

## CHAPTER 179A

## PUBLIC EMPLOYMENT LABOR RELATIONS

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**179A.03 DEFINITIONS.**

*[For text of subs 1 to 6, see M.S.1994]*

Subd. 7. **Essential employee.** "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.855, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires.

*[For text of subs 8 to 13, see M.S.1994]*

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 136F.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.1994]*

**History:** 1995 c 212 art 4 s 64; 1995 c 226 art 6 s 3

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

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Other duties.** (a) The commissioner shall:

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

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

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

(4) conduct elections;

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

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

(7) receive, catalogue, file, and make available to the public all decisions of arbitrators and panels authorized by sections 179A.01 to 179A.25, all grievance arbitration decisions, and the commissioner's orders and decisions;

(8) adopt, subject to chapter 14, a grievance procedure that fulfills the purposes of section 179A.20, subdivision 4, does not provide for the services of the bureau of mediation services and is available to any employee in a unit not covered by a contractual grievance procedure;

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

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

(11) 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;

(12) provide to the parties a list of arbitrators as required by section 179A.16, subdivision 4; and

(13) maintain a list of up to 60 arbitrators for referral to employers and exclusive representatives for the resolution of grievance or interest disputes. Each person on the list must be knowledgeable about collective bargaining and labor relations in the public sector, well versed in state and federal labor law, and experienced in and knowledgeable about labor arbitration. To the extent practicable, the commissioner shall appoint members to the list so that the list is gender and racially diverse.

(b) The commissioner shall make available uniform baseline determination documents and uniform collective bargaining agreement settlement documents applicable to all negoti-

ations between exclusive representatives of appropriate units of public employees and public employers other than townships and prescribe procedures and instructions for completion of the documents. The commissioner shall, at a minimum, include these individual elements in the uniform baseline determination document: the costs of any increases to the wage schedule; the costs of employees moving through the wage schedule; costs of medical insurance; costs of dental insurance; costs of life insurance; lump sum payments; shift differentials; extracurricular activities; longevity; employer contributions to social security; employer contributions to state or local retirement plans; and contributions to a deferred compensation account. The calculation of the base year must be based on an annualization of the costs provided in the base year contract. The documents must be in the same form as presented by the commissioner to the legislative commission on employee relations on February 17, 1994. A completed uniform collective bargaining agreement settlement document must be presented to the public employer at the time it ratifies a collective bargaining agreement and must be available afterward for inspection during normal business hours at the principal administrative offices of the public employer. The commissioner shall provide training and technical assistance to public employers who request it in completing the uniform baseline determination documents and uniform collective bargaining agreement settlement documents. The commissioner shall at least annually inform public employers of their obligations to complete and post these forms and to submit copies of the completed forms to the legislative commission on employee relations.

(c) From the names provided by representative organizations, the commissioner shall 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 must 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 the bureau;
- (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.1994]*

**History:** 1995 c 239 s 2

## **179A.07 RIGHTS AND OBLIGATIONS OF EMPLOYERS.**

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **Other communication.** If an exclusive representative has been certified for an appropriate unit, the employer shall not meet and negotiate or meet and confer with any employee or group of employees who are in that unit except through the exclusive representative. This subdivision does not prevent communication to the employer, other than through the exclusive representative, of advice or recommendations by professional employees, if this communication is a part of the employee's work assignment. This subdivision does not prevent communication between public post-secondary employers and post-secondary professional employees, other than through the exclusive representative, regarding policies and matters that are not terms and conditions of employment.

*[For text of subs 5 and 6, see M.S.1994]*

**History:** 1995 c 212 art 2 s 9

## **179A.10 STATE UNITS.**

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. State employee severance.** Each of the following groups of employees has the right, as specified in this subdivision, to separate from the general professional, health treatment, or general supervisory units provided for in subdivision 2: attorneys, physicians, professional employees of the higher education services office who are compensated under section 43A.18, subdivision 4, state patrol-supervisors, enforcement supervisors employed by the department of natural resources, and criminal apprehension investigative-supervisors. This right must be exercised by petition during the 60-day period commencing 270 days prior to the termination of a contract covering the units. If one of these groups of employees exercises the right to separate from the units they have no right to meet and negotiate, but retain the right to meet and confer with the commissioner of employee relations and with the appropriate appointing authority on any matter of concern to them. 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 units 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 for the petitioner from the employees, the commissioner shall hold an election to ascertain the wishes of the majority with respect to the issue of remaining within or severing from the units provided in subdivision 2. This election must be conducted within 30 days of the close of the petition period. If a majority of votes cast endorse severance from the unit in favor of separate meet and confer status for any one of these groups of employees, the commissioner shall certify that result. This election, where not inconsistent with other provisions of this section, is governed by section 179A.12. If a group of employees elects to sever, the group may rejoin that unit by following the same procedures specified above for severance, but may only do so during the periods provided for severance.

*[For text of subd 4, see M.S.1994]*

**History:** 1995 c 212 art 3 s 59

#### **179A.16 INTEREST ARBITRATION.**

*[For text of subs 1 to 5, see M.S.1994]*

**Subd. 6. Powers of the arbitrator or panel.** The arbitrator or panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to any matter involved in any dispute before it. The arbitrator or 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, any hearing must 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, on application of the arbitrator or panel, has 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. Posthearing briefs, if any, must be received by the arbitrator within 14 days of the hearing.

**Subd. 7. Decision by the arbitrator or panel.** The decision must be issued by the arbitrator or a majority vote of the panel. The decision must resolve the issues in dispute between the parties as submitted by the commissioner. For principals and assistant principals, the arbitrator or panel is restricted to selecting between the final offers of the parties on each impasse item. For other employees, if the parties agree in writing, the arbitrator or panel is 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 decision, the arbitrator or 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 decision is final and binding on all parties.

The arbitrator or panel shall render its decision within 30 days from the date that all arbitration proceedings have concluded. The arbitrator or panel may not request that the parties waive their right to have the decision rendered within 30 days, unless the commissioner

grants an extension of the deadline. The commissioner shall remove from the roster for six months the name of any arbitrator who does not render the decision within 30 days or within the extension granted by the commissioner. The commissioner shall adopt rules establishing criteria to be followed in determining whether an extension should be granted. The decision must be for the period stated in the decision, except that decisions determining contracts for teacher units are effective to the end of the contract period determined by section 179A.20.

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

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

**Subd. 8. Database; fees, charges, and per diems.** The commissioner shall maintain a database of all fees, charges, and per diems charged by each arbitrator. The database must include the total charges imposed by the arbitrator in the previous six interest arbitration cases. For each arbitration decision rendered by an arbitrator, the arbitrator shall submit a copy of the award and a description of all fees, charges, and per diems assessed to the parties to the commissioner. Data from this database must be available to the public. All costs of the panel must be shared equally by the parties to the dispute.

*[For text of subd 9, see M.S.1994]*

**History:** 1995 c 239 s 3-5