 B. The application must be timely and specify the names of the witnesses and the
23.5 books, records, correspondence, or other documents relating to a dispute under this chapter
23.6 that the witness must produce.

23.7 **Subp. 3. Witnesses; fees and mileage.**

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

23.13 B. Witness fees and mileage must be paid by the party requesting the subpoena
23.14 when the subpoena is served on the witness whose attendance is required.

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

23.16 **5505.0900 DETERMINING REPRESENTATIVE.**

23.17 After the hearing, the commissioner must determine:

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

23.19 B. the method for determining who will be the representatives as provided under
23.20 Minnesota Statutes, section 179.16, subdivision 2.

24.1 **5505.1000 ELECTION PROCEDURE; SECRET BALLOT.**

24.2 Subpart 1. **Taking secret ballot.**

24.3 A. The commissioner may take a secret ballot of employees, as provided under
24.4 Minnesota Statutes, section 179.16, subdivision 2, to be conducted by a
24.5 commissioner-designated agent.

24.6 B. After the secret-ballot election, the agent must prepare a report containing a
24.7 tally of the ballots and the election results.

24.8 Subp. 2. **Designating challenger.** The employer and each person or organization
24.9 claiming the right to act as representative of the employees may designate one individual
24.10 as a challenger. Each designated challenger may observe the casting and counting of ballots.

24.11 Subp. 3. **Sealing ballots.** Immediately after tallying the ballots, the agent conducting
24.12 the election must place all ballots and a copy of the tally sheet in an envelope, which must
24.13 be:

24.14 A. immediately sealed;

24.15 B. endorsed across the seal by a challenger for each party, if any; and

24.16 C. kept by the commissioner for ~~not~~ no less than 30 calendar days.

24.17 Subp. 4. **Furnishing tally and election results.** The parties to the proceedings must
24.18 be furnished with a tally of the ballots and the election results.

24.19 **5505.1100 VOTER CHALLENGE.**

24.20 Subpart 1. **Challenging right to vote.**

24.21 A. The right of any employee to vote at an election under part 5505.1000 may be
24.22 challenged by:

24.23 (1) any authorized challenger under part 5505.1000, subpart 2; or

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

25.2 B. The individual making the challenge must state fully the grounds for the
25.3 challenge, and a record of the challenge must be made by the agent conducting the election.

25.4 C. After making a record, the agent must:

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

25.7 (2) make a record of the examination.

25.8 Subp. 2. **Challenge not withdrawn.**

25.9 A. If the challenge is not withdrawn, and the challenged employee insists on
25.10 voting, the employee must be permitted to vote upon filing with the agent a statement in
25.11 writing, signed by the employee and witnessed by the agent, alleging eligibility to vote and
25.12 describing the employee's qualifications.

25.13 B. Ballots received under this subpart must not be marked or otherwise
25.14 distinguished from nonchallenged ballots.

25.15 Subp. 3. **Sending record of challenges to commissioner.** The agent conducting the
25.16 election must send the record of all challenges to the commissioner with the tally sheet and
25.17 election results.

25.18 Subp. 4. **Holding hearing on challenges.** If the commissioner determines that the
25.19 number of challenged votes is sufficient to have affected the election results, the
25.20 commissioner must hold a hearing under this chapter after notice to:

25.21 A. all challenged voters;

25.22 B. persons or organizations voted upon as representatives; and

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

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

26.2 A. At the hearing under subpart 4, the commissioner must determine whether:

26.3 (1) the respective challenged voters were eligible to vote; and

26.4 (2) the election results might have been affected by votes cast by ineligible
26.5 voters.

26.6 B. If the commissioner determines that the election results might have been affected
26.7 by votes cast by ineligible voters, the commissioner must declare the election void.

26.8 **5505.1200 CONSENT ELECTION.**

26.9 **Subpart 1. Agreement to hold consent election.**

26.10 A. Whenever a dispute arises concerning the representation of the employees
26.11 under part 5505.0300, the parties to the dispute may agree in writing, subject to commissioner
26.12 approval, that an election may be held without a hearing under this chapter.

26.13 B. An agreement to hold a consent election must be in the form prescribed by the
26.14 commissioner.

26.15 **Subp. 2. Notice of consent election.** A notice of the consent election must:

26.16 A. be posted in a conspicuous place at the place of employment of the employees;
26.17 and

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

26.20 **Subp. 3. Objections to election.**

26.21 A. When an objection is filed with the commissioner under subpart 4, the
26.22 commissioner must, on deeming it proper, revoke the agreement under subpart 1 for a
26.23 consent election.

27.1 B. With the consent of the parties to the agreement and upon notice to the person
27.2 filing the objection, the commissioner must, on deeming it proper, amend the provisions in
27.3 the agreement for a consent election.

27.4 Subp. 4. **Filing objections.** An objection to the consent election must be filed in
27.5 writing with the commissioner no later than the date prescribed in the notice under subpart
27.6 2. An objection filed after the prescribed date in the notice is void.

27.7 **5505.1300 CERTIFICATION ORDER.**

27.8 After a completed election under part 5505.1000 or 5505.1200, the commissioner must:

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

27.11 B. serve the certification order to the parties to the proceedings.

27.12 **5505.1400 OBJECTIONS TO CERTIFICATION.**

27.13 Subpart 1. **Filing objection to certification.** A party to the proceedings may, within
27.14 seven calendar days of receiving the certification order under part 5505.1300, file with the
27.15 commissioner an objection to the certification.

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

27.17 A. If the commissioner determines that the objection under subpart 1 may raise
27.18 a substantial and material issue on the certification, the commissioner must issue and cause
27.19 to be served on the parties a notice fixing a time and place of hearing for the objection.

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

27.22 Subp. 3. **Declaring certification void.** On determining, after the close of the hearing
27.23 and on the record of the hearing that the objection is well taken, the commissioner must
27.24 declare the certification void.

28.1 Subp. 4. **Staying certification.** Upon application by any party to the dispute, the
28.2 commissioner must stay the certification order under part 5505.1300 until the hearing and
28.3 determination under subpart 3.

28.4 **5505.1500 RECONSIDERATION WITHIN ONE YEAR.**

28.5 Subpart 1. **Requesting new certification.** Within one year after a certification under
28.6 part 5505.1300, any party may request a new certification according to part 5505.0300. The
28.7 request must state the reasons for requesting a new certification.

28.8 Subp. 2. **Investigating request for new certification.** Upon receiving a request under
28.9 subpart 1, the commissioner must investigate whether sufficient reason exists, as required
28.10 under Minnesota Statutes, section 179.16, subdivision 2, that requires the commissioner to
28.11 approve a new certification.

28.12 Subp. 3. **Approving new certification.** If the commissioner approves a request for a
28.13 new certification, the commissioner must notify all parties to the proceedings according to
28.14 part 5505.0500, subpart 2, of the commissioner's decision to approve a new certification by
28.15 completing an investigation without a hearing.

28.16 **5510.0110 APPLICATION.**

28.17 Parts 5510.0110 to 5510.2310 apply to proceedings before the commissioner involving
28.18 matters of representation under the act.

28.19 **5510.0210 POLICY AND WAIVER.**

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

28.23 B. The commissioner must approve a waiver request under item A unless the
28.24 commissioner determines that waiving the requirement would likely result in significant

29.1 harm to the general public or to specific nonparties or is likely to substantially impair or
29.2 frustrate the act's intent or purposes.

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

29.6 **5510.0310 DEFINITIONS.**

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

29.9 Subp. 1a. **Act.** "Act" means the Public Employment Labor Relations Act under
29.10 Minnesota Statutes, sections 179A.01 to 179A.25.

29.11 Subp. 2. **Amendment of certification or amendment of exclusive**
29.12 **representative.** "Amendment of certification" or "amendment of exclusive representative"
29.13 means a change in the certification by the commissioner that the commissioner deems does
29.14 not raise a question of representation.

29.15 *[For text of subpart 3, see Minnesota Rules]*

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

29.18 Subp. 4. [See repealer.]

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

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

30.1 Subp. 8. **Certification petition.** "Certification petition" means a petition filed by an
30.2 employee organization stating that at least 30 percent of the employees of a proposed
30.3 appropriate unit wish to be represented by the petitioner.

30.4 Subp. 8a. **Commissioner.** "Commissioner" means the commissioner of the bureau or
30.5 an authorized agent.

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

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

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

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

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

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

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

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

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

31.1 Subp. 12d. **Exclusive representative.** "Exclusive representative" has the meaning
31.2 given in Minnesota Statutes, section 179A.03, subdivision 8.

31.3 *[For text of subpart 13, see Minnesota Rules]*

31.4 Subp. 14. **Holiday or legal holiday.** "Holiday" or "legal holiday" means the dates
31.5 designated under Minnesota Statutes, section 645.44, subdivision 5, as holidays for the state
31.6 of Minnesota.

31.7 Subp. 15. **Open-window period.** "Open-window period" means the following period
31.8 before a labor contract expires:

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

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

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

31.14 B. a public employee who has filed a decertification petition.

31.15 *[For text of subpart 17, see Minnesota Rules]*

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

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

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

31.22 Subp. 19. **Service or serve.** "Service" or "serve" means, unless another manner of
31.23 service is required by law, delivering a document electronically, in person, by facsimile, or

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

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

32.6 Subp. 21. [See repealer.]

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

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

32.13 A. any prohibition defined in part 5510.2110 or a violation of a
32.14 commissioner-issued election order; and

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

32.17 (1) employer or its agents;

32.18 (2) employee organization or its agents; or

32.19 (3) employee.

32.20 Subp. 24. **Unit clarification or clarification petition.** "Unit clarification" or
32.21 "clarification petition" means the commissioner's determination regarding an appropriate
32.22 unit involving:

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

33.1 **5510.0320 FILING AND SERVICE.**

33.2 Subpart 1. **Effecting service.** Unless otherwise provided under parts 5510.0110 to
33.3 5510.2310, service on the commissioner or a party ~~is effective according to subpart 2~~ must
33.4 comply with the filing requirements under this part.

