

CHAPTER 7300

PUBLIC EMPLOYMENT RELATIONS BOARD

ISSUES AND APPEALS

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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 commissioner relating to the appropriateness of a unit; and appeals from determinations of the commissioner relating to a fair share fee challenge.

[For text of subs 3 and 4, see M.R.]

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

Subp. 7a. **Executive director.** "Executive director" means the executive director of the Public Employment Relations Board.

Subp. 7b. **Holiday or legal holiday.** "Holiday" or "legal holiday" means those dates designated by Minnesota Statutes, section 645.44, subdivision 5, as holidays for the executive branch of the state of Minnesota.

Subp. 8. **Party.** "Party" means any 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; or any public employee who has filed a fair share fee challenge.

[For text of subp 9, see M.R.]

Subp. 11. **Service; serve.** "Service" or "serve" means delivery by personal service, United States certified or regular mail, or other delivery. Electronic mail (fax machine) is not an effective method of service. Service is effective upon receipt by the recipient.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0110 COMPUTATION OF TIME.

In computing any period of time prescribed or allowed by parts 7300.0100 to 7300.3300, the day of an act or event on which the designated period of time begins to run is not included. The last day of the time period is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, Saturday, Sunday, and legal holidays are not included in the computation. See part 7300.0100, subpart 7b, for the definition of legal holiday.

Statutory Authority: *MS.s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0300 SCOPE.

This chapter shall apply to:

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

B. appeals from determinations of the commissioner relating to the appropriateness of a unit; and

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

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0350 BARGAINING UNIT ACCRETION.

In review of a unit accretion pursuant to Minnesota Statutes, section 179A.09 and under part 7300.0300, item B, the board must consider as a relevant factor whether the employee or employees in question have indicated a showing of interest to be accreted so long as the confidentiality of the individual cards is protected in accordance with Minnesota Statutes, section 179A.12, subdivision 6.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0400 [Repealed, 15 SR 2107]

7300.0500 PRESIDING OFFICER; BOARD OR PANEL.

The board, as a full body or as a panel of three of its members, may hear and decide an appeal. A panel shall consist of an equal number of representatives of public employees and public employers and the member who represents the public at large.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0600 PRESIDING OFFICER; ADMINISTRATIVE LAW JUDGE.

The board may appoint an administrative law judge to hear an appeal. The administrative law judge shall have such authority as the board deems necessary and appropriate to hear the appeal. The administrative law judge must submit to the board recommended findings, conclusion, and order as requested by the board. The final decision must in all cases be made by the board.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0700 INITIATING AN APPEAL.

Subpart 1. Time limits.

A. Within 15 calendar days of the date of a final determination by the commissioner, 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 commissioner and filing the original with the board. Service is effective upon receipt by the board, bureau, and all other parties.

B. If a party or parties files a request for reconsideration of a decision by the commissioner, the appeal to the board must be initiated within 15 calendar days of the date of the reconsideration decision by the commissioner. A copy of the notice of appeal must be served upon all other parties with a copy to the com-

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missioner and the original filed with the board. Service is effective upon receipt by the board, bureau, and all other parties.

Subp. 2. Notice of appeal. A notice of appeal shall include:

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

B. the names and addresses of all individuals and organizations who were parties to the appeal;

C. a copy of the commissioner's determination from which the appeal is being taken, and, if applicable, a copy of the reconsideration decision by the commissioner;

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

E. a statement that the appellant understands the commissioner's rules governing the preparation of and payment for the record and transcript on appeal and agrees to abide by those rules; and

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

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0800 ANSWER.

Within 15 calendar days after service of a notice of appeal, all other parties may submit an answer to the notice of appeal. A copy of the answer shall be served on all parties to the appeal and filed with the board. Failure to submit an answer shall not be deemed an admission of any statement contained in the notice of appeal or a waiver of any rights afforded the respondent by any statute or rule.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0810 BRIEFS.

Subpart 1. Establishment of briefing schedule. Upon transmission of the record from the commissioner, the board must provide written notice to the parties establishing specific dates for each party to submit its brief. The appellant must serve and file the appellants' brief within 14 calendar days after the board's written notice establishing the briefing schedule. The respondent must serve and file the respondent's brief within 14 calendar days after service of the appellant's brief. Parties must notify the board by the established dates if they do not intend to file a brief.

Subp. 2. Extension of the briefing schedule.

A. Either party may request an extension of the briefing schedule. Request for an extension must be received by the board before the deadline and in writing. If it is a first request and the extension does not exceed 14 calendar days, the request will be granted by the executive director. Written notice must be provided to all the parties of the revised briefing schedule.

B. Either party may request an extension that exceeds 14 calendar days or the same party who made the first request for an extension may request a second extension. These requests must be in writing and received by the board before the deadline established in the initial briefing schedule. The board must consider the request at its next meeting and may grant the extensions only for good cause shown and if it causes no prejudice to the other party. If the board is not scheduled to meet within 14 calendar days from the date of the written request, the board chair has authority to decide the request.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0850 AMICUS CURIAE STATUS.

