

**CHAPTER 7300**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**  
**RULES GOVERNING ISSUES AND APPEALS**  
**UNDER PUBLIC EMPLOYMENT LABOR**  
**RELATIONS ACT**

7300.0100	DEFINITIONS.	7300.1800	EXTENSION OF TIME.
7300.0200	POLICY.		THE HEARING
7300.0300	APPLICATION.	7300.1900	REVIEW PROCEDURE.
7300.0400	COMPUTATION OF TIME.	7300.2000	HEARING PROCEDURE.
7300.0500	CONDUCT OF HEARINGS.	7300.2100	THE RECORD.
7300.0600	AUTHORITY AND FUNCTION OF HEARING EXAMINER.	7300.2200	WITNESSES.
7300.0700	INITIATING AN APPEAL.	7300.2300	RULES OF EVIDENCE.
7300.0800	ANSWER TO NOTICE OF APPEAL.	7300.2400	DECORUM.
7300.0900	NOTICE OF HEARING.		BOARD'S DECISION
7300.1000	CONTINUANCE OF HEARING.	7300.2500	BASIS FOR BOARD'S DECISION.
7300.1100	RIGHT TO REPRESENTATION.	7300.2600	DECISIONS AND ORDERS.
7300.1200	INFORMAL AND SUMMARY DISPOSITION.	7300.2700	DEFAULT.
7300.1300	DEFAULT.		REHEARING
7300.1400	INTERVENTION.	7300.2800	BOARD'S RIGHT TO REHEAR.
7300.1500	SUBSTITUTION OF PARTY.	7300.2900	PROCEDURE FOR OBTAINING A REHEARING.
7300.1600	CONSOLIDATION OF CASES.	7300.3000	DETERMINATION.
7300.1700	REMAND OF APPEAL FOR REHEARING.	7300.3100	NOTICE OF REHEARING.
		7300.3200	REHEARING PROCEDURE.
		7300.3300	DECISION AFTER REHEARING.

**7300.0100 DEFINITIONS.**

Subpart 1. **Appeal.** "Appeal" means issues relating to the meaning of the terms "supervisory employee," "confidential employee," "essential employee," or "professional employee"; appeals from determinations of the director relating to the appropriateness of a unit or determination of supervisory employee; and appeals from determinations of the director relating to a fair share fee challenge.

Subp. 2. **Arbitrator.** "Arbitrator," when referred to in parts 7305.0100 to 7305.1100, means one or a panel of three arbitrators.

Subp. 3. **Board.** "Board" means Public Employment Relations Board.

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

Subp. 5. **Confidential employee.** "Confidential employee," as defined in Minnesota Statutes, section 179.63, subdivision 8, means any employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating or who actively participates in the meeting and negotiating on behalf of the public employer.

Subp. 6. **Director.** "Director" means the director of the Bureau of Mediation Services.

Subp. 7. **Essential employee.** "Essential employee," as defined in Minnesota Statutes, section 179.63, subdivision 11, means any person within the definition of Minnesota Statutes, section 179.63, subdivision 7 whose employment duties involve work or services essential to the health or safety of the public and the withholding of such services would create a clear and present danger to the health or safety of the public.

Subp. 8. **Party.** "Party" means any person, public employee, public employer, exclusive representative of public employees, public employee organization, or public employer organization whose legal rights, duties, or privileges will be directly determined in an appeal.

Subp. 9. **Presiding officer.** "Presiding officer" means the board, one or more of its members, or a hearing examiner appointed by the board who may hear the appeal.

# MINNESOTA RULES 1983

## 7300.0100 RULES GOVERNING ISSUES AND APPEALS

5768

Subp. 10. **Professional employee.** "Professional employee," as defined in Minnesota Statutes, section 179.63, subdivision 10, means:

A. any employee engaged in work:

(1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;

(2) involving the consistent exercise of discretion and judgment in its performance;

(3) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; or

(4) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; and

B. any employee who:

(1) has completed the courses of specialized intellectual instruction and study described in item A, subitem (4); or

(2) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in item A.

Subp. 11. **Service; serve.** "Service" or "serve" means service of a document required by this chapter, by person or certified United States mail, with return requested, postage prepaid, and addressed to the party at his last known address, unless some other manner of service is required by law. "Certified mail" means mail which must be signed for by the addressee upon receipt of said mail.

