

CHAPTER 179A

PUBLIC EMPLOYMENT LABOR RELATIONS

179A.03	Definitions.	179A.10	State units.
179A.04	Commissioner's power, authority, and duties.	179A.11	University of Minnesota.
179A.05	Public employment relations board; powers and duties.	179A.13	Unfair labor practices.
		179A.16	Interest arbitration.
		179A.20	Contracts.

179A.03 DEFINITIONS.

[For text of subs 1 to 13, see M.S.1990]

Subd. 14. Public employee. "Public employee" or "employee" means any person appointed or employed by a public employer except:

- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;
- (e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;
- (f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;
- (g) employees providing services for not more than two consecutive quarters to the state university board or the community college board under the terms of a professional or technical services contract as defined in section 16B.17, subdivision 1;
- (h) employees of charitable hospitals as defined by section 179.35, subdivision 3;
- (i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;
- (j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;
- (k) an individual hired by a school district, the community college board, or the state university board, to teach one course for up to four credits for one quarter in a year.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

- (1) An employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017 or for community services or community education instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; and
- (2) An employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative

number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position.

[For text of subs 15 to 19, see M.S.1990]

History: 1991 c 308 s 2

179A.04 COMMISSIONER'S POWER, AUTHORITY, AND DUTIES.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. Other duties. The commissioner shall:

(a) provide mediation services as requested by the parties until the parties reach agreement. The commissioner may continue to assist parties after they have submitted their final positions for interest arbitration;

(b) issue notices, subpoenas, and orders required by law to carry out duties under sections 179A.01 to 179A.25;

(c) certify to the board items of dispute between parties subject to action of the board under section 179A.16;

(d) assist the parties in formulating petitions, notices, and other papers required to be filed with the commissioner or the board;

(e) certify the final results of any election or other voting procedure conducted under sections 179A.01 to 179A.25;

(f) adopt rules relating to the administration of this chapter; and the conduct of hearings and elections;

(g) receive, catalogue, and file all orders and decisions of the board, all decisions of arbitration panels authorized by sections 179A.01 to 179A.25, all grievance arbitration decisions, and the commissioner's orders and decisions. All orders and decisions catalogued and filed shall be readily available to the public;

(h) adopt, subject to chapter 14, a grievance procedure to fulfill the purposes of section 179A.20, subdivision 4. The grievance procedure shall not provide for the services of the bureau of mediation services. The grievance procedure shall be available to any employee in a unit not covered by a contractual grievance procedure;

(i) conduct elections;

(j) maintain a schedule of state employee classifications or positions assigned to each unit established in section 179A.10, subdivision 2;

(k) collect such fees as are established by rule for empanelment of persons on the labor arbitrator roster maintained by the commissioner or in conjunction with fair share fee challenges;

(l) provide technical support and assistance to voluntary joint labor-management committees established for the purpose of improving relationships between exclusive representatives and employers, at the discretion of the commissioner; and

(m) from the names provided by representative organizations, maintain a list of arbitrators to conduct teacher discharge or termination hearings according to section 125.12 or 125.17. The persons on the list shall meet at least one of the following requirements:

(1) be a former or retired judge;

(2) be a qualified arbitrator on the list maintained by either the bureau of mediation services or the public employment relations board according to section 179A.05, subdivision 6;

(3) be a present, former, or retired administrative law judge; or

(4) be a neutral individual who is learned in the law and admitted to practice in Minnesota, who is qualified by experience to conduct these hearings, and who is without bias to either party.

Each year, the Minnesota education association shall provide a list of seven names, the Minnesota federation of teachers a list of seven names, and the Minnesota school boards association a list of 14 names of persons to be on the list. The commissioner may adopt rules about maintaining and updating the list.

[For text of subd 4, see M.S.1990]

History: 1991 c 196 s 5

179A.05 PUBLIC EMPLOYMENT RELATIONS BOARD; POWERS AND DUTIES.

[For text of subs 1 to 5, see M.S.1990]

Subd. 6. Administration of arbitrator roster. The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list the board shall, to the maximum extent possible, select persons from varying geographical areas of the state. The board shall adopt rules under chapter 14 governing the administration of the arbitration roster, including rules establishing standards for evaluating the performance of arbitrators. The standards must include, at a minimum, the acceptability of arbitrators to the parties and the arbitrators' management of their cases, including their promptness in holding hearings and issuing awards.