33.5 Subp. 2. **Filing; when effective.**

33.6 A. Unless otherwise provided by law, a document filed under parts 5510.0110 to
33.7 5510.2310 is effective:

33.8 (1) upon receipt; and

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

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

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

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

33.16 A. in person, but if filing at the bureau, between only 8:00 a.m. and 4:30 p.m.;

33.17 B. by facsimile;

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

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

34.1 **Subp. 4. Electronic filing.**

34.2 A. Unless otherwise provided by law, a document filed electronically must contain
34.3 an electronic signature.

34.4 B. For purposes of this subpart, "electronic signature" has the meaning given in
34.5 Minnesota Statutes, section 325L.02, paragraph (h).

34.6 **5510.0330 COMPUTING TIME.**

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

34.10 **5510.0410 FILING PETITION.**

34.11 **Subpart 1. Conditions.**

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

34.14 (1) a written constitution or bylaws that provide for:

34.15 (a) election of officers;

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

34.17 (c) a purpose, in whole or in part, of dealing with public employers
34.18 concerning grievances and terms and conditions of employment; and

34.19 (2) the petition signed by an authorized representative of the employee
34.20 organization.

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

C. To file a petition, a public employee must be included in an appropriate unit for which there is an 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 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 that a single employee organization is entitled to file.

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

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

36.1 **5510.0510 LIMITATION ON FILING PETITION.**

36.2 Subpart 1. **Contract bar.** If there is an exclusive representative and an effective labor
36.3 contract, the commissioner must only consider a petition for clarification, decertification,
36.4 representation, or certification when the:

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

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

36.9 C. commissioner determines that the interests of good labor relations warrant the
36.10 commissioner to consider the petition during the life of the existing contract.

36.11 Subp. 2. **One-year election bar.** Unless otherwise provided under Minnesota Statutes,
36.12 section 179A.12, subdivision 12, when a certification election, representation election, or
36.13 decertification election has been held, a petition seeking an election must not be entertained
36.14 for a one-year period from the date the commissioner has issued the order certifying the
36.15 election results.

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

36.19 Subp. 4. **Arbitration bar.**

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

36.22 (1) there is an exclusive representative and an effective labor contract; and

36.23 (2) an impasse in negotiating a successor contract has been certified for
36.24 arbitration under Minnesota Statutes, section 179A.16, subdivision 1 or 2.

B. A bar under item A continues until the arbitration award is issued and a contract is executed 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 copy of the employee organization's constitution or bylaws 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 served on commissioner.** All petitions concerning representation matters under parts 5510.0110 to 5510.2310 must be served on the commissioner.

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 before the fifth calendar day after the commissioner issues an appropriate unit determination.

B. A clarification, transfer of exclusive representative status, amendment of certification, or affiliation petition may be withdrawn at any time 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 on the commissioner as provided under parts 5510.0110 to 5510.2310.

Subp. 2. Certification election.

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

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

Subp. 3. Representation election.

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

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

Subp. 4. Decertification election.

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

B. If the petitioner withdraws but another employee organization that has petitioned or intervened does not withdraw, the matter must be processed as a representation petition.

5510.0710 CERTIFICATION, REPRESENTATION, AND DECERTIFICATION PETITIONS.

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

A. the name, address, e-mail address, and telephone 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 on whether there is an effective labor contract and the contract's expiration date;

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

39.2 **Subp. 2. Showing of interest.**

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

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

39.9 **Subp. 3. Employer-provided information.**

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

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

39.14 (2) the commissioner orders the employer to release the information.

39.15 B. A request or order under this subpart must be consistent with Minnesota Statutes,
39.16 section 13.43, subdivision 6.

39.17 **5510.0810 AUTHORIZATION SIGNATURES.**

39.18 Subpart 1. **Confidentiality.** Authorization signatures submitted in support of a petition
39.19 are privileged and confidential information and may only be withdrawn by the petitioner.

39.20 **Subp. 2. Valid authorization signatures.**

39.21 A. Authorization signatures must be in the form of individual authorization cards
39.22 and include:

39.23 (1) a statement reflecting the employee's support for the petition's purpose;

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

(3) the employee's signature; and

(4) the date the employee signed the card.

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

Subp. 3. **Invalid authorization card.** An authorization card is invalid if it:

A. does not include the information and statements required under subpart 2;

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

D. is dated more than six months before the commissioner receives the petition.

Subp. 4. **Effect of invalid authorization card.**

A. The commissioner may not include invalid authorization cards 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:

(1) the petition or intervention must be denied; and

(2) a one-year election bar for that unit must be applied to the party submitting fraudulent cards.

5510.0910 UNIT CLARIFICATION PETITION.

A petition for unit clarification must include:

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

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

41.1 **5510.1110 CHALLENGE TO AFFILIATION PETITION.**

41.2 *[For text of subpart 1, see Minnesota Rules]*

41.3 **Subp. 2. Status of certification.**

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

41.7 (1) withdraw the certification of the involved employee organization as the
41.8 exclusive representative for the unit for which the challenge was raised; and

41.9 (2) dismiss any matters pending before the commissioner involving questions
41.10 of representation or mediation.

41.11 B. If the commissioner determines that the affiliation of an employee organization
41.12 is proper according to Minnesota Statutes, section 179A.06, subdivision 2, the commissioner
41.13 must affirm its standing as a proper employee organization and dismiss the challenge petition.

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

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

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

41.20 C. the involved organization is a party to the contract.

41.21 **5510.1210 TRANSFERRING EXCLUSIVE REPRESENTATIVE STATUS.**

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

42.1 *[For text of item A, see Minnesota Rules]*

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

42.4 *[For text of item C, see Minnesota Rules]*

42.5 D. a copy of the effective constitution or bylaws of the employee organization
42.6 that has agreed to accept the transfer of the exclusive representative's rights and obligations,
42.7 unless on file with the commissioner; and

42.8 E. a copy of the effective labor contract and certification of the exclusive
42.9 representative.

42.10 Subp. 2. **Right to transfer.** An exclusive representative may transfer its rights and
42.11 obligations to another employee organization by complying with subparts 3 to 6.

42.12 Subp. 3. **Notice.**

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

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

42.17 Subp. 4. **Meeting.** The exclusive representative must hold a meeting to permit members
42.18 to discuss the proposed transfer at a time and location that is reasonably convenient for the
42.19 majority of the members of the exclusive representative in the appropriate unit.

42.20 Subp. 5. **Election.** The exclusive representative must conduct a secret-ballot election
42.21 among its members in the appropriate unit to approve or reject the proposed transfer
42.22 according to the exclusive representative's constitutional requirements or bylaws.

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

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

43.3 B. a majority of the exclusive representative's members voting in the election
43.4 under subpart 5 vote in favor of the transfer.

43.5 Subp. 7. **Order.** Based on the record of hearing or an investigation, the commissioner
43.6 must:

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

43.8 Subp. 8. **Rights.** The incoming exclusive representative has all rights and obligations
43.9 established by the effective labor contract and the act and must administer the labor contract
43.10 until it expires.

43.11 **5510.1310 ABANDONMENT OF EXCLUSIVE REPRESENTATIVE STATUS.**

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

43.13 Subp. 3. **Retaining rights and duties.** An exclusive representative abandoning its
43.14 status retains the rights and obligations under the act and under the labor contract until the
43.15 labor contract expires.

43.16 *[For text of subpart 4, see Minnesota Rules]*

43.17 Subp. 5. **Contract bar.** If abandonment occurs, there is no bar to conducting a
43.18 certification election.

43.19 **5510.1810 JOINT-PARTY PETITION.**

43.20 *[For text of subpart 1, see Minnesota Rules]*

43.21 Subp. 2. **Unit clarification.** A joint-party petition for unit clarification must include
43.22 the name, title, and signature of the representative of both the exclusive representative and
43.23 the employer.

44.1 **5510.1910 HEARINGS OR INVESTIGATIONS.**

44.2 Subpart 1. **Policy.** The commissioner must accept stipulations or agreements that are
44.3 consistent with bureau rules and the act.

44.4 Subp. 2. **Applicability and scope.**

44.5 A. This part applies to a hearing or investigation when provided under this chapter
44.6 or chapter 5530.

44.7 B. ~~Hearings or investigations~~ For a hearing or investigation on a petition under
44.8 this chapter, the hearing or investigation must address all issues raised by a valid petition
44.9 that are within the commissioner's jurisdiction.

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

44.12 Subp. 3. **Consolidating hearings.** The commissioner may consolidate one or more
44.13 hearings or petitions if the commissioner determines that consolidation will serve the act's
44.14 purposes.

44.15 Subp. 4. **Procedures.** Upon receiving a petition under parts 5510.0410 to 5510.1810,
44.16 the commissioner must:

44.17 A. hold a hearing or conduct an investigation as required under Minnesota Statutes,
44.18 section 179A.12, subdivision 5; and

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

44.21 Subp. 5. **Prehearing conference.**

44.22 A. The purpose of a prehearing conference is to:

44.23 (1) simplify the issues to be determined;

- 45.1 (2) obtain stipulations regarding foundation for testimony or exhibits;
45.2 (3) identify the proposed witnesses for each party;
45.3 (4) consider other matters that may be necessary or advisable; and
45.4 (5) if possible, reach a settlement, which if reached must be made a part of
45.5 the record.

45.6 B. Upon the request of a party or the commissioner's motion, the commissioner
45.7 may:

- 45.8 (1) hold a prehearing conference; and
45.9 (2) require the parties to file a prehearing statement containing items the
45.10 commissioner deems necessary to fulfill the purposes of the prehearing conference.

45.11 C. A prehearing conference is informal. Agreements simplifying issues,
45.12 amendments, stipulations, or other matters may be entered on the record or made the subject
45.13 of a commissioner order.

45.14 **Subp. 6. Subpoenas.**

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

- 45.17 (1) contain a brief statement demonstrating the relevance of the testimony or
45.18 evidence sought;
45.19 (2) identify all persons to be subpoenaed; and
45.20 (3) identify with specificity any documents sought.