Subp. 12. **Supervisory employee.** Any determination of "supervisory employee" may be appealed to the Public Employment Relations Board. "Supervisory employee," as defined in Minnesota Statutes, section 179.63, subdivision 9, means:

A. when the reference is to other than essential employees, any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment; and

B. when the reference is to essential employees, the administrative head and his assistant of a municipality, municipal utility, police or fire department, or any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## 7300.0200 POLICY.

Parts 7300.0100 to 7300.3300 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. All parties who present issues and appeals to the board shall be provided a fair, just, and timely hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

# MINNESOTA RULES 1983

5769

## RULES GOVERNING ISSUES AND APPEALS 7300.0700

### 7300.0300 APPLICATION.

Parts 7300.0100 to 7300.3300 shall apply to:

A. issues relating to the meaning of the terms "supervisory employee," "confidential employee," "essential employee," or "professional employee";

B. appeals from determinations of the director relating to the appropriateness of a unit or determination of supervisory employee; and

C. appeals from determinations of the director relating to a fair share fee challenge.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.0400 COMPUTATION OF TIME.

In computing any period of time prescribed or allowed by parts 7300.0100 to 7300.3300, the day of act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. For any time period of ten days or less, Saturdays, Sundays, or legal holidays shall not be included in computing the period of time.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.0500 CONDUCT OF HEARINGS.

The board may hear appeals as a full body or may delegate to one or more of its members the authority to hear an appeal. The board may also appoint a hearing examiner to hear an appeal.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.0600 AUTHORITY AND FUNCTION OF HEARING EXAMINER.

The appointment of the hearing examiner shall, to the extent permitted by law, grant the hearing examiner such authority as the board deems necessary and appropriate to hear the appeal. The hearing examiner shall not have authority to make the final decisions on the appeal.

The hearing examiner shall hear the appeal consistent with law and the terms of his appointment. His functions shall include, but not be limited to, to hear and rule on preliminary motions, conduct the hearing, and prepare findings of fact. The final decision on the appeal shall in all cases be made by the board.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.0700 INITIATING AN APPEAL.

Any party or parties may initiate an appeal by serving a copy of a notice of appeal upon all other parties with a copy to the director and filing the original with the board within ten days of a determination by the director. A notice of appeal shall contain:

A. the name and address of the applicant;

B. a statement of the nature of the decision requested, the reasons therefor, and the Bureau of Mediation Services case number;

C. the names and addresses of all parties who were parties to the determination by the director, and all other parties known to the applicant who will be directly affected by such appeal; and

D. the signature of the applicant or his representative.

**Statutory Authority:** *MS s 179.72 subds 2,4*

# MINNESOTA RULES 1983

## 7300.0800 RULES GOVERNING ISSUES AND APPEALS

5770

### 7300.0800 ANSWER TO NOTICE OF APPEAL.

Within ten days after service of a notice of appeal, all other parties may submit a concise answer to the notice of appeal. A copy of such answer shall be served on all parties to the appeal and filed with the board. Failure to submit an answer shall not be deemed as an admission of any statement contained in the issue of appeal or waiver of any rights afforded to respondent in any statute or rule.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.0900 NOTICE OF HEARING.

Within 15 days following receipt of a notice of appeal the board shall serve upon all known parties not less than ten days prior to hearing a notice stating:

- A. the date, place, and time of hearing;
- B. the rights of the parties to representation (see part 7300.1200); and
- C. that failure to appear or submit positions may prejudice the party's rights (see part 7300.1400).

A copy of these rules shall be included with the notice of hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1000 CONTINUANCE OF HEARING.

No request for continuance of a scheduled hearing will be granted within seven days of a hearing unless exceptional circumstances are shown. A request for continuance shall be made in writing and served upon the other party or parties and filed with the board.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1100 RIGHT TO REPRESENTATION.

Any party may be represented by a designated agent in an appeal before the board.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1200 INFORMAL AND SUMMARY DISPOSITION.

Subpart 1. **Informal disposition.** Informal disposition may be made of any appeal of any issue therein by stipulation, settlement, or agreement at any point in the proceedings so long as said stipulation, settlement, or agreement does not violate any provisions of law and is approved by the board.

