

# MINNESOTA RULES 1983

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ARBITRATION OF TERMS AND CONDITIONS 7305.0400

## CHAPTER 7305 PUBLIC EMPLOYMENT RELATIONS BOARD ARBITRATION OF TERMS AND CONDITIONS OF EMPLOYMENT

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### 7305.0100 DEFINITIONS.

The words, terms, and phrases in parts 7305.0100 to 7305.1200 shall have the same meanings and definitions as defined in part 7300.0100.

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

### 7305.0200 APPLICATION.

Parts 7305.0100 to 7305.1200 shall apply to the procedures governing the creation of an arbitration panel to hear and decide disputes concerning the terms and conditions of employment.

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

### 7305.0300 POLICY.

Parts 7305.0100 to 7305.1200 shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

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

### 7305.0400 BINDING ARBITRATION.

**Subpart 1. Nonessential employees.** If the director has received from the employer a petition for binding arbitration or a petition from the employee representative for binding arbitration, and said petition has been agreed upon by the employer representative within the requisite 15 days, and the director has certified a dispute to the board pursuant to Minnesota Statutes, section 179.69, subdivision 3 or 5, the board shall submit to the parties a list of seven arbitrators.

**Subp. 2. Essential employees.** If the exclusive representative to a dispute involving any essential employees has requested arbitration and the director has so certified, the board has jurisdiction of the matter and shall proceed in accordance with Minnesota Statutes, section 179.72, subdivision 6.

**Subp. 3. Statutory time limitations.** If the parties to a dispute fail to execute a contract within the time periods prescribed by Minnesota Statutes, section 179.69, subdivision 4, they must submit their final positions to the director pursuant to Minnesota Statutes, section 179.69, subdivision 5. Upon receipt of the final positions, the director may then submit the final positions to the board for binding arbitration, or he may retain jurisdiction and require the parties to mediate or continue to mediate the dispute.

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

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### 7305.0500 CERTIFICATION OF IMPASSE.

Subpart 1. **Content.** A certification by the director pursuant to Minnesota Statutes, section 179.69, subdivision 3 or 5, shall contain the following:

- A. the petition or petitions requesting arbitration;
- B. a concise written statement by the director indicating that an impasse has been reached and that further mediation efforts would serve no purpose;
- C. a determination by the director of matters not agreed upon based upon his efforts to mediate the dispute;
- D. the final positions submitted by the parties; and
- E. those agreed-upon items to be excluded from arbitration.

Subp. 2. **Notice.** The director shall file the certification with the board and notify the parties by certified mail of the said certification.

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

### 7305.0600 SELECTION OF AN ARBITRATOR.

Subpart 1. **List of arbitrators.** The board shall maintain a master list of available arbitrators. This list shall be made up of qualified persons who have submitted an application in writing to the board and have been approved. These applications shall be submitted to each member of the board prior to any action being taken by the board for approval of the applicant. A majority vote of the board shall be required for placement or removal from the list.

Subp. 2. **Selection of arbitrator.** The chairman of the board or his designee shall select seven names for consideration as the arbitrator, but the final selection of a seven-member list shall be made by at least an affirmative vote of three members of the board which shall include the public member. In selecting the seven names, the board shall endeavor whenever possible to include names of persons from the general geographic area in which the public employer is located. After the seven arbitrators have been selected, the board shall submit the said names to the parties. Within five days thereafter, the parties shall, under the direction of the chairman of the board or his designee, who need not be physically present, alternately strike names from the list. If either party requests a single arbitrator, the parties shall alternately strike names from the list until only one name remains. If neither party requests a single arbitrator, the parties shall alternately strike names from the list until three names remain, which three persons shall constitute the panel. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. Notice of the selection of the arbitrator shall be immediately transmitted to the board by the parties. The notice shall contain the name or names of the arbitrator selected and the name of the arbitrator selected by the parties as the convener of the panel. If the parties fail to agree upon a convener, the parties shall each strike, in the continued order of striking, one name from the arbitration panel. The remaining arbitrator shall act as the convener for the arbitration panel for the purpose of commencing the proceeding.

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

### 7305.0700 SUBMISSION TO ARBITRATOR.

After the arbitrator has been selected, the board shall submit to the arbitrator the certification of impasse by the director. The arbitrator shall then proceed to hold hearings and make deliberations necessary to render an award.

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

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### 7305.0800 SELECTION OF PANEL CHAIRMAN.

