

CHAPTER 7320
PUBLIC EMPLOYMENT RELATIONS BOARD
PUBLIC EMPLOYEES; ARBITRATION

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7320.0030 DEFINITIONS.

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

Subp. 1a. Arbitration panel. "Arbitration panel" means three arbitrators who have been selected from a referral arbitration panel that contains seven arbitrators for an interest arbitration case. The panel of three arbitrators function as a single arbitrator to hear and decide the issues certified at impasse by the commissioner.

[For text of subps 2 and 3, see M.R.]

Subp. 3a. Bureau. "Bureau" means the Bureau of Mediation Services.

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

Subp. 5a. Commissioner. "Commissioner" means the commissioner of the Bureau of Mediation Services.

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

Subp. 6a. 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.

[For text of subps 7 and 8, see M.R.]

Subp. 9. [Repealed, 15 SR 2107]

Subp. 10. Party or parties. "Party" or "parties" means, in the case of interest arbitration, any exclusive representative and any employer or employer organization engaged in the arbitration of terms and conditions of employment. In the case of grievance arbitration, "party" means any person authorized by contract or law to select the arbitrator of a grievance.

Subp. 11. Referral arbitration panel or referral panel. "Referral arbitration panel" or "referral panel" means a listing of roster members compiled by the board for either interest or grievance arbitration cases. Referral panels are submitted to the parties of a grievance arbitration case for the selection of a single arbitrator. In the case of interest arbitration, the parties may select either a single arbitrator or an arbitration panel composed of three arbitrators.

Subp. 12. Service or 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*

7320.0040 COMPUTATION OF TIME.

In computing any period of time prescribed or allowed by parts 7320.0010 to 7320.0220, 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, Saturdays, Sundays, and legal holidays are not included in the computation. See part 7320.0030, subpart 6a, for the definition of a legal holiday.

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

History: *15 SR 2107*

7320.0090 ARBITRATOR CONDUCT, STANDARDS, AND RESPONSIBILITIES.

[For text of subps 1 to 6, see M.R.]

Subp. 7. Prehearing conduct. An arbitrator or arbitration panel, upon notification by the board of appointment to an arbitration case, must communicate with the parties as soon as possible to arrange for the date, time, and location of the hearing and any other necessary procedural matters. All prehearing communications between the arbitrator and the parties must be done in a manner that promotes complete impartiality by the arbitrator. It is the arbitrator's responsibility to ensure that copies of any prehearing correspondence between the arbitrator and either party are made available to the other party.

Subp. 8. Hearing conduct. The parties are entitled to a hearing that is conducted in a fair and impartial manner, allowing the parties adequate opportunity to present their respective evidence and argument. The arbitrator is responsible for conducting an orderly proceeding and may:

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

An accurate record must be developed by the arbitrator. The arbitrator may, with notice to the parties, use a tape recorder to supplement notetaking. Notes, recorded tapes, and other records of the hearing developed by the arbitrator shall remain the property of the arbitrator and must be retained by the arbitrator for 90 days after delivery of a copy of the award to the parties. The provision of an official transcript may be arranged for by either party before the hearing. The transcript must be paid for by the party or parties requesting it. A copy of the official transcript must be submitted at no cost to the arbitrator and made available to the parties, at copying costs.

[For text of subps 9 and 10, see M.R.]

Subp. 11. Jurisdiction. In ruling on a grievance, an arbitrator must comply with the limitations of authority found in a labor agreement. In interest arbitration cases, the arbitrator or arbitration panel has jurisdiction to rule on the items or the arbitrability of the items certified to impasse by the commissioner of the bureau of mediation services. At any stage of interest or grievance arbitration proceedings, the parties may settle some or all of the items in dispute. In those circumstances where some but not all of the items have been settled, the arbitrator must state in the award those certified items which were settled by the parties. The jurisdiction of the arbitrator continues until all items certified to impasse have been resolved.

[For text of subps 12 and 13, see M.R.]

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

History: *15 SR 2107*

7320.0110 SELECTION RATE OF ARBITRATORS.

Subpart 1. **Maintenance of statistical information.** The executive director shall maintain reliable data concerning the frequency with which individuals are selected by the parties from panels referred by the board. On an annual basis, the board must review statistics showing the selection rates of its arbitrators, and rank the arbitrators according to their usage by the number of times proposed and the number of times selected.