[For text of subd 7, see M.S.1990]

History: 1991 c 238 art 2 s 1

179A.10 STATE UNITS.

[For text of subd 1, see M.S.1990]

Subd. 2. State employees. Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. Supervisory employees shall only be assigned to units 12 and 16. The following are the appropriate units of executive branch state employees:

- (1) law enforcement unit;
- (2) craft, maintenance, and labor unit;
- (3) service unit;
- (4) health care nonprofessional unit;
- (5) health care professional unit;
- (6) clerical and office unit;
- (7) technical unit;
- (8) correctional guards unit;
- (9) state university instructional unit;
- (10) community college instructional unit;
- (11) technical college instructional unit;
- (12) state university administrative unit;
- (13) professional engineering unit;
- (14) health treatment unit;
- (15) general professional unit;
- (16) professional state residential instructional unit; and
- (17) supervisory employees unit.

Each unit consists of the classifications or positions assigned to it in the schedule of state employee job classification and positions maintained by the commissioner. The commissioner may only make changes in the schedule in existence on the day prior to August 1, 1984, as required by law or as provided in subdivision 4.

[For text of subds 3 and 4, see M.S.1990]

History: 1991 c 356 art 9 s 7

NOTE: Subdivision 2, as amended by Laws 1991, chapter 356, article 9, section 7, is effective July 1, 1993, for collective bargaining of contracts that become effective on or after July 1, 1995. See Laws 1991, chapter 356, article 9, section 16.

179A.11 UNIVERSITY OF MINNESOTA.

Subdivision 1. Units. The following are the appropriate units of University of Minnesota employees. All units shall exclude managerial and confidential employees. Supervisory employees shall only be assigned to unit 13. No additional units of University of Minnesota employees shall be recognized for the purpose of meeting and negotiating.

(1) The law enforcement unit consists of the positions of all employees with the power of arrest.

(2) The craft and trades unit consists of the positions of all employees whose work requires specialized manual skills and knowledge acquired through formal training or apprenticeship or equivalent on-the-job training or experience.

(3) The service, maintenance, and labor unit consists of the positions of all employees whose work is typically that of maintenance, service, or labor and which does not require extensive previous training or experience, except as provided in unit 4.

(4) The health care nonprofessional and service unit consists of the positions of all nonprofessional employees of the University of Minnesota hospitals, dental school, and health service whose work is unique to those settings, excluding labor and maintenance employees as defined in unit 3.

(5) The nursing professional unit consists of all positions which are required to be filled by registered nurses.

(6) The clerical and office unit consists of the positions of all employees whose work is typically clerical or secretarial, including nontechnical data recording and retrieval and general office work, except as provided in unit 4.

(7) The technical unit consists of the positions of all employees whose work is not typically manual and which requires specialized knowledge or skills acquired through two-year academic programs or equivalent experience or on-the-job training, except as provided in unit 4.

(8) The Twin Cities instructional unit consists of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate or instructor, including research fellow, located on the Twin Cities campuses.

(9) The outstate instructional unit consists of the positions of all instructional employees with the rank of professor, associate professor, assistant professor, including research associate or instructor, including research fellow, located at the Duluth campus, provided that the positions of instructional employees of the same ranks at the Morris, Crookston, or Waseca campuses shall be included within this unit if a majority of the eligible employees voting at a campus so vote during an election conducted by the commissioner, provided that the election shall not be held until the Duluth campus has voted in favor of representation. The election shall be held when an employee organization or group of employees petitions the commissioner stating that a majority of the eligible employees at one of these campuses wishes to join the unit and this petition is supported by a showing of at least 30 percent support from eligible employees at that campus and is filed between September 1 and November 1.

Should both units 8 and 9 elect exclusive bargaining representatives, those representatives may by mutual agreement jointly negotiate a contract with the regents, or may negotiate separate contracts with the regents. If the exclusive bargaining representatives jointly negotiate a contract with the regents, the contract shall be ratified by each unit.