Subp. 2. **Summary disposition.** The board, on its own motion or on motion of any party, may dismiss an appeal, or may summarily affirm the order or decision below if the board lacks jurisdiction or if it clearly appears that the appeal presents no question of substantial merit, or may limit the issues to be considered on appeal to those which present a substantial question. In case of obvious error the board may summarily reverse or remand for additional proceedings or grant other appropriate relief.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1300 DEFAULT.

The board may dispose of an appeal adverse to a party who fails to appear after receiving due notice and an opportunity for hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1400 INTERVENTION.

The board may, upon timely application, allow a person or organization to intervene in an appeal upon a showing of substantial interest in the outcome of the appeal.

**Statutory Authority:** *MS s 179.72 subds 2,4*

# MINNESOTA RULES 1983

5771.

## RULES GOVERNING ISSUES AND APPEALS 7300.2000

### 7300.1500 SUBSTITUTION OF PARTY.

Substitution of a party or a party's representative may be allowed only if notice of the substitution is served on all other parties, at least five days prior to the hearing date, and filed with the board.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1600 CONSOLIDATION OF CASES.

Subpart 1. **Basis for consolidation.** The board may, prior to hearing, consolidate cases either on its own motion or upon petition by any party, if it determines that separate appeals present substantially the same issues, that a decision in one case would affect the rights of parties in another case, and that consolidation would not substantially prejudice any party. Notwithstanding the requirements of this subpart, the parties may stipulate and agree to consolidation subject to board approval.

Subp. 2. **Notice.** Within five days following an order for consolidation the board shall serve on all parties a notice of consolidation.

Subp. 3. **Objection to consolidation.** Within five days of receipt of notice of consolidation any party may file with the board a petition for severance from consolidation which shall include the Bureau of Mediation Services case number and reasons for objection.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1700 REMAND OF APPEAL FOR REHEARING.

At any time prior to its decision, the board may remand to the director all or part of the appeal for rehearing or the taking of specified additional evidence.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.1800 EXTENSION OF TIME.

The parties, with the approval of the board or its designee, may stipulate and agree to extend any time period provided in parts 7300.0100 to 7300.3300.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## THE HEARING

### 7300.1900 REVIEW PROCEDURE.

Appeals shall be determined upon the record established by the director provided that the board at its discretion may request additional evidence. Oral and written argument may be allowed upon request of a party.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.2000 HEARING PROCEDURE.

Subpart 1. **Minimum content.** The hearing shall include the following:

A. The presiding officer shall open the hearing and introduce the following exhibits:

- (1) notice of appeal and supporting documents if any;
- (2) if consolidation has occurred, notice of consolidation, supporting documents, if any;
- (3) notice of hearing, supporting documents, if any, and affidavits of service;
- (4) any stipulations, settlements, or agreements entered into by any of the parties prior to the hearing; and
- (5) the record of the hearing held before the director.

B. Oral arguments shall not exceed 30 minutes per party.

C. Five minutes may be allowed for rebuttal.

D. The presiding officer may allow filing of memoranda by the parties.

# MINNESOTA RULES 1983

## 7300.2000 RULES GOVERNING ISSUES AND APPEALS

5772

Subp. 2. **Hearings requiring additional oral evidence.** If additional oral evidence is to be taken, the hearing shall be conducted as follows:

- A. The presiding officer shall open the hearing.
- B. All parties may present evidence in conformance with the board's request for additional evidence.
- C. All witnesses must be sworn and are subject to cross-examination by all parties.
- D. The rules of evidence as set forth in part 7300.2400 will be followed.
- E. Written matter may be marked as an exhibit and offered into evidence.
- F. The presiding officer shall introduce the following exhibits:
  - (1) notice of appeal and supporting documents, if any;
  - (2) if consolidation has occurred, notice of consolidation, supporting documents, if any;
  - (3) notice of hearing, supporting documents, if any, and affidavits of service;
  - (4) any stipulations, settlements, or agreements entered into by any of the parties prior to the hearing; and
  - (5) the record established by the director.
- G. Unless otherwise directed by the presiding officer, the party who initiated the appeal shall begin the presentation of evidence and shall be followed by the other parties in a sequence determined by the presiding officer.
- H. Cross-examination shall be conducted in a sequence determined by the presiding officer.
- I. Rebuttal evidence and final argument shall be allowed.
- J. Oral arguments shall not exceed 30 minutes per party.
- K. Five minutes may be allowed for rebuttal.
- L. The presiding officer may allow filing of memoranda by the parties.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## 7300.2100 THE RECORD.

