

Minnesota Attorney General: Administrative Rules Proceedings

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MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to

the Public Employment Relations Board
(Agency or Board)

Regulation No. PERB 1 thru 66 (amended)

Subject: Issues and Appeals

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PUBLIC EMPLOYMENT RELATIONS BOARD
PROPOSED RULES AND REGULATIONS

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PUBLIC EMPLOYMENT RELATIONS BOARD

PROPOSED RULES AND REGULATIONS

I. Rules and Regulations Governing Issues and Appeals presented to the Public Employment Relations Board pursuant to ~~Minn. Stat. § 179.72 Subd. 3(a) and (b) (1971).~~ the Public Employment Labor Relations Act.

PERB 1 Application. These rules shall apply to (1) issues relating to the meaning of the terms supervisory employee, confidential employee, essential employee or professional employee, and (2) appeals from determinations of the Director relating to the appropriateness of a unit or determination of supervisory employee.

PERB 2 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. All parties who present issues and appeals to the Board shall be provided a fair, just and timely hearing.

PERB 3 Definitions.

3.01 Board. "Board" means Public Employment Relations Board.

3.02 Bureau. "Bureau" means Bureau of Mediation Services.

3.03 Director. "Director" means the Director of the Bureau of Mediation Services.

3.04 Party. "Party" means any person, public employee, 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.

3.05 Appeal. "Appeal" means (1) issues relating to the meaning of the terms supervisory employee, confidential employee, essential employee or professional employee, and (2) appeals from determinations of the Director relating to the appropriateness of a unit or determination of supervisory employee.

3.06 Arbitrator. "Arbitrator," when referred to in PERB 30 through 40, means one or a panel of three arbitrators.

3.07 Supervisory Employee. "Supervisory employee," as defined in Minnesota Statutes, Section 179.63, Subd. 9, means:

(a) when the reference is to other than essential employees:

[A]ny person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

(b) when the reference is to essential employees:

[T]he administrative head and his assistant of a municipality, municipal utility, police or fire department, or any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

3.08 Confidential Employee. "Confidential employee," as defined in Minnesota Statutes, Section 179.63, Subd. 8, means:

> [A]ny employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating or who actively participates in the meeting and negotiating on behalf of the public employer.

3.09 Essential Employee. "Essential employee," as defined in Minnesota Statutes, Section 179.63, Subd. 11, means:

> [A]ny person within the definition of subdivision 7 whose employment duties involve work or services essential to the health or safety of the public and the withholding of such services would create a clear and present danger to the health or safety of the public.

3.10 Professional Employee. "Professional employee," as defined in Minnesota Statutes, Section 179.63, Subd. 10, means:

> (a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes;

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(c) a teacher shall be deemed to be a professional employee.

3.11 De Novo Hearing. "De novo hearing" means a new and full factual hearing on the issues stated in the notice of appeal and answer. In no event will issues be heard ~~by the presiding officer~~ which were not presented to the Bureau.

3.12 Presiding Officer. "Presiding officer" means the Board, one or more of its members or a hearing examiner appointed by the Board who may hear the appeal.

3.13 Service; Serve. "Service" or "serve" means service of a document required by these rules, by person or certified United States mail, with return requested, postage prepaid and addressed to the party at his last known address, unless some other manner of service is required by law. Certified mail means mail which must be signed for by the addressee upon receipt of said mail.

3.14 Time. In computing any period of time prescribed or allowed by these rules, the day of act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a

legal holiday. For any time period of 10 days or less, Saturdays, Sundays or legal holidays shall not be included in computing the period of time.

PERB 4 Presiding Officer.

4.01 Conducting Hearings. The Board may hear appeals as a full body or may delegate to one or more of its members the authority to hear an appeal. The Board may also appoint a hearing examiner to hear an appeal.