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

46.1 C. When a subpoena is served, the cost of service, fees, and expenses of any
46.2 witness subpoenaed must be paid by the party at whose request the witness appears.

46.3 D. The individual serving a subpoena must make proof of service by filing the
46.4 subpoena and an affidavit of service with the commissioner.

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

46.8 **Subp. 7. Intervenor.**

46.9 A. The commissioner must permit an employee organization that submits a 30
46.10 percent showing of interest to intervene on a certification, representation, or decertification
46.11 petition.

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

46.15 **Subp. 8. Hearing.**

46.16 A. Parties may present evidence, rebuttal testimony, and argument on the issues
46.17 and may cross-examine witnesses. Individuals or organizations having an appearance status
46.18 may only review exhibits and make statements for the record.

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

47.1 **Subp. 9. Rules of evidence.**

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

47.7 B. All evidence to be considered in the case, including all records and documents
47.8 possessed by the commissioner or an accurate copy, must be made a part of the record.
47.9 Matters not part of the record must not be considered when determining the case.

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

47.13 D. The commissioner may take judicial notice of undisputed facts.

47.14 **Subp. 10. The record.**

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

47.17 (1) all pleadings, motions, and orders;

47.18 (2) evidence received;

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

47.20 (4) all memoranda or data submitted by a party on the case; and

47.21 (5) a hearing recording or transcript.

47.22 B. The commissioner must keep the hearing recording or transcript for not less
47.23 than 90 calendar days after issuing a determination under subpart 14.

Subp. 10a. **Requests for transcripts.** A hearing recording may be transcribed in whole or in part upon the written request of a party or person if the party or person requesting the transcript:

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

B. agrees to pay the full costs for preparing the transcript.

Subp. 10b. **Preparing case record on appeal.**

A. An individual or party appealing a determination 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; and

(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.

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.

D. A 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 a request under this item

must agree in writing to pay for the cost of preparing the additional record. Any partial transcript must include all testimony and evidence relevant to the issues under appeal.

Subp. 11. Continuances.

A. The commissioner must grant a hearing continuance or postponement request only upon a showing of substantial cause.

B. All requests under item A must be served according to parts 5510.0110 to 5510.2310. Requests served less than six calendar days before a hearing must 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 must continue a hearing that has already started whenever the commissioner determines a continuance is needed to determine the issues. For a continuance under this item, the commissioner must give oral notice on the record.

Subp. 12. Conducting hearing. Unless the commissioner determines that the public interest will be otherwise served, a hearing under this part must be conducted according to this subpart.

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

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

(3) an 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, is waived 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 before the hearing must 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 presents its evidence. The other parties 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 be permitted. The commissioner must 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 must:

(1) close or continue the hearing; and

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

Subp. 13. Disrupting hearing.

A. Recording devices, other than those provided by the commissioner or authorized by the commissioner with the consent of all parties, ~~may~~ must not be operated in the hearing room during the hearing.

B. An individual may not:

(1) interfere with the free, proper, and lawful access to or egress from the hearing room; or

(2) interfere or threaten to interfere with the hearing.

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

51.1 Subp. 15. **Order pending appeal.** A unit determination or unit clarification that is
51.2 appealed continues in effect unless stayed by the commissioner upon request of one or more
51.3 parties or as directed by an appellate court.

51.4 **5510.2010 ELECTIONS.**

51.5 Subpart 1. **Showing of interest.** The commissioner may not order an election unless
51.6 there is at least a 30 percent showing of interest for the unit determined appropriate.

51.7 Subp. 2. **Location.** If the commissioner orders an election, it must be conducted by
51.8 secret ballot either at a site of employment or by mail, as determined under Minnesota
51.9 Statutes, section 179A.12, subdivision 7.

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

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

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

51.15 I. include any other conditions that are necessary for a fair election; and

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

51.17 Subp. 4. **Voter eligibility.** All employees in the appropriate unit who are employed
51.18 on the cutoff date and are identified on a list established by the commissioner are eligible
51.19 to vote in an election under parts 5510.0110 to 5510.2310.

51.20 Subp. 5. **Correcting voter-eligibility list.**

51.21 A. The commissioner must determine questions on adding or deleting names on
51.22 the voter-eligibility list.

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

52.3 (1) names were inadvertently omitted; or

52.4 (2) the cutoff date for voter eligibility is changed because of an appeal or a
52.5 court order.

52.6 C. Names must be deleted from the voter-eligibility list if an:

52.7 (1) employee transfers, is promoted, or is demoted out of the unit and the
52.8 action is not prohibited by the status quo order under part 5510.1910, subpart 4, item B;

52.9 (2) appeal or a court action delays the election or changes the cutoff date for
52.10 voter eligibility; or

52.11 (3) eligible voter is voluntarily or involuntarily terminated and has not
52.12 appealed the termination.

52.13 D. A deletion under item C must be made immediately before the polls open or
52.14 ballots are tabulated.

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

52.17 Subp. 6. **Right to vote.** Eligible voters are permitted to vote during their work hours
52.18 without loss of pay.

52.19 Subp. 7. **Election ballot.**

52.20 A. A certification election ballot must contain the following choices:

52.21 (1) the name of the employee organization that has submitted the required
52.22 showing of interest; and

52.23 (2) no representation.

53.1 B. A representation election ballot must contain the following choices:

53.2 (1) the exclusive representative's name;

53.3 (2) the name of the employee organization that has submitted the required
53.4 showing of interest; and

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

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

53.8 (1) the exclusive representative's name;

53.9 (2) the name of the employee organization that has submitted the required
53.10 showing of interest; and

53.11 (3) no representation.

53.12 Subp. 8. **Absentee ballot.**

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

53.15 (1) received by the commissioner no later than specified in the election order
53.16 under subpart 3; and

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

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

53.21 C. Absentee ballots must be received by the commissioner in the return envelope
53.22 no later than specified in the election order.

54.1 **Subp. 9. Election procedures.**

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

54.6 B. The parties to an on-site election may designate one observer to be present at
54.7 each polling location while ballots are cast and tabulated. The commissioner may allow
54.8 each party to have more than one observer.

54.9 C. The parties to a mail-ballot election may each designate one observer to be
54.10 present while ballots are tabulated. The commissioner may allow each party to have more
54.11 than one observer.

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

54.14 **Subp. 10. Marking ballot.**

54.15 A. A ballot must be marked according to the ballot instructions. A ballot that is
54.16 defaced or identifies the voter is void. When a voter inadvertently spoils a ballot, the voter
54.17 must immediately return the ballot to the commissioner, who then must destroy the spoiled
54.18 ballot and provide another ballot to the voter.

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

54.22 C. A voter who has been mailed an absentee ballot by the commissioner may not
54.23 vote at the on-site election.

55.1 **Subp. 11. Status of scheduled election during appeal.**

55.2 A. If there is an appeal, the commissioner must proceed with any pending election
55.3 unless the commissioner determines that the nature of the appeal precludes a reasonable
55.4 determination of the question of representation to be decided by the election.

55.5 B. A party wishing to stay an election pending resolution of an appeal must notify
55.6 the commissioner in writing within five calendar days of the appeal setting forth why the
55.7 question of representation cannot be resolved while the appeal is pending.

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

55.10 **Subp. 12. Tabulating ballots.**

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

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

55.17 C. The commissioner must immediately rule on each ballot as to whether it is
55.18 valid, void, or blank, and the ballots must be separated accordingly.

55.19 D. Blank or void ballots must not be counted.

55.20 E. Mail ballots returned by employees whose names have been deleted from the
55.21 eligibility list must not be counted.

56.1 **Subp. 13. Tabulating election results.**

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

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

56.7 **Subp. 14. Runoff election.**

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

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

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

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

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

56.20 C. for a decertification election: certification that the exclusive representative
56.21 remains certified.

56.22 **Subp. 16. Certifying exclusive representative.** After an election, runoff election, or
56.23 tie vote, the commissioner must certify the exclusive representative according to Minnesota
56.24 Statutes, section 179A.12, subdivision 10.

57.1 **5510.2110 UNFAIR ELECTION PRACTICES.**

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

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

57.6 B. congregating in or near a polling place while the polls are open;

57.7 C. coercing or intimidating or otherwise unlawfully attempting to influence an
57.8 eligible voter; or

57.9 D. violating an election order.

57.10 Subp. 2. **Filing charges.**

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

57.14 (1) be filed within ten calendar days from the date the election results are
57.15 certified;

57.16 (2) be in writing, be signed by the charging party, and state the name and
57.17 address of the party against whom the charge is made; and

57.18 (3) specify the alleged unfair election practice and the facts supporting the
57.19 charge.

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

57.21 (1) stay the election results pending a hearing or investigation according to
57.22 part 5510.1910 if the commissioner finds that the alleged unfair election practice may have
57.23 materially affected the election results;

58.1 (2) conduct a hearing or investigation on the charge according to part
58.2 5510.1910; and

58.3 (3) rescind:

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

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

58.7 Subp. 3. **Determination.** Based on a hearing or investigation under subpart 2, item
58.8 B, the commissioner must issue an order on the charge. If the commissioner determines an
58.9 unfair election practice occurred, the commissioner must void the election and order a new
58.10 election according to Minnesota Statutes, section 179A.12, subdivision 11.

58.11 **5510.2210 REQUEST FOR RECONSIDERATION.**

58.12 Subpart 1. **General.** Unless otherwise provided, a party may file a request for
58.13 reconsideration of a commissioner order under parts 5510.0110 to 5510.2310.

58.14 Subp. 2. **Filing deadline.** A request must be filed within ten calendar days after the
58.15 order date.

58.16 Subp. 3. **Required form.**

58.17 A. The request must:

58.18 (1) be filed in writing with the commissioner;

58.19 (2) be served on all other parties; and

58.20 (3) contain a statement of the request and the grounds supporting the request
58.21 required under part 5500.2800, subpart 1, item A.

