

**CHAPTER 5510**  
**BUREAU OF MEDIATION SERVICES**  
**PUBLIC EMPLOYMENT LABOR RELATIONS**

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**5510.2710 NEGOTIATION NOTICE.**

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

*[For text of subpart 1, items A to J, see M.R. 1985]*

**Subp. 2. Initial agreement.** An employer shall have ten days following service of a negotiation notice by an employee organization to object to the employee organization's status as exclusive representative, or to contest the appropriateness of the unit. An objection must be made in writing to the employee organization and the director, and the director must investigate the matter pursuant to parts 5510.0110 to 5510.2310.

**Subp. 3. Subsequent agreement.** If a party to an existing labor contract desires to meet and negotiate a subsequent labor contract, the party shall serve written notice of that desire upon the other party to the labor contract and the director at least 60 calendar days prior to the expiration date in the existing labor contract. If a party desires to negotiate a subsequent labor contract, but has failed to provide the required 60-day notice, the party may be compelled to pay a penalty of \$10 per day for each day the notice of intent is late.

**Subp. 4. Late notice penalty.** A \$10-per-day penalty shall be the only penalty for late notice of a desire to negotiate a subsequent labor contract and may be imposed by the director upon request by a party adversely affected by the failure to provide timely notice or the director's own motion. A request or motion to assess a penalty shall be made in writing and served upon the director and the other party to the labor contract within ten days of the requesting party's first knowledge of the other party's desire to negotiate or, in the case of the director's own motion, within 15 days of the receipt of a request for mediation assistance involving the same parties and contract. A request from a party or motion by the director shall specify the date of first knowledge of the desire to negotiate, the expiration date of the current labor contract, and a brief statement of the adverse results or impact of the late notice. Upon receipt of a written request or after the director's own motion to assess a penalty for late notice, the director shall investigate the matter pursuant to part 5510.1910. If the director finds that the late notice did not prejudice the director or the other party, the director may waive all or a part of the penalty. The penalty shall be payable to the state of Minnesota general fund. The amount of the penalty and its waiver is not subject to appeal to the board.

**Statutory Authority:** *MS s 179A.04 subd 3, cl (f)*

**History:** *10 SR 997*

**5510.2810 PETITION FOR MEDIATION.**

*[For text of subps 1 and 2, see M.R. 1985]*

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

*[For text of subp 4, see M.R. 1985]*

Subp. 5. **Mediation meetings.** Joint or separate mediation meetings of the parties may be scheduled by the director. Mediation meetings are informal and must be limited by the director to matters relevant to the settlement of the dispute. The parties must continue to participate in a mediation meeting until excused by the director. Use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings.

A mediation meeting may be closed to the public by the director when, in the director's judgment, closing will facilitate resolution of the dispute. In all cases a meeting will be closed only after receipt by the bureau of a valid and timely petition for mediation or after initiation of mediation by the director. The director may close a meeting to the public prior to its start or at any time during the meeting.

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

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

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

In the event the director determines that a closed meeting is necessary, but the director cannot be physically present at the meeting and a timely and valid notice of intent to strike has been received by the bureau, the director may authorize a closed meeting upon written notice to the governing body and exclusive representative at least 24 hours prior to the closed meeting. The written notice must include the date, time, and place of the closed meeting of the governing body and limit the purpose of the meeting to matters relevant to the dispute.

*[For text of subp 6, see M.R. 1985]*

**Statutory Authority:** *MS s 179A.04 subd 3; cl (f)*

**History:** *10 SR 997*

**5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.**

Subpart 1. **Mediation period.** Except for teachers, a 45-day mediation period commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, a 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with both parties in an effort to resolve the dispute.

*[For text of subp 2, see M.R. 1985]*

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Subp. 3. **Expiration of mediation period.** Following the expiration of the mediation period and expiration date of the labor contract, negotiations are presumed to be at impasse and either party may request to arbitrate the dispute.

*[For text of subp 4, see M.R. 1985]*

Subp. 4a. **Final positions.** Upon notice of an agreement to arbitrate, the director shall notify the parties and direct that each party submit its final position on each item determined by the director to remain in dispute. The final positions must be in the form of the contract language desired by that party to resolve each matter in dispute and must be received by the director on or before the date specified in the director's letter.

Subp. 5. **Certification of impasse to board.** Following receipt of a joint request to arbitrate or receipt of an acceptance of a single-party offer to arbitrate, the director shall notify the board of the existence of an impasse. The notice will include a list of the issues determined by the director to be at impasse, and the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

Subp. 6. **Option of final offer arbitration.** The parties may agree in writing to limit the arbitrator's authority to a final offer item-by-item or a final offer total-package award.

A. In the event of an agreement, the parties must file a written copy of the agreement with the bureau prior to the date upon which final positions are due, as set forth in the director's determination of impasse. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration.