4.02 Authority of Hearing Examiner. The appointment of the hearing examiner shall, to the extent permitted by law, grant the hearing examiner such authority as the Board deems necessary and appropriate to hear the appeal. The hearing examiner shall not have authority to make the final decision on the appeal.

4.03 Function of Hearing Examiner. The hearing examiner shall hear the appeal consistent with law and the terms of his appointment. His functions shall include, but not be limited to, to hear and rule on preliminary motions, conduct the hearing and prepare findings of fact. The final decision on the appeal shall in all cases be made by the Board.

PERB 5 Initiating an Appeal. 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 Director and filing the original with the Board within 10 days of a ~~unit~~ determination by the Director. A notice of appeal shall contain:

1. The name and address of the applicant;
2. A statement of the nature of the decision requested, the reasons therefor and the BMS case number;
3. The names and addresses of all parties who were parties to the ~~unit~~ determination by the Director, and all other parties known to the applicant who will be directly affected by such appeal; and
4. The signature of the applicant or his representative.

PERB 6 Answer. Within 5 10 days after service of a notice of appeal, all other parties may submit a concise answer to the notice of appeal. A copy of such answer shall be served on all parties to the appeal and filed with the Board. Failure to submit an answer shall not be deemed as an admission of any statement contained in the issue of appeal or waiver of any rights afforded to respondent in any statute or rule.

PERB 7 Notice of Hearing. Within 15 days following receipt of a notice of appeal the Board shall serve upon all known parties not less than 10 days prior to hearing a notice stating:

1. The date, place and time of hearing;
2. The rights of the parties to representation (see PERB 9);
3. That failure to attend will prejudice the party's rights (see PERB 11);

4. That a de novo hearing must be requested within 5 days of receipt of this notice.

A copy of these rules shall be included with the notice of hearing.

PERB 8 Continuance of Hearing. No request for continuance of a scheduled hearing will be granted within 7 days of a hearing unless exceptional circumstances are shown. A request for continuance shall be made in writing and served upon the other party or parties and filed with the Board.

PERB 9 Right to Representation. Any party may be represented by a designated agent throughout the proceedings in an appeal before the Board.

PERB 10 Informal Disposition. Informal disposition may be made of any appeal or any issue therein by stipulation, settlement or agreement at any point in the proceedings so long as said stipulation, settlement or agreement does not violate any provisions of law and is approved by the Board.

PERB 11 Default. The Board may dispose of an appeal adverse to a party who fails to appear after receiving due notice and an opportunity for hearing.

PERB 12 Intervention. The Board may, upon timely application, allow a person or organization to intervene in an appeal upon a showing of substantial interest in the outcome of the appeal.

PERB 13 Substitution of Party. Substitution of a party or their representative may be allowed only if notice of the substitution is served on all other parties, at least 5 days prior to the hearing date, and filed with the Board.

PERB 14 Consolidation.

14.01 Basis. The Board may, prior to hearing, consolidate cases either on its own motion or upon petition by any party, if it determines (1) that separate appeals present substantially the same issues, (2) that a decision in one case would affect the rights of parties in another case, and (3) that consolidation would not substantially prejudice any party. Notwithstanding the requirements of this rule, the parties may stipulate and agree to ~~such~~ consolidation subject to Board approval.

14.02 Notice. Within 5 days following an order for consolidation the Board shall serve on all parties a notice of consolidation.

14.03 Objection to Consolidation. Within 5 days of receipt of notice of consolidation any party may file with the Board a petition for severance from consolidation which shall include the BMS case number and reasons for objection.

PERB 15 Remand. Prior to hearing of an appeal, the Board may remand to the Director all or part of the appeal for rehearing or the taking of specified additional evidence.

PERB 16 Extension of Time. The parties, with the approval of the Board or its designee, may stipulate and agree to extend any time period provided in these rules.

PERB 17 The Hearing.