Subpart 1. **Preparation.** The board shall prepare an official record in each appeal.

Subp. 2. **Contents.** The record in an appeal shall contain:

- A. all pleadings, motions, and intermediate rulings;
- B. evidence received or considered;
- C. a statement of matters noticed;
- D. proposed findings and exceptions;
- E. any decision, opinion, or report by the presiding officer; and
- F. the record established by the director.

Subp. 3. **Transcript.** A verbatim record of the hearing shall be taken by a hearing reporter and/or recording equipment.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## 7300.2200 WITNESSES.

When oral evidence is taken, any party may be a witness or may present witnesses on its behalf at the hearing and such testimony shall be under oath.

**Statutory Authority:** *MS s 179.72 subds 2,4*

# MINNESOTA RULES 1983

5773

RULES GOVERNING ISSUES AND APPEALS 7300.2600

## 7300.2300 RULES OF EVIDENCE.

Subpart 1. **Admissibility.** The presiding officer may admit and consider evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The presiding officer shall give effect to the rules or privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or repetitious shall be excluded.

Subp. 2. **Record of bureau.** The official record of the proceeding conducted by the bureau shall be competent evidence.

Subp. 3. **Evidence must be offered.** All evidence to be considered in the case, including all records and documents in the possession of the board, shall be offered and made part of the record in the case. No other evidence or factual information, except as provided in subpart 5, shall be considered in the determination of the case.

Subp. 4. **Documentary evidence.** Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the presiding officer or upon agreement of the parties.

Subp. 5. **Notice of facts.** The presiding officer may take notice of general, technical, or scientific facts within his specific knowledge. The presiding officer shall notify the parties of any facts that are to be so noticed.

Subp. 6. **Depositions.** Upon a showing of good cause the presiding officer may allow the taking of depositions to preserve testimony in the same manner as prescribed by the Rules of Civil Procedure for the District Court.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## 7300.2400 DECORUM.

The presiding officer may prohibit the operation of mechanical recording devices and television, newsreel, motion picture, still, or other cameras in the hearing room while the hearing is in progress, if such operation has a significantly adverse effect on the hearing.

No person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with the hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

## BOARD'S DECISION

### 7300.2500 BASIS FOR BOARD'S DECISION.

No factual information or evidence which is not part of the record shall be considered by the board in the determination of an appeal.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.2600 DECISIONS AND ORDERS.

Subpart 1. **Formal decision or order; reasons required.** All decisions or orders rendered by the board in an appeal shall be in writing and shall be accompanied by a statement of the reasons therefor.

Subp. 2. **Service and contents.** All decisions or orders shall be served on all parties to the appeal and a copy filed with the bureau. It shall contain a statement of the decision or order in the case, a statement of the reasons therefor, and an affidavit of service.

**Statutory Authority:** *MS s 179.72 subds 2,4*

# MINNESOTA RULES 1983

## 7300.2700 RULES GOVERNING ISSUES AND APPEALS

5774

### 7300.2700 DEFAULT.

When a party with adequate notice fails to plead or otherwise appear within the time allowed by parts 7300.0100 to 7300.3300 or by statute, decision by default may be entered against him.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### REHEARING

### 7300.2800 BOARD'S RIGHT TO REHEAR.

The board may reopen, rehear, and redetermine an appeal upon request and for good cause shown, or on its own motion. The petition for rehearing must be filed with the board within 30 days of the determination of the initial hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.2900 PROCEDURE FOR OBTAINING A REHEARING.

A party to such appeal may request a rehearing by filing a petition. Such petition shall contain the name and address of the petitioner, the board designation for the case, and the reasons in support of the petition for rehearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.3000 DETERMINATION.

The board shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted only if the petition or the record reveals irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence, a change in existing law, or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the board in written or oral form or both by any party to the appeal with respect to the petition.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.3100 NOTICE OF REHEARING.

A notice of rehearing will be provided in the same manner prescribed for a notice of hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.3200 REHEARING PROCEDURE.

A rehearing of an appeal will be conducted in the same manner prescribed for a hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

### 7300.3300 DECISION AFTER REHEARING.

The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*