

CHAPTER 5530

BUREAU OF MEDIATION SERVICES

ARBITRATION ROSTER

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5530.0100 APPLICATION.

This chapter applies to the empanelment, referral, conduct, and removal of persons on the arbitrator roster maintained by the commissioner, excluding the list of arbitrators maintained under Minnesota Statutes, section 179A.04, subdivision 3, paragraph (c), for teacher discharge or termination hearings. This chapter applies to all persons on the arbitrator roster, to all applicants for placement on the roster, to all users of the roster, and to all arbitration proceedings conducted as the result of a referral from the roster. Nothing in this chapter is intended to limit the right of the parties to jointly select any arbitrator or arbitration procedure which is acceptable to them.

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0200 POLICY.

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. This chapter shall be liberally construed to effectuate these policies and the provisions of Minnesota Statutes, chapters 179 and 179A.

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0300 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

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, to advise the commissioner regarding the appointment and removal of persons to the arbitrator roster. The committee shall not expire as provided by Minnesota Statutes, section 15.059.

[For text of subps 2 to 6, see M.R.]

Subp 7 [Repealed, 21 SR 583]

[For text of subps 8 to 13, see M.R.]

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0600 ARBITRATOR QUALIFICATIONS.

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

Subp 3. **Advocacy disqualification.** No applicant or roster member may currently, or within the preceding 12 months, have functioned as an advocate for any public or private sector employer, employee, or employee organization in any phase of labor management relations. This prohibition applies to employee discharge or disciplinary appeal proceedings, whether or not the employee is represented by an exclusive representative.

[For text of subps 4 and 5, see M.R.]

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0700 APPOINTMENT TO ROSTER.

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

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

Subp. 3. **Procedure; renewal appointments.** The commissioner shall notify all roster members not less than 120 days before the expiration of their appointment of the procedures necessary for reappointment to the roster. Persons desiring to renew their appointment on the roster shall submit a written application and fee to the commissioner not less than 60 days before the expiration of their appointment. Following receipt of a renewal application, the commissioner shall review available referral, performance, and activity records of the applicant and proceed according to subpart 6.

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Standards for appointment.** In determining whether or not to appoint a member to the roster, the commissioner shall evaluate each application for evidence of the applicant's competence, proficiency, and qualifications in the following areas:

[For text of items A to E, see M.R.]

F. reputation in the labor-management community for high professional standards of competence, ethics, and integrity.

In addition to meeting these standards for appointment, roster members seeking reappointment must satisfy the requirements of part 5530.1200.

Subp. 7. **Disposition of applications.** If the commissioner has determined that the applicant has satisfied the requirements of subpart 6, the commissioner shall appoint or reappoint the applicant to the roster. If the applicant has failed to satisfy the requirements of subpart 6, the commissioner shall reject the application in writing, including the reasons for the rejection. In the event that there are more qualified applicants than vacancies on the roster, the commissioner shall appoint applicants in rank order of their qualifications or by lottery where qualifications are relatively equal.

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

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

[For text of subpart 1, see M.R.]

Subp. 2. **Professional and ethical responsibilities.** Except as otherwise provided in this chapter, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes approved and published by the National Academy of Arbitrators is incorporated by reference and is applicable to and shall govern the professional behavior of persons appointed to the roster. The code is not subject to frequent change. The code is available through the Minitex interlibrary loan system.

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

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Timeliness.** It is the responsibility of the arbitrator to schedule time commitments in a manner consistent with the needs of the parties and the expeditious handling of disputes. The arbitrator must adhere to the time limits of Minnesota Statutes, section 179A.16, and the parties' arbitration procedure. When initially accepting and scheduling a case, or at the first reasonable opportunity to become aware of the time limits, the arbitrator must indicate whether or not the applicable time limits will present a problem in the timely handling of the case. Although the time limits specified in a grievance arbitration procedure may be waived or extended by the parties, it is improper for an arbitrator to routinely request

or suggest extensions. If, after accepting and hearing a case, the arbitrator is unable to render an award within the time limits specified in the grievance arbitration procedure, the arbitrator shall notify each party in writing of the reason for the delay and shall seek approval for establishing an alternate date for completion of the award. A request for an extension of the timeline for an interest arbitration award must be submitted directly to the commissioner.

[For text of subps 7 to 9, see M.R.]

Subp. 10. **Arbitrator fee and summary report.** For each award filed with the commissioner, whether originating from a bureau referral or other source, the arbitrator shall provide a summary report that discloses the following:

A. case identification information, including:

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

B. case processing date information, including.

- (1) date arbitrator was notified of selection by parties;
- (2) date of hearing;
- (3) final date for submission of briefs or other written material, if any; and
- (4) date award was issued; and

[For text of item C, see M.R.]

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.0900 PANEL SELECTIONS AND REFERRALS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Replacement panels or names.** Upon the joint request of the parties, the commissioner shall issue a new panel of seven names to replace a prior panel. Single-party requests for replacement names or panels will not be honored unless the commissioner determines that a bona fide conflict of interest exists regarding the matter in dispute between one or more parties and one or more members of the panel. If a conflict is found by the commissioner, a replacement panel will be issued

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

Subp. 5. **Selection from panels.** The parties shall select an arbitrator or arbitrators from the panel under the terms of Minnesota Statutes, section 179A 16, or of their grievance procedure. In the absence of an agreement, the selection shall be made by alternately deleting names from the panel until the required number of names remain. Determining which party shall delete the first name shall be accomplished by a toss of a coin.

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

Subp. 7. **Biographic data.** The bureau shall review and prepare a biographic sketch of each member on the roster annually, based on information provided by that member and other information available to the commissioner. The sketches must include information about the arbitrator's background, education, and experience, as well as data regarding the arbitrator's fee schedule. Arbitrators are responsible for ensuring the accuracy of all biographic and fee data on the sketch. Single copies of the sketches will be made available to parties with the referral of panels.

The mean number of calendar days required by each arbitrator to issue an award during the preceding year, as well as the upper and lower limits and number of cases used to determine that mean, based on records on file with the bureau, shall be maintained by the bureau.

[For text of subp 8, see M.R.]

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*

5530.1100 [Repealed, 21 SR 583]

5530.1200 PERFORMANCE MEASURES.

[For text of subpart 1, see M.R.]

Subp. 2. **Selection rate.** The commissioner shall develop and maintain reliable data concerning the frequency with which individuals are selected by parties from panels referred by the bureau. A selection frequency that falls in the upper three quartiles of the frequencies of all arbitrators on the roster is evidence that an arbitrator has established acceptability among the parties who use the roster. A selection rate in the lowest quartile shall not be the sole basis for failure to reappoint unless the arbitrator has been in the lowest quartile for two consecutive years and was selected for fewer than three cases in the most recent 12-month period.

[For text of subp 3, see M.R.]

Subp. 4. **Timeliness.** The commissioner shall consider the mean number of calendar days between the close of the record in a case and the issuance of an award during the preceding 12 months to determine whether or not roster members are meeting timeliness requirements. In evaluating the data, the commissioner shall rely on information provided by the arbitrator under part 5530.0800, subpart 9, and data available from awards on file with the commissioner. A mean that exceeds 60 days is evidence that an arbitrator is not timely in the handling of cases, but shall not be the sole basis for a determination not to reappoint.

[For text of subps 5 to 7, see M.R.]

Statutory Authority: *MS s 179A.04*

History: *21 SR 583*