An individual, association, or organization may seek permission in an appeal to file a brief as amicus curiae. The board will grant amicus curiae status if the requester establishes that its brief will be relevant to the appeal and that it will contribute to the board's understanding of the case and the board's decision. Any request of the commissioner for amicus curiae status must be granted. Any brief which is filed under this part must be submitted to the board within the time established for the respondent's brief under part 7300.0810.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.0900 NOTICE OF HEARING.

Subpart 1. **Contents of notice.** At least 15 calendar days before the hearing date, the board must provide to all parties by certified mail a notice of hearing stating:

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

Subp. 2. **Copy of rules included.** A copy of this chapter must be included with the notice of hearing.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.1000 CONTINUANCE OF HEARING.

A request for continuance of a hearing, if mutually consented to by all of the parties, will be granted by the board's executive director. If there is no mutual consent, the board must consider the request for continuance at its next meeting and grant the request upon good cause shown. If a board meeting is not scheduled that provides the opportunity for the board to consider the request and provide a timely response, the board chair has the authority to consider and decide the request.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.1200 INFORMAL AND SUMMARY DISPOSITION.

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

Subp. 2. **Summary disposition.** The board, on its own motion or on motion of any party, may:

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

B. summarily affirm the commissioner's determination if the appeal presents no question of substantial merit;

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

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.1500 SUBSTITUTION OF PARTY'S REPRESENTATIVE.

Substitution of a party's representative may be allowed only if notice of the substitution is served on all other parties and the board at least seven calendar days before the hearing date.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

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7300.1700 REMAND.

Subpart 1. **Remand to commissioner.** A party may make a motion to remand the appeal to the commissioner. The board may remand to the commissioner all or part of the appeal for rehearing, the taking of specified additional evidence, or other appropriate action.

Subp. 2. **Circumstances for remand.** The board must grant a remand under the following circumstances:

A. additional evidence, newly discovered, that with reasonable diligence could not have been found and produced at the hearing;

B. a change in existing law material to the appeal; or

C. irregularities or errors of law occurring during the bureau's proceedings.

Subp. 3. **Appeals on remand.** When the board remands an appeal under subparts 1 and 2, the appeal remains before the board, until the board decides the appeal or dismisses the appeal. If the commissioner, upon remand, issues a decision that differs from its initial decision, the board must dismiss the appeal unless either party seeks continuance of the appeal by providing written notice in the same manner as provided in part 7300.0700. If the commissioner, upon remand under subparts 1 and 2, issues a decision that affirms its initial decision, the board must notify the parties that it will proceed with the appeal under the terms of the appellant's initiation of appeal filed with the board before the remand. The party who initiated the appeal may provide written notice to the board of its request to withdraw the appeal.

Statutory Authority: *MS s 14.06, 179A.05; 179A.25*

History: *15 SR 2107*

7300.1800 [Repealed, 15 SR 2107]

7300.1910 THE BOARD RECORD.

Before the hearing, the board must prepare an official record in each appeal that contains:

A. the record of the proceedings before the commissioner;

B. the determination of the commissioner, and if applicable, the reconsideration decision of the commissioner;

[For text of items C to G, see M.R.]

Additional evidence admitted pursuant to part 7300.2050 shall become part of the board record.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.2050 [Repealed, 15 SR 2107]

7300.2100 TRANSCRIPT OF BOARD HEARING.

A verbatim record must be taken by a hearing reporter or recording equipment of any hearing conducted pursuant to part 7300.2000 or 7300.2050.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.2600 BOARD DECISIONS AND ORDERS.

All decisions and orders issued by the board must be in writing and must be accompanied by a statement of the reasons therefor.

All decisions and orders shall be served on all parties and filed with the commissioner.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.2800 REQUEST FOR REHEARING.

The board, on its own motion or on petition of any party, and for good cause shown, may reopen, rehear, and redetermine an appeal. The petition for rehearing by the parties must be served on all other parties and the board within 15 calendar days of the date of the board's written decision.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.2900 PETITION FOR REHEARING.

A petition for rehearing must contain:

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

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.3100 NOTICE OF REHEARING.

A notice of rehearing must be provided in the same manner prescribed for a hearing by part 7300.0900.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.3200 REHEARING PROCEDURE.

A rehearing of an appeal must be conducted in the same manner prescribed for a hearing by parts 7300.1910 to 7300.2400.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*

7300.3300 DECISION AFTER REHEARING.

The decision after rehearing must be issued in the same manner prescribed for the decision after a hearing by parts 7300.1200, 7300.1300, and 7300.2600.

Statutory Authority: *MS s 14.06; 179A.05; 179A.25*

History: *15 SR 2107*