58.22 B. A charge of an unfair election practice is not grounds for reconsideration.

Subp. 4. **Staying order.** If the commissioner determines that the grounds supporting the request are raised under part 5500.2800, subpart 1, item A, the challenged order 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 the new exclusive representative as a result of:

(1) a representation election; or

(2) the transfer of status from one organization to another.

B. All rights and obligations of the collective bargaining agreement transfer to and are assumed by the new exclusive representative, including processing pending grievances made known to the new exclusive representative.

C. Except for a transfer, the employer must terminate all payroll deduction of dues for the prior exclusive representative effective with the first payroll period after the certification of the new exclusive representative. 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 after certification.

D. When a new exclusive representative has been certified as the result of a transfer, the employer must continue previous payroll deductions of dues and send the deductions to the person or place designated by the new exclusive representative.

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

60.1 **5510.2410 APPLICATION.**

60.2 Parts 5510.2410 to 5510.3005 govern:

60.3 A. negotiations between an exclusive representative and an employer;

60.4 B. mediation;

60.5 C. certifying unresolved items to arbitration;

60.6 D. arbitrating unresolved items; and

60.7 E. notifying an intent to strike.

60.8 **5510.2510 POLICY.**

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

60.12 B. The commissioner must approve a waiver under item A unless the commissioner
60.13 determines that waiving the requirement would likely result in significant harm to the general
60.14 public or to specific nonparties or would likely substantially impair or frustrate the act's
60.15 intent or purposes.

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

60.19 **5510.2520 FILING AND SERVICE.**

60.20 Part 5510.0320, ~~subparts 2 to 4~~, applies to a document filed or served under parts
60.21 5510.2410 to 5510.3005.

61.1 **5510.2610 DEFINITIONS.**

61.2 The terms in parts 5510.2410 to 5510.3005 have the meanings given them in part
61.3 5510.0310.

61.4 **5510.2710 NEGOTIATION NOTICE.**

61.5 Subpart 1. **Content of notice.** A written notification of the desire to meet and negotiate
61.6 an original contract, renewal of a contract, or a reopener of a contract must be served on
61.7 the other party and the commissioner. The notice must be served on forms available from
61.8 the bureau and must include:

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

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

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

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

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

61.17 F. the date that the effective labor contract expires, if a contract exists;

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

61.19 Subp. 2. [See repealer.]

61.20 Subp. 3. [See repealer.]

61.21 Subp. 4. **Late notice; fine.**

61.22 A. Upon request by a party adversely affected by another party's failure to provide
61.23 timely notice according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph

(b), or by the commissioner's 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 fine must be made in writing and served on 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 motion, within 15 calendar days of receiving a request for mediation assistance involving the parties and their contract.

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

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

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

D. Upon receiving a written request or after the commissioner's motion to assess a fine for late notice, the commissioner must investigate the request or motion according to part 5510.1910. The commissioner may waive the fine according to Minnesota Statutes, section 179A.14, subdivision 1, paragraph (b).

E. The fine must be credited to the state's general fund. The fine amount or its waiver is not subject to appeal.

5510.2810 PETITION FOR MEDIATION.

Subpart 1. **Petition.** A petition for mediation must be served in accordance with Minnesota Statutes, section 179A.15.

Subp. 2. **Commissioner-initiated mediation.** According to Minnesota Statutes, section 179A.15, the commissioner may initiate mediation without receiving a petition.

63.1 Upon notice to the parties, mediation must proceed according to parts 5510.2410 to
63.2 5510.3005.

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

63.6 Subp. 4. **Obligation.**

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

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

63.12 Subp. 5. **Mediation meetings.**

63.13 A. The commissioner must schedule joint or separate mediation meetings of the
63.14 parties according to Minnesota Statutes, section 179A.15. Mediation meetings are informal
63.15 and must be limited by the commissioner to matters relevant to settling the dispute. The
63.16 parties must continue to participate in a mediation meeting until excused by the
63.17 commissioner. Recording devices or methods are prohibited in mediation meetings.

63.18 B. In accordance with Minnesota Statutes, section 179A.14, subdivision 3, a
63.19 mediation meeting is closed to the public unless the commissioner determines that closing
63.20 the meeting will not facilitate a resolution. In all cases, a meeting is closed only after the
63.21 commissioner receives a valid and timely petition for mediation or after the commissioner
63.22 initiates mediation.

64.1 Subp. 5a. **Meetings of governing bodies.**

64.2 A. When the commissioner determines that it is in the interest of resolving a
64.3 dispute, the commissioner must authorize a closed meeting of the public employer's governing
64.4 body to review and discuss the status of negotiations and the employer's positions.

64.5 B. A closed meeting must not be authorized unless the commissioner has received
64.6 a valid and timely petition for mediation or unless mediation has been initiated by the
64.7 commissioner.

64.8 C. A closed meeting must not be authorized when the commissioner is not
64.9 physically present at the meeting unless the commissioner has received a timely and valid
64.10 notice of intent to strike.

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

64.14 (1) determines that a closed meeting is necessary according to item A; and

64.15 (2) cannot be physically present at the meeting and the commissioner has
64.16 received a timely and valid notice of intent to strike.

64.17 E. The notice under item D must:

64.18 (1) include the date, time, and place of the closed meeting of the governing
64.19 body; and

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

64.21 Subp. 6. [Repealed, 13 SR 1275]

65.1 **5510.2905 CONFIDENTIAL INFORMATION.**

65.2 **Subpart 1. Mediation information; data classification.**

65.3 A. The following data are classified according to Minnesota Statutes, section
65.4 13.7908, subdivision 2:

65.5 (1) information disclosed to the commissioner by a party during mediation;
65.6 and

65.7 (2) all files, records, reports, documents, or other papers received or prepared
65.8 by the commissioner while performing duties and responsibilities related to mediating a
65.9 dispute.

65.10 B. The commissioner may unclassify data under item A according to Minnesota
65.11 Statutes, section 13.7908, subdivision 2.

65.12 **Subp. 2. Final positions.**

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

65.16 (1) protected nonpublic data regarding data not on individuals; and

65.17 (2) confidential data on individuals.

65.18 B. The commissioner may release the information under item A to the arbitration
65.19 panel or arbitrator to fulfill procedural requirements of the act and parts 5510.2410 to
65.20 5510.3005, but the information remains nonpublic and confidential until:

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

65.23 (2) an interest arbitration hearing is started by the arbitration panel or
65.24 arbitrator.

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

66.3 **5510.2915 MEDIATION PERIOD.**

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

66.6 B. For teachers, mediation periods begin on the day that the first mediation meeting
66.7 is convened.

66.8 **5510.2930 CERTIFICATION TO INTEREST ARBITRATION.**

66.9 Subpart 1. **Certification.**

66.10 A. The commissioner must certify a matter to arbitration:

66.11 (1) in the case of essential employees, according to Minnesota Statutes, section
66.12 179A.16, subdivision 2; or

66.13 (2) in the case of nonessential employees, according to Minnesota Statutes,
66.14 section 179A.16, subdivision 1.

66.15 B. Requests for arbitration and agreements to arbitrate:

66.16 (1) must be in writing and served on the other party and filed with the
66.17 commissioner according to part 5510.0320; and

66.18 (2) are binding on the parties except to the extent they otherwise agree in
66.19 writing.

66.20 Subp. 2. **Form of arbitration.** All interest arbitration must be conventional arbitration
66.21 except:

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

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

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

67.8 Subp. 4. **Final positions.**

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

67.13 (1) presented in the form of the contract language desired by each party to
67.14 resolve the matter in dispute; and

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

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

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

67.25 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:

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

B. results in a default award unless the delinquent party demonstrates 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.

Subp. 6a. **Effect of untimely final positions; conventional.** The failure of a party to submit timely final positions in conventional arbitration:

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

B. may be considered by the panel or arbitrator in weighing the testimony, evidence, and party's overall good-faith behavior regarding the items before the panel or arbitrator.

Subp. 7. **Continued mediation.** The commissioner may continue to aid the parties in resolving issues after a matter has been certified to arbitration under this part.

5510.3005 STRIKES.

Subpart 1. **Notice.** A notice of an intent to strike must be in writing and served on the employer and the commissioner under parts 5510.2410 to 5510.3005. The notice is timely when the requirements of Minnesota Statutes, section 179A.18, have been fulfilled.

Subp. 2. **Dates that right to strike matures and terminates.**

A. The dates that the right to strike matures and terminates must be determined by the commissioner according to Minnesota Statutes, section 179A.18, and the commissioner must provide written notice of the dates to the parties.

B. A strike must not begin during the first ten calendar days after the commissioner receives a notice of intent to strike.

69.1 Subp. 3. **Renewing intent-to-strike notice.**

69.2 A. Except for teachers, a notice of intent to strike may be renewed by serving a
69.3 written notice on the employer and the commissioner not sooner than five calendar days
69.4 before a right to strike terminates. If the renewal is served, a new ten-calendar-day waiting
69.5 period applies and the commissioner must reestablish the dates when the right to strike
69.6 matures and terminates.

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

69.9 **5510.5110 POLICY.**

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

69.12 **5510.5120 APPLICATION.**

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

69.17 **5510.5130 DEFINITIONS.**

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

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

69.22 Subp. 2. **Bureau.** "Bureau" means the Bureau of Mediation Services.

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

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

70.1 Subp. 3a. **Exclusive representative.** "Exclusive representative" has the meaning given
70.2 in Minnesota Statutes, section 179A.03, subdivision 8.

70.3 Subp. 4. **Employee.** "Employee" means a public employee who is employed in a
70.4 position that is part of an appropriate unit for which an exclusive representative has been
70.5 certified under Minnesota Statutes, section 179A.12.

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

70.7 A. a dispute or disagreement on applying or interpreting a contract term required
70.8 under Minnesota Statutes, section 179A.20, subdivision 1; or

70.9 B. if no contract exists between the exclusive representative and the employer, a
70.10 dispute or disagreement on the existence of just cause in the discipline of an employee or
70.11 the termination of nonprobationary employees.

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

70.13 Subp. 8. **Service.** "Service" has the meaning given in part 5510.0310, subpart 19, and
70.14 part 5510.0320 applies.