17.01 Review Procedure. Unless a de novo hearing is requested within 5 days of receipt of the notice of hearing or is so ordered by the Board, appeals shall be made upon the record of the proceeding of the Bureau. Such record may be supplemented by argument of the parties. Oral and written argument shall be allowed upon request. The presiding officer may allow or request submission of additional evidence or the taking of additional testimony. All hearings shall be public meetings provided, however, the deliberations of the Board shall be private.

17.02 Witnesses. In a de novo hearing any party may be a witness or may present witnesses on his behalf at a hearing. All testimony at a hearing shall be under oath.

17.03 Rules of Evidence.

(A) General Rules. The presiding officer may admit and ~~give probative effect to~~ consider evidence which possesses probative value commonly accepted by ~~reasonable~~ reasonably prudent ~~men~~ persons in the conduct of their affairs. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial or repetitious shall be excluded.

(B) Record of Bureau. The official record of the proceeding conducted by the Bureau shall be competent evidence.

(C) Evidence Must Be Offered To Be Considered. All evidence to be considered in the case, including all records and documents in the possession of the Board, shall be offered and made a part of the record in the case. No other evidence or factual information, except as provided in (E) below, shall be considered in the determination of the case.

(D) Documentary Evidence. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the presiding officer or upon agreement of the parties.

(E) Notice of Facts. The presiding officer may take ~~notice of facts and may take~~ notice of general, technical or scientific facts within his specific knowledge. The presiding officer shall notify the parties of any facts that are to be so noticed.

(F) Depositions. Upon a showing of good cause the presiding officer may allow the taking of depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules of Civil Procedure.

17.04 The Record.

(A) Board Prepares Record. The Board shall prepare an official record in each appeal.

(B) What The Record Shall Contain. The record in an appeal shall contain:

1. All pleadings, motions and intermediate rulings;
2. Evidence received or considered;
3. A statement of matters noticed;
4. Proposed findings and exceptions;
5. Any decision, opinion or report by the presiding officer; and
6. The record of proceedings held before the Director ~~of the Bureau unless a de novo hearing has been requested or ordered~~.

(C) Transcript. A verbatim record of the hearing shall be taken by a hearing reporter and/or recording equipment.

17.05 Hearing Procedure.

(A) The hearing that is not de novo shall include the following:

1. The presiding officer shall open the hearing and introduce the following exhibits:
   (a) Notice of appeal and supporting documents, if any;
   (b) If consolidation has occurred, notice of consolidation, supporting documents, if any;

(c) Notice of hearing, supporting documents, if any, and affidavits of service;

(d) Any stipulations, settlements or agreements entered into by any of the parties prior to the hearing; and

(e) The record of the hearing held before the Director.

2. The presiding officer may allow additional evidence or testimony;

3. All parties will be entitled to present oral arguments not to exceed 30 minutes, beginning with the party who initiated the appeal;

4. All parties shall be allowed 5 minutes for rebuttal~~.~~;

5. The presiding officer may allow filing of typewritten memorandums by the parties in support of their positions.

(B) If a de novo hearing is requested, the hearing shall be conducted as follows:

1. The presiding officer shall open the hearing;

2. All parties may present evidence and argument with respect to the issues;

3. All witnesses must be sworn and are subject to cross-examination by all parties;

4. The rules of evidence as set forth in PERB Rule 17.03 will be followed;

5. Written matter may be marked as an exhibit and offered into evidence;

6. The presiding officer shall introduce the following exhibits:

   (a) Notice of appeal and supporting documents, if any;

   (b) If consolidation has occurred, notice of consolidation, supporting documents, if any;

   (c) Notice of hearing, supporting documents, if any, and affidavits of service;

   (d) Any stipulations, settlements or agreements entered into by any of the parties prior to the hearing;

7. ~~If there is agreement between the presiding officer and all parties, the~~ The record of the proceeding held by the Director may be introduced and supplemented by additional evidence and testimony;

8. The party who initiated the appeal may make an opening statement. All other parties may make such statements in a sequence determined by the presiding officer;