In the event of a three-member arbitration panel, the panel shall, at its initial session, select one member as chairman to serve throughout. In the event the members cannot agree, the chairman shall be selected by the same procedure as set forth in part 7305.0600, subpart 2.

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

### 7305.0900 ARBITRATION PROCEDURES.

**Subpart 1. Attendance and testimony of witnesses.** The arbitrator may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. Forms for subpoenas may be obtained from the Bureau of Mediation Services. The arbitrator may administer oaths and affidavits and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing; provided, however, the arbitration meeting shall be held in the county in which the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties.

**Subp. 2. Guidelines in rendering an award.** In considering a dispute and issuing its award the arbitrator shall give due consideration to the statutory rights and obligations of a public employer to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The arbitrator's awards shall be issued by a majority vote of its members considering a given dispute. The arbitrator shall have no jurisdiction over nor authority to entertain any matter or issue not within the definition stated in Minnesota Statutes, section 179.63, subdivision 18; provided, however, items not within terms and conditions of employment may be included in an arbitration award if such items are contained in the employer's final position. Any award or part thereof issued by the arbitrator determining any matter not included under Minnesota Statutes, section 179.63, subdivision 18 or the employer's final position shall be void and of no effect.

**Subp. 3. Uniform arbitration act.** The arbitrator may avail himself of the procedures provided for in the Uniform Arbitration Act, Minnesota Statutes, sections 572.08 to 572.30, as long as the procedures stated therein do not conflict with any provisions of the Public Employment Labor Relations Act.

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

### 7305.1000 ARBITRATION AWARDS.

**Subpart 1. Final and binding.** The arbitrator's award shall be final and binding upon the parties. Provided, however, that no award of the panel that violates any provision of the laws of Minnesota or rules promulgated thereunder or municipal charters or ordinances or resolutions enacted pursuant thereto, or that causes a penalty to be incurred thereunder, shall have any force or effect. Any provision of any contract required by Minnesota Statutes, section 179.70, that of itself or in its implementation would be in violation of or in conflict with any statute of the state of Minnesota or a municipal home rule charter or ordinance or resolution adopted pursuant thereto, or rule of any state board or agency governing licensure or registration of an employee (provided such rule, home rule charter, ordinance, or resolution is not in conflict with Minnesota Statutes, sections 179.61 to 179.66) shall be returned to the arbitrator for an amendment to make the provisions consistent with the statute, rule, charter, ordinance, or resolution.

**Subp. 2. Procedure.** The arbitrator shall render his award within ten days from the date that all arbitration proceedings have been concluded, but in any event must issue his award by the last date the employer is required by statute, charter, ordinance, or resolution to submit its tax levy or budget or certify its

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taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The arbitrator's award shall be for such period as the arbitrator shall direct, except that awards determining contracts for teacher units shall be effective to the end of the contract period as determined by Minnesota Statutes, section 179.70, subdivision 1. Upon issuing an award, the arbitrator shall transmit the award and any written decision explaining the award to the board and to the parties.

**Subp. 3. Settlement.** Should any issues submitted to arbitration be settled voluntarily before the arbitrator issues his award, notice of such settlement shall be made by the arbitrator in a report issued to both the board and director.

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

**7305.1100 PAYMENT OF ARBITRATOR OR PANEL.**

All expenses and costs of the arbitrator or panel shall be shared and assessed equally to the parties to the dispute. The term "consideration of a dispute," as used in Minnesota Statutes, section 179.72, subdivision 6, includes but is not limited to time incurred in preparation, conduct of hearings, deliberations, and preparation of the decision.

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

**7305.1200 PROFESSIONAL RESPONSIBILITY.**

In arbitrating disputes concerning terms and conditions of employment pursuant to Minnesota Statutes, section 179.72, arbitrators shall conform to the standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, as approved by the National Academy of Arbitrators, American Arbitration Association, and Federal Mediation and Conciliation Service on April 28, 1975, incorporated herein by reference, to the extent not inconsistent with the provisions of the Public Employment Labor Relations Act, parts 7305.0100 to 7305.1100, or other applicable law or rule, provided that:

A. part 5(B)(1)(c), paragraph 112, of the Code of Professional Responsibility should not be construed as limiting the right of the parties to order a copy of the hearing transcript; and

B. part 6(A)(1)(b), paragraph 124, of the Code of Professional Responsibility should not be construed as limiting the right of the parties to submit written briefs to the arbitrator.

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