*[For text of subp 6, items B and C, see M.R. 1985]*

Subp. 7. **Notice of intent to strike, other than teachers.**

*[For text of subp 7, items A and B, see M.R. 1985]*

C. The 30-calendar-day strike notice period commences the day following receipt by the director of the notice of intent to strike, provided:

(1) A strike shall not begin during the first ten calendar days of a strike notice period.

(2) The right to strike matures effective 12:01 a.m. of the 11th day and continues until 12:00 midnight of the 30th day of the strike notice period.

(3) If the bureau receives a notice of intent to strike not more than five calendar days prior to the expiration of the mediation period, the strike notice period begins the day following the expiration of the mediation period. Notices received prior to these periods are void and of no effect.

*[For text of subp 7, item D, see M.R. 1985]*

E. The director may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but the notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210. The notice must be served on the employer and the director by the exclusive representative.

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B. A notice of intent to strike is timely when the requirements of Minnesota Statutes, section 179A.18, subdivisions 2 and 3, have been fulfilled.

C. A 25-calendar-day strike notice period commences the day following receipt by the director of a properly-served notice of intent to strike, provided:

(1) a strike shall not begin during the first ten days of a strike notice period;

(2) the right to strike matures effective 12:01 a.m. of the 11th day and continues until 12:00 midnight of the 25th day of the strike notice period; and

(3) prior to the expiration of the 25-day period, the exclusive representative and the employer may agree to extend the period up to an additional five calendar days.

D. If the 25-day period, or any proper extension, expires without a strike, the right to strike shall be terminated with respect to the current contract negotiation, except that the strike notice shall be renewed for an additional ten days, the first five days of which shall be a notice period during which no strike may occur, if all of the following conditions are satisfied:

(1) an original notice of intent to strike was provided pursuant to this part;

(2) a tentative agreement was reached during the original strike notice period or extension thereof; and

(3) the tentative agreement was rejected by either party during or after the original strike notice period.

Satisfaction of subitems (1) to (3) shall automatically renew the strike notice period. The first day of the renewal period shall be the day following expiration of the previous strike notice period or the day following rejection of the tentative agreement, whichever is later.

E. No notice of intent to strike will be accepted prior to the expiration of the mediation period and the expiration of the agreement in effect.

F. The director may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

**Statutory Authority:** *MS s 179A.04 subd 3, cl (f)*

**History:** *10 SR 997*

## 5510.3010 MEDIATION, IMPASSE AND ARBITRATION FOR CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND FOR PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. **Mediation.** Upon concluding that it would be useful, mediation shall be scheduled by the director.

Subp. 2. **Impasse.** During mediation of the dispute, the parties, individually or jointly, may request the director to declare the negotiations at impasse. If, as a result of an individual request or at the director's own initiative, the director determines that further mediation efforts are not likely to resolve the dispute, the director may declare the negotiations to be at an impasse and notify the parties in writing of that determination. The director shall regard a joint request as evidence of the impasse. The notice by the director shall include:

A. the date on which an impasse was declared;

B. a list of the matters or impasse items determined by the director to remain in dispute; and

C. the date upon which final positions of the parties with respect to the matters at impasse are to be received by the director.

**Subp. 3. Final offer arbitration.** Except for principals and assistant principals, the parties may agree to limit the arbitrator's authority to a final offer item-by-item or a final offer total package award. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration. For principals and assistant principals, the panel shall be restricted to selecting between the final offers of the parties on each impasse item.

**Subp. 4. Final positions.** Final positions submitted by each party shall be in the form of the contract language desired by that party to resolve each matter in dispute. The director shall review all final positions submitted by the parties and may make additional efforts to resolve the dispute. If the final offer arbitration option is agreed to, the parties may not withdraw or amend the final positions filed with the director unless otherwise agreed to in writing by the parties. The agreement to amend may include, but is not limited to, an agreement:

A. that an item certified to be at impasse has been dropped as an item in dispute;

B. that an item certified to be at impasse has been settled by the parties; and

C. to amend the submitted final positions on any or all items certified to be at impasse. Such agreement must specify the conditions and manner in which the final positions are to be amended.

**Subp. 5. Certification of impasse to board.** Following the date established for submission of final positions of both parties, the director shall notify the board of the existence of an impasse. The notice of impasse shall contain a statement that the negotiations between the parties are at impasse, a list of the issues or impasse items determined by the director to be at impasse, and the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

**Subp. 6. Confidentiality of final positions.** All final positions submitted to the bureau are confidential, except as otherwise provided by this chapter.

**Statutory Authority:** *MS s 179A.04 subd 3, cl (f)*

**History:** *10 SR 997*

**5510.3110 NEW OR DIFFERENT EXCLUSIVE REPRESENTATIVE; MEDIATION, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES.**

*[For text of subps 1 and 2, see M.R. 1985]*

**Subp. 3. Mediation period.** For all public employees except essential employees and teachers, the 60-day or 45-day mediation period provided under part 5510.2910 commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, the 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with the parties in an effort to resolve the dispute:

**Statutory Authority:** *MS s 179A.04 subd 3, cl (f)*

**History:** *10 SR 997*