9. The party who initiated the appeal shall begin the presentation of evidence and shall be followed by the other parties in a sequence determined by the presiding officer;

10. Cross-examination shall be conducted in a sequence determined by the presiding officer;

11. Rebuttal evidence and final argument shal be allowed;

12. All parties will be entitled to present oral arguments not to exceed 30 minutes, beginning with the party who initiated the appeal;

13. All parties shall be allowed 5 minutes for rebuttal.

14. The presiding officer may allow filing of type-written memorandums by the parties in support of their positions.

15. After final argument, the hearing shall be closed or continued at the discretion of the presiding officer.

17.06 Decorum.

(A) The presiding officer may prohibit the operation of a television, newsreel, motion picture, still or other camera and mechanical recording devices in the hearing room while the hearing is in progress, if such operation has a significantly adverse effect on the hearing.

(B) No person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with the hearing.

PERB 18 The Board Decision.

18.01 Basis for Determination. No factual information or evidence which is not part of the record shall be considered by the Board in the determination of an appeal.

18.02 Decisions and Orders.

(A) Formal Decision or Order with Reasons Required. All decisions or orders rendered by the Board in an appeal shall be in writing and shall be accompanied by a statement of the reasons therefor.

(B) Service and Contents. All decisions or orders shall be served on all parties to the appeal and a copy filed with the Bureau. It shall contain:

1. A statement of the decision or order in the case;
2. A statement of the reasons therefor;
3. An affidavit of service.

18.03 Default. When a party with adequate notice fails to plead or otherwise appear within the time allowed ~~therefor~~ by these rules or by statute, ~~judgment~~ decision by default may be entered against him.

PERB 19 Rehearing.

19.01 Board Right to Rehear. The Board may, upon request and for good cause shown or on its own motion, reopen, rehear and redetermine an appeal. The petition for rehearing must be filed with the Board within 30 days of the determination of the initial hearing.

19.02 Obtaining a Rehearing.

(A) A party to such appeal may request a rehearing by filing a petition. Such petition shall contain:

1. The name and address of the petitioner;
2. The Board designation for the case;
3. The reasons in support of the petition for rehearing.

(B) Determination. The Board shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted only if ~~it appears on the face of~~ the petition ~~and~~ or the record reveals irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the Board in written or oral form or both by any party to the appeal with respect to the petition.

19.03 Notice of Rehearing. A notice of rehearing will be provided in the same manner prescribed for a notice of hearing.

19.04 Rehearing Procedure. A rehearing of an appeal will be conducted in the same manner prescribed for a hearing.

19.05 Decision after Rehearing. The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

PERB 20 Issues Not Determined By Director. In the event an issue relating to the meaning of the terms "supervisory employee," "confidential employee," "essential employee" or "professional employee" arises on which the Director has not made a determination, a request for determination shall be filed in lieu of a notice of appeal, and the Board may remand the matter de novo as provided herein.

II. Rules and Regulations Governing the Arbitration of Terms and Conditions of Employment Pursuant to Minnesota Statutes, Section 179.72 ~~(1971)~~.

PERB 30 Application. These rules shall apply to the procedures governing the creation of an arbitration panel to hear and decide disputes concerning the terms and conditions of employment.

PERB 31 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

PERB 32 Definitions. The words, terms and phrases in these rules shall have the same meaning and definition as ~~contained~~ defined in ~~the definitions as used in Rules and Regulations Governing Issues and Appeals presented to the Public Employment Relations Board~~ PERB 3.