70.15 **5510.5131 COMPUTING TIME.**

70.16 When computing time prescribed or allowed under parts 5510.5110 to 5510.5180, the
70.17 day or act or event upon which a period begins to run is not included. The last day of the
70.18 period is included unless it is a Saturday, Sunday, or holiday.

70.19 **5510.5140 STEP ONE.**

70.20 When an employee or group of employees represented by an exclusive representative
70.21 has a grievance, the employee or exclusive representative's agent must attempt to resolve
70.22 the grievance with the employee's immediate supervisor within 21 days after the employee,
70.23 through the use of reasonable diligence, should have had knowledge of the event or act
70.24 giving rise to the grievance. The supervisor must then attempt to resolve the grievance and

71.1 must respond in writing to the grievant and the exclusive representative's agent within five
71.2 days after the grievance is presented to the supervisor.

71.3 **5510.5150 STEP TWO.**

71.4 Subpart 1. **Grievance not resolved.** If the immediate supervisor is unable to resolve
71.5 the grievance or has not responded in writing within the period under part 5510.5140 (step
71.6 one), the exclusive representative may serve a written grievance on the next appropriate
71.7 level of supervision.

71.8 Subp. 2. **Serving grievance.** The written grievance must:

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

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

71.13 Subp. 3. **Attempt to resolve grievance.**

71.14 A. The employer's representative must meet with the exclusive representative's
71.15 agent within five days after the written grievance is served, and both parties must attempt
71.16 to resolve the grievance.

71.17 B. The employer's representative must serve a written response to the grievance
71.18 on the exclusive representative's agent within five days of the meeting.

71.19 C. The response must concisely state:

71.20 (1) the employer's position on the grievance; and

71.21 (2) the remedy or relief the employer is willing to provide, if any.

72.1 **5510.5160 STEP THREE.**

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

72.7 Subp. 2. **Meeting.**

72.8 A. An exclusive representative's agent must meet with the chief administrative
72.9 officer or designee within five days of the written grievance's service, and the agent and the
72.10 chief administrative officer or designee must attempt to resolve the grievance.

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

72.13 **5510.5170 ARBITRATION.**

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

72.19 Subp. 2. **Selecting arbitrator.**

72.20 A. Within ten days of the service of written notice of intent to arbitrate, the
72.21 employer's chief administrative officer or designee must consult with the exclusive
72.22 representative's agent and attempt to mutually agree on an arbitrator to hear and decide the
72.23 grievance.

72.24 B. If the parties do not agree on an arbitrator, either party may request a list of
72.25 impartial arbitrators from the commissioner under chapter 5530. The parties must alternately

73.1 strike names from a list of seven names to be provided by the commissioner until only one
73.2 name remains, and the remaining name is the ~~designated~~ selected arbitrator. Which party
73.3 begins the striking process must be made by mutual agreement or a coin flip. If one party
73.4 refuses to strike names from the arbitration list, the other party may serve written notice of
73.5 this refusal on the commissioner, with a copy to the offending party.

73.6 C. Unless it is confirmed that the parties have otherwise selected or agreed on an
73.7 arbitrator within three days of the notice's service under item B, the commissioner must
73.8 ~~designate~~ assign one name from the list previously provided to the parties, and the arbitrator
73.9 ~~designated~~ assigned by the commissioner has full power to act as the arbitrator.

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

73.11 A. An arbitrator has no authority to amend, modify, add to, or subtract from the
73.12 terms of an existing contract.

73.13 B. The arbitrator's decision and award is final and binding on both parties.

73.14 Subp. 4. **Arbitration expenses.**

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

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

73.22 Subp. 5. **Briefs and transcripts.**

73.23 A. 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.** An arbitrator may maintain written notes of the hearing and may use an electronic recording device. The arbitrator's notes are the arbitrator's private and personal property and must not be made available to the parties or another party.

5510.5180 PROCESSING GRIEVANCES.

Subpart 1. Release time.

A. To the fullest extent feasible, grievances processed under parts 5510.5110 to 5510.5180 must be conducted during the employer's normal business hours. Employees designated by the exclusive representative must be released from work without loss of regular nonovertime earnings as a result of their necessary participation in meetings or hearings held according to parts 5510.5110 to 5510.5180, whenever such release is consistent with the ability of the employer to conduct safe and reasonable operations.

B. No more than three employees are entitled to compensation for participating in a single meeting or hearing on a grievance.

[For text of subpart 2, see Minnesota Rules]

75.1 Subp. 3. **Time limits.**

75.2 A. An exclusive representative forfeits its right to pursue the grievance if it fails
75.3 to:

75.4 (1) raise a grievance within the time limits specified in part 5510.5140 (step
75.5 one); or

75.6 (2) initiate action at the next step of the procedure in parts 5510.5140 to
75.7 5510.5170 within the time limits.

75.8 B. If an employer fails to comply with the time limits and procedures in parts
75.9 5510.5140 to 5510.5170, the employer must resolve the grievance as requested in the
75.10 exclusive representative's last filing under part 5510.5160 (step three).

75.11 **5530.0100 APPLICATION.**

75.12 A. This chapter applies to:

75.13 (1) the empanelment, referral, conduct, and removal of arbitrators on the
75.14 commissioner-maintained roster under Minnesota Statutes, sections 179.02, subdivision 4;
75.15 and 179A.04, subdivision 3, paragraph (a), clause (13), ~~but~~; and

75.16 (2) the roster of arbitrators under Minnesota Statutes, section 626.892, except
75.17 as provided under Minnesota Statutes, section 626.892, subdivisions 3 to 6 and 11.

75.18 B. This chapter does not apply to:

75.19 (1) the list of arbitrators maintained under Minnesota Statutes, section
75.20 179A.04, subdivision 3, paragraph (b), for teacher discharge or termination hearings; ~~or~~.

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

~~B.~~ C. This chapter applies to all:

(1) roster members;

(2) applicants for placement on the roster;

(3) parties and users of the roster; and

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

~~C.~~ D. Nothing in this chapter limits the right of parties to jointly select an arbitrator or arbitration procedure 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 is to be liberally construed to effectuate collective bargaining procedures and binding arbitration and the provisions of Minnesota Statutes, chapters 179 and 179A.

5530.0300 DEFINITIONS.

[For text of subpart 1, see Minnesota Rules]

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 on appointing arbitrators to and removing arbitrators from the roster.

[For text of subpart 2, see Minnesota Rules]

77.1 Subp. 2a. **Arbitrator.** "Arbitrator" means an individual who is ~~either~~ selected, assigned,
77.2 or appointed to arbitrate a dispute.

77.3 Subp. 3. **Arbitrator roster or roster.** "Arbitrator roster" or "roster" means a list of
77.4 arbitrators the commissioner determines qualified and available for referral as an arbitrator
77.5 under this chapter.

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

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

77.10 Subp. 5. [See repealer.]

77.11 Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the bureau.

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

77.14 Subp. 7. [Repealed, 21 SR 583]

77.15 Subp. 8. [See repealer.]

77.16 Subp. 9. [See repealer.]

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

77.19 Subp. 10. **Panel.** "Panel" means a list of roster members compiled by the commissioner
77.20 for referral to the parties, from which they may subsequently select a roster member.

77.21 Subp. 11. **Party.** "Party" means:

77.22 A. an employer or exclusive representative directly involved and affected by a
77.23 dispute for which a roster member has been requested or referred; or

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

Subp. 12. [See repealer.]

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

Subp. 14. **Roster member.** "Roster member" means an arbitrator who is on the roster.

5530.0400 ROLE OF BUREAU.

A. The bureau's role under this chapter is limited to 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:

(1) compel parties to agree to arbitrate;

(2) enforce an agreement to arbitrate;

(3) compel parties to appear before an arbitrator;

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

or

(5) except as provided under part 5500.2850, compel, deny, or modify the payment of fees and expenses to an arbitrator.

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.

Roster members, whether or not selected or appointed, or assigned to hear matters under this chapter, do not become employees or agents of the state of Minnesota or the bureau by virtue of being placed on the roster or selected or appointed, or assigned as an

79.1 arbitrator. Except for the reporting and performance requirements under parts 5530.0800,
79.2 subpart 10, and 5530.1200, the ~~arbitrator's~~ roster member's relationship is solely with the
79.3 parties to a dispute.

79.4 **5530.0600 APPLICANT QUALIFICATIONS.**

79.5 Subpart 1. **Labor relations background.** An applicant must have a labor relations
79.6 background in the public sector and be qualified according to Minnesota Statutes, section
79.7 179A.04, subdivision 3, paragraph (a), clause (13).

79.8 Subp. 2. **General abilities.** An applicant must be willing and able to:

- 79.9 A. travel throughout Minnesota;
- 79.10 B. fairly and impartially conduct hearings;
- 79.11 C. analyze and evaluate testimony and exhibits;
- 79.12 D. write clear and concise awards in a timely manner; and
- 79.13 E. be available for hearings within a reasonable time after the request of the parties.

79.14 Subp. 3. [See repealer.]

79.15 Subp. 4. **Demonstrating qualifications.**

79.16 A. An applicant has the burden to demonstrate qualifications for appointment to
79.17 the roster. The commissioner must make appointments to the roster according to part
79.18 5530.0700, subpart 6.

79.19 B. An applicant must demonstrate the applicant's qualifications for appointment
79.20 to the roster in one or a combination of the following ways:

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

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

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

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

(5) by being a member of the National Academy of Arbitrators; or

(6) by completing a mentorship with a roster member.

C. The mentorship under item B, subitem (6), must include writing ~~not~~ no less than two mock arbitration awards under the supervision and guidance of a roster member and must be approved in advance by the commissioner.

Subp. 5. Domicile.

A. To be eligible for appointment to the roster, an applicant must maintain a principal place of residence in Minnesota or one of its contiguous states. Maintaining a mailbox or mail delivery point does not satisfy this subpart.

B. The residency requirement under item A may be waived on an appointment-by-appointment basis by the commissioner.

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.