(10) The graduate assistant unit consists of the positions of all graduate assistants who are enrolled in the graduate school and who hold the rank of research assistant, teaching assistant, teaching associate I or II, project assistant, or administrative fellow I or II.

(11) The academic professional and administrative staff unit consists of all academic professional and administrative staff positions that are not defined as included in an instructional unit, the supervisory unit, the clerical unit, or the technical unit.

(12) The noninstructional professional unit consists of the positions of all employees meeting the requirements of section 179A.03, subdivision 14, clause (a) or (b), which are not defined as included within an instructional unit, the academic professional and administrative staff unit, or the supervisory unit.

(13) The supervisory employees unit consists of the positions of all supervisory employees.

Subd. 2. University of Minnesota employee severance. Each of the following groups of University of Minnesota employees has the right, as specified in this subdivision, to separate from the instructional and supervisory units: (1) health sciences instructional employees at all campuses with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, (2) instructional employees of the law school with the rank of professor, associate professor, assistant professor, including research associate, or instructor, including research fellow, (3) instructional supervisors, (4) noninstructional professional supervisors, and (5) academic professional and administrative staff supervisors. This right may be exercised by petition between September 1 and November 1. If a group separates from its unit, it has no right to meet and negotiate, but retains the right to meet and confer with the appropriate officials on any matter of concern to the group. The right to separate must be exercised as follows: An employee organization or group of employees claiming that a majority of any one of these groups of employees on a statewide basis wish to separate from their unit may petition the commissioner for an election during the petitioning period. If the petition is supported by a showing of at least 30 percent support from the employees, the commissioner shall hold an election on the separation issue. This election must be conducted within 30 days of the close of the petition period. If a majority of votes cast endorse severance from their unit, the commissioner shall certify that result. Where not inconsistent with other provisions of this section, the election is governed by section 179A.12. If a group of employees severs, it may rejoin that unit by following the procedures for severance during the periods for severance.

History: 1991 c 77 s 1,2

179A.13 UNFAIR LABOR PRACTICES.

[For text of subd 1, see M.S.1990]

Subd. 2. Employers. Public employers, their agents and representatives are prohibited from:

(1) interfering, restraining, or coercing employees in the exercise of the rights guaranteed in sections 179A.01 to 179A.25;

(2) dominating or interfering with the formation, existence, or administration of any employee organization or contributing other support to it;

(3) discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization;

(4) discharging or otherwise discriminating against an employee because the employee has signed or filed an affidavit, petition, or complaint or given information or testimony under sections 179A.01 to 179A.25;

(5) refusing to meet and negotiate in good faith with the exclusive representative of its employees in an appropriate unit;

(6) refusing to comply with grievance procedures contained in an agreement;

(7) distributing or circulating a blacklist of individuals exercising a legal right or of members of a labor organization for the purpose of preventing blacklisted individuals from obtaining or retaining employment;

(8) violating rules established by the commissioner regulating the conduct of representation elections;

(9) refusing to comply with a valid decision of a binding arbitration panel or arbitrator;

(10) violating or refusing to comply with any lawful order or decision issued by the commissioner or the board;

(11) refusing to provide, upon the request of the exclusive representative, all information pertaining to the public employer's budget both present and proposed, revenues, and other financing information provided that in the executive branch of state government this clause may not be considered contrary to the budgetary requirements of sections 16A.10 and 16A.11; or

(12) granting or offering to grant the status of permanent replacement employee to a person for performing bargaining unit work for the employer during a lockout of employees in an employee organization or during a strike authorized by an employee organization that is an exclusive representative.

[For text of subd 3, see M.S.1990]

History: 1991 c 239 s 2

179A.16 INTEREST ARBITRATION.

[For text of subds 1 to 3, see M.S.1990]

Subd. 4. Construction of arbitration panel. The parties may select persons who are members of the arbitration roster maintained by the board to act as the arbitration panel in their dispute by mutual agreement. In the event of a mutual agreement on the members of the arbitration panel, the commissioner shall advise the board in writing of the selection of the panel members, and the persons selected shall serve as the arbitration panel. If the parties have not mutually agreed upon the panel members by the time the commissioner certifies the matter to the board, the board shall provide the parties to the interest arbitration a list of seven arbitrators. The board shall mail the list of arbitrators to the parties within five working days. The parties shall alternately strike names from the list of arbitrators until only a single arbitrator remains, unless the parties request and mutually agree to utilize a panel of three arbitrators. If the parties are unable to agree on who shall strike the first name, the question must be decided by the flip of a coin. The arbitrator or arbitrators remaining after the striking procedure constitute the arbitration panel.