~~PERB 33 Jurisdiction of the Board. The Board has jurisdiction to constitute an arbitration panel when the final positions are certified to the Board as provided in Minn. Stat. § 179.69, subd. 5 (1971). Nothing in these rules should be construed to in anyway provide for the arbitration of the terms and conditions of employment for state employees, confidential employees, confidential employees, supervisory employees or principals and assistant principals.~~

~~(A) Certification. A certification by the Director pursuant to section 179.69, subd. 3, shall contain a concise written statement by the Director indicating that an impasse has been reached, that further mediation efforts would serve no purpose, and a statement of the terms and conditions of employment not agreed upon. The Director shall file the certification with the Board and notify the parties by certified mail of the said certification. The parties, within 5 days of receipt of the notification of certification, shall file in writing with the Board their respective final positions on matters not agreed upon. The parties may stipulate to the Board those agreed upon items to be excluded from arbitration.~~

(B)--Mandatory Arbitration.--In the event the public employer and the exclusive representative fail to execute a contract pursuant to section 179.69, subd. 4, each party, at least 75 days prior to the last day the employer is required to submit its tax levy or budget, or certify the taxes voted, to the appropriate public office, agency or public body or office, or by October 1, whichever date is earlier, shall file in writing with the Board their respective final positions stating concisely the terms and conditions of employment not agreed upon.--The parties may stipulate to the Board those agreed upon items to be excluded from arbitration.--The public employer shall be required to give notice to the Board and the exclusive representative of its public employees of the 90th day prior to the last day the employer is required to submit its tax levy or budget or certify the taxes voted to the appropriate public office, agency or public body or office so that all parties will have at least 15 days advance notice of the date on which mandatory arbitration will be required pursuant to Minn. Stat. § 179.69, subd. 5 (1971).

(C)--Final Position.--Forms for filing final positions may be obtained from the Board.

PERB 33 Binding Arbitration.

(A) Non-essential 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, subds. 3 or 5, the Board shall submit to the parties a list of seven arbitrators.

(B) 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, subd. 6.

(C) 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, subd. 4, they must submit their final positions to the Director pursuant to Minnesota Statutes 179.69, subd. 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.

PERB 34 Certification of Impasse.

A certification by the Director pursuant to Minnesota Statutes, section 179.69, subds. 3 or 5, shall contain the following:

1. The petition or petitions requesting arbitration.
2. A concise written statement by the Director indicating that an impasse has been reached and that further mediation efforts would serve no purpose.
3. A determination by the Director of matters not agreed upon based upon ~~the Director's~~ his efforts mediate the dispute.
4. The final positions submitted by the parties.
5. Those agreed-upon items to be excluded from arbitration.

The Director shall file the certification with the Board and notify the parties by certified mail of the said certification.

PERB ~~34~~ 35 Selection of an ~~Arbitration Panel.~~ Arbitrator.

(A) 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.

(B) The Chairman of the Board or his designee shall select seven names for consideration as the arbitrator ~~or arbitration panel~~, 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, a public employee member and a public employer 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 5 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 of seven until only three names remain, which three persons shall constitute the panel if there is not agreement to select a single arbitrator. 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 convenor of the panel. If the parties fail to agree upon a convenor, the parties shall each strike, in the continued order of striking, one name from the arbitration panel.

The remaining arbitrator shall act as the convenor for the arbitration panel for the purpose of commencing the proceeding.

(C) The parties may, by mutual agreement, select a single arbitrator to hear the dispute. In selecting a single arbitrator, the parties may avail themselves of the procedures outlined in (B) above or mutually agree on a single arbitrator without the necessity of using the Board.

~~PERB-35--Submission-to-Arbitrator-or-Panel.--After-the arbitrator-or-arbitration-panel-has-been-selected,-the-Board shall-submit-to-the-arbitrator-or-arbitration-panel-the-final positions-of-the-parties-on-the-terms-and-conditions-of-employment not-agreed-upon-and-any-stipulations-agreed-upon-by-the-parties on-items-to-be-excluded-from-arbitration.~~

~~(A)--The-Board-shall-also-transmit-to-the-arbitrator-or arbitration-panel-any-agreement-by-the-parties-(to-a dispute-involving-other-than-essential-employees)-that-the decision-of-the-arbitrator-or-arbitration-panel-shall-be binding-on-both-notwithstanding-Minn.-Stat.-§-179.72 subd.-9-(1971).~~