Subp. 2. **Selection rates of arbitrators in lowest quartile.** An arbitrator may be removed from the roster if the arbitrator has been in the lowest quartile of the selection rate for the past two consecutive years and was selected for fewer than two cases in the most recent 12-month period.

Subp. 3. **Selection rate of newly enpaneled arbitrators.** A newly enpaneled arbitrator is not subject to subpart 2 until after the arbitrator has completed four years of service on the arbitrator roster.

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

History: *15 SR 2107*

7320.0120 REFERRAL ARBITRATION PANELS.

Subpart 1. **Random selection.** Referral arbitration panels shall be created by a random selection process. Each referral arbitration panel shall contain a mix of frequently-used, moderately-used, and infrequently-used arbitrators, pursuant to the ranking list determined in the board's review.

Subp. 2. [Repealed, 15 SR 2107]

Subp. 3. [Repealed, 15 SR 2107]

Subp. 4. [Repealed, 15 SR 2107]

Subp. 5. **Replacements of referral arbitration panels.** The board must replace referral arbitration panels under the following circumstances.

A. In proposing a referral arbitration panel, if the panel which has been selected for a particular case includes the name of an arbitrator who has on file a written notice of a conflict of interest in that case, that panel shall not be used for that case and another panel shall be selected.

B. The board will consider any objections raised by either party, as to whether an arbitrator on the proposed referral panel has a conflict of interest in that particular case. The party raising the objection must submit a written request for a replacement panel and the rationale for which the objection is being raised. A copy of the request for a replacement panel be forwarded to the other party of the dispute. Any response by the other party must be in writing and submitted to the board within ten calendar days from the date of the request for the replacement panel. The board at its next scheduled meeting will determine if pursuant to part 7320.0070, subpart 2, a conflict of interest exists. If it is found that a conflict exists, a replacement panel must be provided to the parties. If it is determined that a conflict of interest does not exist, the parties shall proceed to select an arbitrator from the initial referral panel of arbitrators submitted to the parties. The decision is final.

C. All joint written requests to substitute a proposed list of arbitrators with a second list shall be honored.

D. A replacement panel must be provided to the parties if the arbitrator selected is unable to render an award.

E. A replacement panel must be provided to the parties when one of the proposed arbitrators on the referral arbitration panel has voluntarily removed their name from the arbitrator roster and one of the parties requests a replacement panel.

Subp. 6. **Selection of referral arbitration panels.** Approximately once a week, pursuant to a schedule established at a regular board meeting, the chair and exec-

utive director will meet to select the referral arbitration panels to be proposed in pending cases.

The board may designate any of its members, other than the chair, or the executive director to select the referral arbitration panels for pending cases.

Subp. 7. **Arbitrator requests for inactive status.** An arbitrator may request in writing not to be proposed on referral arbitration panels for up to six months without being subject to removal from the arbitrator list.

An arbitrator who requests to be withheld from proposal on referral arbitration panels for more than six months shall be removed from the arbitrator list. That arbitrator may reapply for placement on the list according to the board's qualification procedures.

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

History: *15 SR 2107*

7320.0130 INTEREST ARBITRATION.

Parts 7320.0130 to 7320.0180 apply to the procedures governing the arbitration of disputes concerning the resolution of new terms and conditions of employment.

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

History: *15 SR 2107*

7320.0140 CERTIFICATION OF IMPASSE.

Subpart 1. **Contents.** A certification of impasse by the commissioner according to Minnesota Statutes, chapter 179A, must contain the following:

- A. a petition or petitions requesting arbitration;
- B. a concise statement by the commissioner indicating that an impasse has been reached and that the requirements of Minnesota Statutes, chapter 179A, have been met;
- C. a determination by the commissioner of the items in dispute;
- D. any final positions submitted by the parties; and
- E. any notice of a mutual selection of an arbitrator or arbitration panel by parties pursuant to part 7320.0140, subpart 4.

Subp. 2. **Filing.** The certification must be filed with the board.

Subp. 3. **Final positions.**

A. The board must assign a referral panel of arbitrators to cases which have been certified by the commissioner unless the parties have mutually selected an arbitrator or arbitration panel pursuant to part 7320.0140, subpart 4. Upon notification of the selection of the arbitrator by the parties, the board must forward final positions of the parties which have been received from both parties. The board shall proceed with forwarding those final positions which are on hand, but must instruct the arbitrator that final positions are nonpublic and confidential data until receipt of the final positions of the other party or until commencement of the arbitration hearing.