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

81.3 **5530.0700 APPOINTMENT TO ROSTER.**

81.4 Subpart 1. **Roster size.** The roster is not fewer than 25 nor more than 60 arbitrators.

81.5 Subp. 2. **Procedure; initial appointments.**

81.6 A. If the commissioner must increase the size of the roster, the commissioner
81.7 must:

81.8 (1) publish notice on the bureau's website for at least 30 calendar days,
81.9 indicating that applications for appointment are being accepted and establishing a deadline
81.10 for the applications;

81.11 (2) together with the advisory committee, assess an applicant's qualifications
81.12 and suitability for appointment to the roster according to subpart 6;

81.13 (3) advise each applicant in writing on the commissioner's final determination
81.14 on the applicant's application;

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

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

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

81.20 (b) arbitrator qualification requirements under part 5530.0600.

81.21 B. If the commissioner determines that additional information is needed after
81.22 reviewing the information under item A, subitems (2) and (5), the applicant must provide
81.23 additional information on the applicant's:

82.1 (1) qualifications according to subpart 6; and

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

82.4 **Subp. 3. Procedure; renewal appointments.**

82.5 A. The commissioner must notify all roster members at least 120 calendar days
82.6 before their appointment expires of the procedures necessary for a renewal appointment.

82.7 B. A roster member seeking a renewal appointment must submit a written
82.8 application and a fee to the commissioner at least 60 calendar days before the ~~the~~ roster
82.9 member's appointment expires.

82.10 C. After receiving a renewal application under item B, the commissioner must
82.11 review the roster member's performance measures under part 5530.1200 and evaluate the
82.12 roster member according to subpart 6.

82.13 **Subp. 4. Application forms.**

82.14 A. An applicant or a roster member seeking a renewal appointment must complete
82.15 an application on forms available from the bureau.

82.16 B. Writing samples must accompany the application.

82.17 **Subp. 5. Application and renewal fees.**

82.18 A. Application and renewal fees are as provided under Minnesota Statutes, section
82.19 179A.04, subdivision 3, paragraph (a), clause (10).

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

83.1 **Subp. 6. Standards for appointment.**

83.2 A. When determining whether to appoint or reappoint a member to the roster, the
83.3 commissioner must evaluate each application for evidence of the applicant's competence,
83.4 proficiency, and qualifications in the following areas:

83.5 (1) knowledge and understanding of labor relations systems and collective
83.6 bargaining processes and dynamics;

83.7 (2) knowledge and understanding of applicable contract, employment, and
83.8 labor relations law;

83.9 (3) ability to hear and decide complex labor relations issues fairly and
83.10 objectively;

83.11 (4) ability to communicate clearly and concisely in writing and orally;

83.12 (5) ability to conduct orderly and effective arbitration hearings in various
83.13 settings and locations throughout Minnesota; and

83.14 (6) reputation in the labor-management community for high professional
83.15 standards of competence, ethics, and integrity.

83.16 B. In addition to meeting the standards under item A, a roster member seeking a
83.17 renewal appointment must satisfy the requirements under part 5530.1200, subparts 2, 3,
83.18 and 7.

83.19 **Subp. 7. Appointing applicants.**

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

83.23 B. If the applicant or roster member fails to satisfy the requirements of subparts
83.24 3 to 6, the commissioner must reject the application in writing, including the reasons for

the rejection. If there are more qualified applicants than vacancies on the roster, the commissioner must appoint applicants in rank order of their qualifications or by lottery where qualifications are relatively equal.

Subp. 8. **Term of appointment.** An appointment to the roster is for a term of three years.

5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

Subpart 1. **Scope.** The criteria and standards under this part apply to all roster members, and failure to comply 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 or chapter 5510, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes published by the Federal Mediation and Conciliation Service, 2007 and as subsequently amended, is incorporated by reference and is applicable to and governs the professional behavior of roster members. The code is not subject to frequent change and is available from the bureau's website.

Subp. 3. **Conflicts of interest.** A roster member 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 that may give an appearance of partiality. The burden of disclosure is on the roster member.

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:

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

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

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

85.6 Subp. 4. **Communicating with parties.**

85.7 A. A roster member may not solicit parties for selection to cases. All matters
85.8 involving a case or contact with the parties must be handled in a manner that fosters the
85.9 roster member's impartiality.

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

85.14 C. When this chapter authorizes communications contrary to this subpart, the
85.15 communications are limited to only those matters permitted by this chapter. The roster
85.16 member may communicate regarding dates or procedures for the hearing without violating
85.17 this subpart.

85.18 *[For text of subpart 5, see Minnesota Rules]*

85.19 Subp. 6. **Timeliness.** A roster member must:

85.20 A. schedule time commitments in a manner consistent with the needs of the parties
85.21 and the expeditious handling of disputes; and

85.22 B. adhere to the time limits under Minnesota Statutes, section 179A.16, subdivision
85.23 7.

86.1 Subp. 7. **Administrative or cancellation fees.** If any administrative or cancellation
86.2 fees are noted on the biographic sketch under subpart 3a, the roster member may charge:

86.3 A. an administrative fee for establishing a case file; and

86.4 B. cancellation fees for hearings that are canceled or rescheduled by one or both
86.5 parties with less than 28 calendar days' notice.

86.6 Subp. 8. **Arbitration fees and expenses.**

86.7 A. Except as provided under subpart 7, all fees charged by a roster member must
86.8 be based on the per diem fee schedule in the biographic sketch under subpart 3a.

86.9 B. A roster member must maintain reasonable time and expense records related
86.10 to each case and, if there is a dispute over the reasonableness of fees and expenses in a case,
86.11 must make the records available to the parties or the commissioner, upon written demand.
86.12 A dispute over the reasonableness of fees may be resolved according to part 5500.2850.

86.13 Subp. 9. **Filing copies of awards.**

86.14 A. Unless one or both private-sector parties have requested that an award not be
86.15 provided to the commissioner, a roster member must electronically submit to the
86.16 commissioner an award involving a Minnesota work site or location, regardless of the source
86.17 of appointment ~~or~~ selection, or assignment.

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

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

86.22 D. An award submitted electronically is subject to part 5510.0320.

87.1 Subp. 10. **Arbitrator fee and summary report.** For each award filed with the
87.2 commissioner, a roster member must provide a fee and summary report in a form prescribed
87.3 by the commissioner that discloses:

87.4 A. case identification information, including the:

87.5 (1) roster member's name;

87.6 (2) case file number or, if any, bureau case number;

87.7 (3) name and location of the employer and employer's representative; and

87.8 (4) name and location of the exclusive representative and the exclusive
87.9 representative's agent;

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

87.11 (1) date that the roster member was notified of selection by parties;

87.12 (2) date of hearing;

87.13 (3) final date for submitting briefs or other written material, if any; and

87.14 (4) date that the award was issued; and

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

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

87.18 (8) amount of the total costs to be paid by each party.

87.19 **5530.0810 TRAINING FOR PEACE OFFICER ARBITRATORS; DISCIPLINE**
87.20 **GRIEVANCES.**

87.21 Subpart 1. **Applicability.** This part applies only to a roster member under Minnesota
87.22 Statutes, section 626.892.

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

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

88.5 B. "CE" means continuing education.

88.6 C. "CLE" means continuing legal education.

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

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

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

88.13 Subp. 4. **Training providers.**

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

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

88.17 (2) another state agency;

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

88.19 (4) one of the following:

88.20 (a) a school registered with the office under chapter 4840;

88.21 (b) a school licensed with the office under chapter 4880;

88.22 (c) the University of Minnesota under Minnesota Statutes, chapter 135A;

89.1 (d) an exempt school under Minnesota Statutes, sections 136A.653 to
89.2 136A.658; or

89.3 (e) a designated college or university under Minnesota Statutes, section
89.4 136F.10; or

89.5 (5) a nonprofit company or a training provider, either of which has a stated
89.6 mission of providing training on cultural competency, racism, implicit bias, community
89.7 diversity, or peace-officer-related training.

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

89.11 C. A roster member may receive training from one or more providers under item
89.12 A to achieve the number of required training hours under Minnesota Statutes, section
89.13 626.892, subdivision 10, paragraph (a), clauses (1) and (2).

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

89.19 **Subp. 5. Proof of training.**

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

89.23 (1) the training's title and description;

89.24 (2) the completed hours of training;

90.1 (3) information on whether the training was in person, online, hybrid in person
90.2 and online, or some other format;

90.3 (4) the training start and end dates; and

90.4 (5) the individual who provided the training, and, if available, the training
90.5 provider's name, address, e-mail address, and telephone number.

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

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

90.14 Subp. 6. **Record required.** A roster member must maintain proof of training for the
90.15 duration of the roster member's appointment.

90.16 **5530.0900 PANEL SELECTIONS AND REFERRALS.**

90.17 Subpart 1. **Request for panels.** A party or parties that request a panel must submit to
90.18 the commissioner individual or joint written requests that include:

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

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

90.23 C. a brief statement of the nature of the dispute being submitted to arbitration;

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

91.1 E. a description of the type of bargaining unit involved; and

91.2 F. the date the dispute was first made known to the employer.

91.3 **Subp. 2. Size and selection of panels.**

91.4 A. All panels submitted by the commissioner must contain seven roster members.

91.5 If the parties' arbitration agreement provides for panels of fewer than seven roster members,
91.6 the parties may use the striking procedures in subpart 5 to reduce the size of a seven-member
91.7 panel. This item does not apply if:

91.8 (1) a single roster member is appointed under subpart 3, item A;

91.9 (2) a single roster member is mutually agreed on according to Minnesota
91.10 Statutes, section 179A.16, subdivision 4;

91.11 (3) the arbitration proceeding is as provided under Minnesota Statutes, section
91.12 179.09 or 179.38; or

91.13 (4) as otherwise provided by law.

91.14 B. When assembling a panel, the commissioner must:

91.15 (1) use a random selection system that results in a reasonably equal number
91.16 of opportunities for referral among roster members; and

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

91.19 C. If requested by all parties to the dispute, the commissioner must consider
91.20 geographic location or unique and special circumstances and technical expertise.