[For text of subd 5, see M.S.1990]

Subd. 6. Powers of the panel. If the parties are unable to agree on a prompt, mutually acceptable date for an arbitration panel to meet, the panel may propose a series of dates on which to meet. The parties shall alternatively strike dates until a single date remains. The hearing must be held on that date.

The arbitration panel 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. The panel 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 hearing. However, the panel's meeting shall be held in the county where the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or where the person who refuses to obey is found, or resides, or transacts business shall, on application of the panel, have jurisdiction to issue an

order requiring the person to appear before the panel, to produce evidence, or to give testimony. Failure to obey the order may be punished by the court as a contempt.

Subd. 7. Decision by the panel. The panel's order shall be issued by a majority vote of its members. The order shall resolve the issues in dispute between the parties as submitted by the board. For principals and assistant principals, the panel shall be restricted to selecting between the final offers of the parties on each impasse item. For other employees, if the parties agree in writing, the panel shall be restricted to selecting between the final offers of the parties on each impasse item, or the final offer of one or the other parties in its entirety. In considering a dispute and issuing its order, the panel shall consider the statutory rights and obligations of public employers to efficiently manage and conduct their operations within the legal limitations surrounding the financing of these operations. The panel's decision and order shall be final and binding on all parties.

The panel shall render its order within 30 days from the date that all arbitration proceedings have concluded. This deadline may be extended only with the approval of the chair of the board. The board shall adopt rules establishing criteria to be followed in determining whether an extension should be granted. The panel's order must be for the period stated in the order, except that orders determining contracts for teacher units are effective to the end of the contract period determined by section 179A.20.

The panel shall send its decision and orders to the board, the commissioner, the appropriate representative of the public employer, and the employees. If any issues submitted to arbitration are settled voluntarily before the arbitrator issues a decision, the arbitrator shall report the settlement to the board and the commissioner.

The parties may at any time prior to or after issuance of an order of the arbitration panel, agree upon terms and conditions of employment regardless of the terms and conditions of employment determined by the order. The parties shall, if so agreeing, execute a written contract or memorandum of contract.

[For text of subds 8 and 9, see M.S.1990]

History: 1991 c 238 art 2 s 2-4

179A.20 CONTRACTS.

[For text of subds 1 to 3, see M.S.1990]

Subd. 4. Grievance procedure. (a) All contracts must include a grievance procedure providing for compulsory binding arbitration of grievances including all written disciplinary actions. If the parties cannot agree on the grievance procedure, they are subject to the grievance procedure promulgated by the commissioner under section 179A.04, subdivision 3, clause (h).

(b) Notwithstanding any home rule charter to the contrary, after the probationary period of employment, any disciplinary action is subject to the grievance procedure and compulsory binding arbitration.

(c) Employees covered by civil service systems created under chapter 43A, 44, 375, 387, 419, or 420, by a home rule charter under chapter 410, or by Laws 1941, chapter 423, may pursue a grievance through the procedure established under this section. When the grievance is also within the jurisdiction of appeals boards or appeals procedures created by chapter 43A, 44, 375, 387, 419, or 420, by a home rule charter under chapter 410, or by Laws 1941, chapter 423, the employee may proceed through the grievance procedure or the civil service appeals procedure, but once a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with the employee's consent the employee may not proceed in the alternative manner.

(d) A teacher who elects a hearing before an arbitrator under section 125.12, subdivision 9a, or 125.17, subdivision 10a, or who elects or acquiesces to a hearing before the school board may not later proceed in the alternative manner nor challenge the termination or discharge through a grievance procedure required by this subdivision.

(e) This section does not require employers or employee organizations to negotiate on matters other than terms and conditions of employment.

[For text of subs 5 and 6, see M.S.1990]

History: 1991 c 196 s 6