B. When either party has submitted a final position for an issue which has not been certified to impasse by the commissioner, the board must notify the parties and the selected arbitrator or arbitration panel that the arbitrator has jurisdiction to rule only on the issue or the arbitrability of the issues cited by the commissioner as issues which remain in dispute between the parties in the certification of matters for arbitration.

Subp. 4. **Mutual selection of an arbitrator.** If the parties mutually agree to select an arbitrator or arbitration panel from the arbitrator roster maintained by the board, the commissioner must advise the board that the arbitrator or panel of arbitrators has been mutually agreed to by the parties. The written notification

of selection of an arbitrator must be included with the certification of impasse when it is forwarded by the commissioner to the board.

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

History: *15 SR 2107*

7320.0150 SELECTION OF ARBITRATOR.

Subpart 1. Submission of panel. When the commissioner has certified an impasse to the board under Minnesota Statutes, chapter 179A, and part 7320.0140, and mutual selection of an arbitrator has not occurred, the board must submit to the parties a list of seven names for the selection of a single arbitrator or a panel of three arbitrators. The parties must agree and provide a written request to the board if selection of a panel of three arbitrators is preferred. In selecting a single arbitrator or a panel of three arbitrators, the parties shall alternately strike names from the list until the appropriate number of names remain.

Subp. 2. Striking of names. 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. When a panel of three arbitrators has been selected, the parties shall designate a convenor. If the parties fail to agree upon a convenor, each party shall strike, in the continued order of striking, one name from the panel. The remaining arbitrator shall act as the convenor for the purpose of commencing the proceedings. After selection, the parties must immediately notify the board in writing of the name of the single arbitrator or the names of the three arbitrators and the designated convenor.

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

History: *15 SR 2107*

7320.0160 SELECTION OF CHAIR.

At its initial session, the panel of three arbitrators must select one of its members as the chair. If the arbitrators cannot agree, the convenor must serve as the chair.

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

History: *15 SR 2107*

7320.0170 SUBMISSION TO THE ARBITRATOR.

The board must submit to the arbitrator or an arbitration panel selected by the parties, the certification of the impasse of the commissioner.

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

History: *15 SR 2107*

7320.0180 ARBITRATION PROCEDURES.

The arbitration proceeding shall be conducted and the award must be rendered pursuant to Minnesota Statutes, chapter 179A, and part 7320.0090. The procedures and authority of the Uniform Arbitration Act in Minnesota Statutes, sections 572.08 to 572.30, shall apply to arbitration proceedings except as they are inconsistent with the Public Employment Labor Relations Act.

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

History: *15 SR 2107*

7320.0190 GRIEVANCE ARBITRATION.

Parts 7320.0190 to 7320.0220 apply to the procedures governing arbitration of disputes concerning the resolution of existing terms and conditions of employment.

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

History: *15 SR 2107*

7320.0200 PETITION FOR GRIEVANCE ARBITRATION.

Subpart 1. **Authority to petition.** A party may petition the board in writing for a list of five arbitrators. The petitioner must provide all parties a copy of the petition at the time of filing with the board.

Subp. 2. **Contents of petition.** The petition must include:

- A. the name and address of the petitioner;
- B. the name and address of the adverse party;
- C. the name and address of the adverse party's representative; and
- D. a concise statement of the nature of the grievance and the relief requested.

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

History: *15 SR 2107*

7320.0210 SELECTION OF THE ARBITRATOR.

Upon receipt of a petition, the board must submit to the parties a list of five names for the selection of an arbitrator. The parties shall alternately strike names from the list until one name remains. If parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. After selection, the parties shall immediately notify the board in writing of the name of the arbitrator.

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

History: *15 SR 2107*

7320.0220 ARBITRATION PROCEDURES.

The arbitration proceedings shall be conducted and the award must be rendered according to Minnesota Statutes, chapter 179A, and part 7320.0090. The procedures and authority of the Uniform Arbitration Act in Minnesota Statutes, sections 572.08 to 572.30, apply to arbitration proceedings except as they are inconsistent with the Public Employment Labor Relations Act.

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

History: *15 SR 2107*