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

91.22 **Subp. 3. Direct appointment by commissioner.** The commissioner must appoint

91.23 ~~one~~ or assign a roster member to serve as ~~the~~ an arbitrator when:

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

92.3 B. applicable under Minnesota Statutes, section 179.09; or

92.4 C. otherwise required by law.

92.5 Subp. 4. **Replacement names or panels.**

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

92.9 B. The commissioner may not honor single-party requests for replacement roster
92.10 members or panels unless the commissioner determines that a bona fide conflict of interest
92.11 exists regarding the matter in dispute between one or more parties and one or more members
92.12 of the panel. If the commissioner determines that a conflict exists, the commissioner must
92.13 issue a replacement roster member or panel.

92.14 Subp. 5. **Selecting from panels.** The parties must select a roster member or panel
92.15 according to Minnesota Statutes, section 179A.16, subdivision 4, or their grievance procedure.
92.16 If there is no grievance procedure for binding arbitration, the selection must be made
92.17 according to part 5510.5170, subpart 2.

92.18 Subp. 6. **Scheduling.**

92.19 A. When the parties select one or more roster members according to this part,
92.20 they must notify the roster members and work with the roster members to schedule the
92.21 hearing.

92.22 B. Once the hearing has been scheduled, the party that requested the panel must
92.23 notify the commissioner of the:

92.24 (1) roster members selected;

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

93.2 (3) date of the hearing.

93.3 C. After the commissioner assigns or appoints a roster member according to this
93.4 part or statute, the parties must work with the roster member to schedule a hearing and then
93.5 notify the commissioner of the hearing date.

93.6 D. When a roster member is selected, assigned, or appointed, the roster member
93.7 must offer the parties at least three dates on which the roster member is available to hear
93.8 the case. The three dates must be within 90 calendar days of the arbitrator's selection,
93.9 assignment, or appointment. Nothing in this item requires the parties to hold a hearing within
93.10 a period that is inconsistent with their needs.

93.11 Subp. 7. [See repealer.]

93.12 Subp. 8. **Jurisdiction of bureau.**

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

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

93.19 **5530.1000 ARBITRATION PROCEEDINGS.**

93.20 Subpart 1. **Responsibility of arbitrators.** ~~Arbitrators selected as a result of referral~~
93.21 ~~on a bureau panel must ensure that a fair, adequate, and timely hearing is conducted in a~~
93.22 ~~manner that reasonably minimizes cost and expense to the parties. For purposes of Minnesota~~
93.23 Statutes, section 626.892, subdivision 7, clause (3), this subpart is recodified at part
93.24 5500.2220, subpart 1.

94.1 Subp. 2. **Transcripts or recordings.** ~~Official verbatim recordings or transcripts of~~
94.2 ~~an arbitration proceeding shall not be encouraged by the arbitrator. If a single party requests~~
94.3 ~~a transcript be made, and the matter is not addressed in the contract or grievance procedure,~~
94.4 ~~the arbitrator shall permit the record to be made if the party requesting the transcript makes~~
94.5 ~~the necessary arrangements, pays for all costs associated with the transcript, and provides~~
94.6 ~~copies to the other party and the arbitrator.~~ For purposes of Minnesota Statutes, section
94.7 626.892, subdivision 7, clause (3), this subpart is recodified at part 5500.2300, subpart 4.

94.8 Subp. 3. **Tape recordings.** ~~An arbitrator may use a tape recording of a hearing as a~~
94.9 ~~supplement to his or her notes. The tape of the hearing shall be regarded as the personal~~
94.10 ~~property of the arbitrator, but must be maintained by the arbitrator for not less than 90 days~~
94.11 ~~following issuance of the award.~~ For purposes of Minnesota Statutes, section 626.892,
94.12 subdivision 7, clause (3), this subpart is recodified at part 5500.2220, subpart 2.

94.13 Subp. 4. **Briefs.** ~~Arbitrators should not encourage the submission of posthearing briefs~~
94.14 ~~unless the arbitrator determines that the case is of a sufficiently complex nature and warrants~~
94.15 ~~the need for a written summation of evidence and argument. If one or both parties desire to~~
94.16 ~~submit briefs, the arbitrator shall establish a prompt schedule.~~ For purposes of Minnesota
94.17 Statutes, section 626.892, subdivision 7, clause (3), this subpart is recodified at part
94.18 5500.2510.

94.19 Subp. 5. **Payment of fees and costs.** ~~Parties requesting panels under this chapter must~~
94.20 ~~pay the reasonable fees and costs of the arbitrator promptly. Each party to the dispute is~~
94.21 ~~responsible for their pro rata share of the arbitrator's fees and costs, except as otherwise~~
94.22 ~~provided by the express terms of the agreement to arbitrate. In the event of a dispute between~~
94.23 ~~one or both parties and the arbitrator over the arbitrator's fees or costs, the party contesting~~
94.24 ~~the fee may request arbitration of the fee dispute under subpart 6.~~ For purposes of Minnesota
94.25 Statutes, section 626.892, subdivision 7, clause (3), this subpart is recodified at part
94.26 5500.2850, subpart 1.

Subp. 6. **Dispute over fees.** ~~If a party believes that the fees or expenses charged by an arbitrator are inappropriate or incorrect and is unable to resolve the matter through discussion with the arbitrator, that party may submit a written statement of protest to the commissioner within 30 calendar days of receipt of the arbitrator's invoice. The protest shall provide the specific basis for the objection and a copy shall be provided to the arbitrator and the other party. The commissioner shall investigate and respond to the complaint promptly and if the commissioner believes further examination is necessary, the matter will be referred to a panel of the advisory committee consisting of one union representative, one employer representative, and one roster member, all of whom shall be selected by the commissioner. The panel shall investigate the matter, provide all parties at interest an opportunity to be fairly heard, and issue a written decision that is final and binding upon the parties and the arbitrator.~~ For purposes of Minnesota Statutes, section 626.892, subdivision 7, clause (3), this subpart is recodified at part 5500.2850, subpart 2.

5530.1200 PERFORMANCE MEASURES.

Subpart 1. **Renewal criteria.** When reviewing an application for a renewal appointment to the roster, the commissioner must use the criteria under this part when determining whether to reappoint.

Subp. 2. **Selection rate.**

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

- (1) selected by parties from panels referred by the ~~bureau~~ commissioner;
- (2) selected by parties' mutual agreement; and
- (3) appointed or assigned by 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 roster members is evidence that a roster member has established acceptability among the parties who use the roster, but a selection rate in the lowest quartile is not the sole basis for failure to reappoint unless the roster member has been in the lowest quartile for three consecutive years.

Subp. 3. **Scheduling.** A lack of substantiated written complaints from parties that a roster member has failed to ~~offer at least three dates on which the roster member is available to hear a case within 90 calendar days of the roster member's notification of selection~~ comply with part 5530.0900, subpart 6, item D, is evidence that the roster member is meeting the availability standards of this chapter.

Subp. 4. [See repealer.]

Subp. 5. **Evaluation by parties.** Parties may evaluate a roster member's performance. The commissioner must consider both individual and summary evaluation information.

Subp. 6. [See repealer.]

Subp. 7. **General professional criteria.** Each roster member must maintain proficiency and competency under the areas in part 5530.0700, subpart 6. Failure of a roster member to comply with this chapter, including failing to submit awards, fee and summary reports, or other information, is grounds for the commissioner to remove or to not reappoint a roster member.

5530.1300 DISCIPLINARY OR REMOVAL PROCEDURES.

Subpart 1. General.

A. The commissioner has authority to investigate all complaints and allegations against roster members regarding professional performance and compliance with this chapter.

97.1 B. The commissioner must advise, counsel, suspend, or remove a roster member
97.2 when the results of an investigation demonstrate that a roster member has violated the
97.3 performance, professional, or ethical standards under this chapter.

97.4 Subp. 2. **Preliminary investigation.**

97.5 A. When the commissioner receives a complaint of a roster member's violation
97.6 of this chapter, the commissioner must conduct an informal investigation to determine if
97.7 there is probable cause to believe that the roster member has violated a requirement of this
97.8 chapter.

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

97.11 C. If the commissioner determines that probable cause exists, the commissioner
97.12 must suspend the roster member from further referrals pending the conclusion of proceedings
97.13 under this part.

97.14 Subp. 3. **Notice.**

97.15 A. When the commissioner finds probable cause to believe that a violation of this
97.16 chapter has occurred that warrants the commissioner to remove or suspend the roster member,
97.17 the commissioner must provide written notice to the roster member and the advisory
97.18 committee.

97.19 B. The written notice must:

97.20 (1) state that the commissioner is determining whether to remove or suspend
97.21 the roster member and the commissioner's rationale for the action;

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

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

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

98.6 Subp. 5. **Determination.**

98.7 A. The commissioner must determine the action to be taken on the roster member's
98.8 status on the roster on the basis of:

- 98.9 (1) the hearing record if a hearing is conducted under subpart 4;
98.10 (2) recommendations from the advisory committee; and
98.11 (3) performance, professional, or ethical standards under this chapter.

98.12 B. The commissioner's determination is a final decision.

98.13 **7315.0210 SCOPE.**

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

98.16 **7315.0300 POLICY.**

98.17 This chapter is to be liberally construed to effectuate the purposes and provisions of
98.18 the Public Employment Labor Relations Act.

98.19 **7315.0400 DEFINITIONS.**

98.20 Subpart 1. **Other words, terms, and phrases.** Except as otherwise provided under
98.21 subpart 2, the terms in this chapter have the same meanings given in part 5510.0310.

98.22 Subp. 2. **Party.** "Party" means any public employee, public employer, exclusive
98.23 representative of public employees, public employee organization, or public employer

99.1 organization whose legal rights, duties, or privileges are directly determined in an independent
99.2 review.

99.3 **7315.0410 FILING AND SERVICE.**

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

99.6 **7315.0500 PETITION.**

99.7 Subpart 1. **Authority to petition.**

99.8 A. As provided under Minnesota Statutes, section 179A.25, an employee may
99.9 petition the commissioner in writing for independent review of a grievance when another
99.10 procedure does not exist to hear the grievance.

99.11 B. The petitioner must file the petition with the commissioner and serve on all
99.12 parties a copy of the petition when it is filed.

99.13 Subp. 2. **Petition contents.** The petition must:

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

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

99.17 C. state:

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

99.19 (2) how the terms and conditions of employment claimed to be violated are
99.20 established by law, contract, or policy;

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

99.22 (4) the conduct that is claimed to violate the law, contract, or policy;

99.23 (5) the relief requested; and

100.1 (6) why independent review of the grievance is unavailable under any other
100.2 procedure.

100.3 **7315.0650 ANSWER.**

100.4 Within 15 calendar days after receiving a petition, all other parties must serve on the
100.5 commissioner and the other parties an answer to the petition. The answer must state:

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

100.8 B. whether the law, contract provision, or policy has been violated by the
100.9 respondent;

100.10 C. if a violation is found, what relief is appropriate; and

100.11 D. whether independent review of the grievance is available under another
100.12 procedure.

100.13 **7315.0750 JURISDICTION.**

100.14 The commissioner, on the commissioner's motion or a party's motion, must dismiss a
100.15 petition if the commissioner lacks jurisdiction. The commissioner ~~may~~ must dismiss a
100.16 petition:

100.17 A. by granting summary judgment after reviewing the parties' written briefs
100.18 without a hearing; or

100.19 B. after conducting a hearing according to part 7315.2100.

100.20 **7315.0900 GRIEVANCE HEARING.**

100.21 Subpart 1. **Procedure to hear grievance.** The commissioner must either:

100.22 A. conduct a hearing on the grievance according to part 7315.2100; or

101.1 B. follow the requirements for selecting an arbitrator under Minnesota Statutes,
101.2 section 179A.16, subdivision 4.

101.3 Subp. 2. **Arbitrator duties.** An arbitrator selected under subpart 1, item B:

101.4 A. has the same authority and duties as the commissioner under parts 7315.1100
101.5 to 7315.2300; and

101.6 B. must have the arbitrator's fees and expenses paid equally by the parties.

101.7 **7315.1100 BRIEFS.**

101.8 A. The commissioner may request the parties to submit a written brief if the brief
101.9 will help the commissioner make the determination under part 7315.2200. If briefs are
101.10 requested, the commissioner must notify the parties of the dates for submitting the briefs.

101.11 B. All briefs must be served on the other parties, and proof of service must be
101.12 filed with the commissioner.

101.13 **7315.1200 HEARING; NOTICE AND FORMAT.**

101.14 Subpart 1. **Hearing notice.** At least 15 calendar days before the hearing date, the
101.15 commissioner must serve on all parties a notice of hearing providing:

101.16 A. the hearing's date, time, and place;

101.17 B. a statement of the grievance to be determined;

101.18 C. the rights of the parties to representation; and

101.19 D. that failing to appear may prejudice a party's rights.

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

102.1 **7315.1300 CONTINUING HEARING.**

102.2 A request to continue a hearing must be served on the commissioner and all parties at
102.3 least six calendar days before a hearing. The commissioner must grant or deny a request
102.4 according to part 5510.1910, subpart 11.

102.5 **7315.1400 RIGHT TO REPRESENTATION.**

102.6 Any party may be represented by a designated agent.

102.7 **7315.1500 INFORMAL DISPOSITION.**

102.8 A. At any time after a petition is filed and before the determination under part
102.9 7315.2200 is made, the parties may enter into a stipulation or settlement agreement.

102.10 B. A stipulation or settlement agreement made under this part must be entered
102.11 into the record.

102.12 **7315.1600 DEFAULT.**

102.13 The commissioner may decide a grievance adversely to a party who fails to appear
102.14 after receiving due notice and an opportunity for hearing.

102.15 **7315.1700 INTERVENTION.**

102.16 The commissioner must allow a person to intervene in an independent review proceeding
102.17 if:

102.18 A. the person files a request with the commissioner before a hearing under part
102.19 7315.2100 begins; and

102.20 B. the commissioner determines that the person's legal rights, duties, or privileges
102.21 will be directly determined in the proceeding.

103.1 **7315.1800 SUBSTITUTING PARTY'S REPRESENTATIVE.**

103.2 Until a hearing under part 7315.2100 begins, a party may substitute its representative
103.3 if the party serves notice of the substitution on all other parties and the commissioner.

103.4 **7315.1900 CONSOLIDATION.**

103.5 Subpart 1. **Basis.** The commissioner may consolidate cases if the commissioner
103.6 determines that:

103.7 A. separate grievances present the same issues;

103.8 B. a decision in one case would affect the rights of a party in another case; and

103.9 C. consolidation would not prejudice any party.

103.10 Subp. 2. **Stipulation.** Notwithstanding subpart 1, the parties may stipulate and agree
103.11 to consolidation. A stipulation under this subpart must be in writing and filed with the
103.12 commissioner and is subject to commissioner approval according to subpart 1.

103.13 Subp. 3. **Order.** The commissioner must serve on all parties any order of consolidation
103.14 under subpart 1 or 2.

103.15 Subp. 4. **Severance from consolidation.**

103.16 A. Within seven calendar days of receiving an order of consolidation, a party may
103.17 file with the commissioner a written petition for severance from consolidation. The petition
103.18 must explain why the requirements of subpart 1 were not met.

103.19 B. Upon receiving a petition under item A, the commissioner must approve or
103.20 disapprove the petition after determining whether the requirements of subpart 1 were met.

103.21 C. The commissioner must serve on all parties the commissioner's determination
103.22 under item B.

104.1 **7315.2100 HEARING.**

104.2 Subpart 1. **How conducted.** A hearing must be conducted according to part 5510.1910,
104.3 subparts 6, 8, 9, 12, and 13.

104.4 Subp. 2. **Hearing record.**

104.5 A. The hearing record must be maintained according to part 5510.1910, subpart
104.6 10, and it must be kept for 90 calendar days after the commissioner issues the determination
104.7 under part 7315.2200.

104.8 B. A party may request to have the hearing recording transcribed by submitting
104.9 a written request to the commissioner and by:

104.10 (1) making the request within 90 calendar days after the commissioner issues
104.11 the determination under part 7315.2200; and

104.12 (2) agreeing to pay the full costs for transcribing and preparing the transcript.

104.13 Subp. 3. [See repealer.]

104.14 **7315.2200 COMMISSIONER'S DETERMINATION AND OTHER ORDERS.**

104.15 A. After the hearing closes, the commissioner must issue a determination on the
104.16 petition under part 7315.0500 in writing. The determination must be based on the record
104.17 and served on all parties.

104.18 B. The commissioner's determination and other orders under this chapter are
104.19 binding on all parties.

105.1 **7315.2300 REQUESTING RECONSIDERATION.**

105.2 **Subpart 1. Requesting reconsideration.**

105.3 A. A party may request that the commissioner reconsider the determination under
105.4 part 7315.2200 by filing a request in writing that details the required grounds for
105.5 reconsideration and why the request should be reconsidered.

105.6 B. The party must serve a copy of the request on the commissioner and all other
105.7 parties. To be considered under subpart 2, a request must be served within ten calendar days
105.8 of the commissioner's determination.

105.9 C. The required grounds for requesting reconsideration are as provided under part
105.10 5500.2800, subpart 1, item A.

105.11 **Subp. 2. Considering, granting, and determining request.**

105.12 A. The commissioner must consider, grant, and make a determination on a request
105.13 according to part 5500.2800, subpart 2.

105.14 B. If the commissioner grants a request, the hearing and briefs are according to
105.15 this chapter.

105.16 **RENUMBERING INSTRUCTION.** Each part of Minnesota Rules listed in column A is
105.17 renumbered with the number listed in column B. Cross-reference changes consistent with
105.18 the renumbering are made.

105.19	Column A	Column B
105.20	5500.2200	5510.5200
105.21	5500.2210	5510.5210
105.22	5500.2220	5510.5220
105.23	5500.2300	5510.5230
105.24	5500.2400	5510.5240
105.25	5500.2500	5510.5250

106.1	5500.2510	5510.5260
106.2	5500.2600	5510.5270
106.3	5500.2700	5510.5280
106.4	5500.2800	5510.5290
106.5	5500.2850	5510.5295
106.6	7315.0210	5510.5300
106.7	7315.0300	5510.5310
106.8	7315.0400	5510.5320
106.9	7315.0410	5510.5330
106.10	7315.0500	5510.5340
106.11	7315.0650	5510.5350
106.12	7315.0750	5510.5360
106.13	7315.0900	5510.5370
106.14	7315.1100	5510.5380
106.15	7315.1200	5510.5390
106.16	7315.1300	5510.5400
106.17	7315.1400	5510.5410
106.18	7315.1500	5510.5420
106.19	7315.1600	5510.5430
106.20	7315.1700	5510.5440
106.21	7315.1800	5510.5450
106.22	7315.1900	5510.5460
106.23	7315.2100	5510.5470
106.24	7315.2200	5510.5480
106.25	7315.2300	5510.5490

106.26 **REPEALER.** Minnesota Rules, parts 5500.0400; 5500.0600; 5500.1100, subparts 2, 3, 4,
106.27 5, 6, 7, 8, and 9; 5500.1200; 5500.1500; 5510.0310, subparts 4 and 21; 5510.0510, subpart
106.28 5; 5510.1410; 5510.1510; 5510.1610; 5510.1710; 5510.2710, subparts 2 and 3; 5510.5190;

- 107.1 5530.0300, subparts 5, 8, 9, and 12; 5530.0600, subpart 3; 5530.0900, subpart 7; ~~5530.1000;~~
- 107.2 5530.1200, subparts 4 and 6; 7315.1000; 7315.2100, subpart 3; 7315.2400; 7315.2500;
- 107.3 7315.2600; 7315.2700; 7315.2800; and 7315.2900, are repealed.

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