~~(B)--If-both-parties-to-a-dispute-involving-essential-employees so-request,-the-Board-shall-consider-only-the-final positions-of-the-parties-in-establishing-an-arbitration panel,-and-the-Board-shall-instruct-the-arbitrator-or arbitration-panel-to-make-its-decision-and-order-in-terms of-either-of-the-final-positions.--The-order-shall-be binding-on-both-notwithstanding-Minn.-Stat.-§-179.72 subd.-9-(1971).~~

PERB 36 Submission to Arbitrator. After the arbitrator has been selected, the Board shall submit to the arbitrator the certification of ~~positions in the appropriate case~~ impasse by the Director. The arbitrator shall then proceed to hold hearings and make deliberations necessary to render an award.

PERB ~~36~~ 37 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 PERB ~~34~~ 35, subdivision (B) above.

~~PERB 37 Arbitration Decisions and Orders. Upon issuing the decision and order, the arbitrator or arbitration panel shall immediately transmit such decision and order to the Board. Upon receipt of the decision and order, the Board shall, through the Director, serve copies of the decision and order by certified mail on the appropriate representative or officer of the public employer and the public employees.~~

PERB 38 Arbitration Procedures.

(A) 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.

(B) Guidelines in Rendering a Decision. In considering a dispute and issuing its order the arbitrator shall give due consideration to the statutory rights and obligations of public employers to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The arbitrator's orders 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 section 179.63, subd. 18; provided, however, items not within terms and conditions of employment may be included in an arbitration decision if such items are contained in the employer's final position. Any issue or order or part thereof issued by the arbitrator determining any matter not included under section 179.63, subd. 18 or the employer's final position shall be void and of no effect.

(C) Uniform Arbitration Act. The arbitrator may avail himself of the procedures provided for in the Uniform Arbitration Act (Minnesota Statutes 572.08-.30) as long as the

procedures stated therein do not conflict with any provisions of the Public Employment Labor Relations Act.

PERB 39 Arbitration Decisions and Orders.

(A) Final and Binding. The arbitrator's decision and order shall be final and binding upon the parties. Provided, however, that no decision of the panel which violates any provision of the laws of Minnesota or rules or regulations promulgated thereunder or municipal charters or ordinances or resolutions enacted pursuant thereto, or which causes a penalty to be incurred thereunder, shall have any force or effect. Any provision of any contract required by section 179.70, which of itself or in its implementation would be in violation of or in conflict with any statute of the state of Minnesota or rule or regulation promulgated thereunder or provision of 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, regulation, home rule charter, ordinance, or resolution is not in conflict with sections 179.61 to 179.66 and shall be returned to the arbitrator for an amendment to make the provision consistent with the statute, rule, regulation, charter, ordinance or resolution.

(B) Procedure. The arbitrator shall render his decision within 10 days from the date that all arbitration proceedings have been concluded, but in any event must issue his order by the last date the employer is required by statute, charter,

ordinance or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The arbitrator's order shall be for such period as the arbitrator shall direct, except that orders determining contracts for teacher units shall be effective to the end of the contract period as determined by section 179.70, subd. 1. Upon issuing its decision involving any dispute, the arbitrator shall transmit the decision and order to the Board and to the parties.

PERB 40 Payment of Arbitrator or Panel. The arbitrator or members of the panel shall be paid their traveling and expenses incurred in the performance of their duties plus a per diem allowance of $100 for each day or part thereof while engaged in the consideration of a dispute. All expenses and costs of the arbitrator or panel shall be shared and assessed equally to the parties to the dispute. "Consideration of a dispute" includes, but is not limited to, time incurred in preparation, conduct of hearings, deliberations and preparation of the decision.

III. Rules and Regulations Governing the Arbitration of Grievances Pursuant to Minnesota Statutes 179.70, subd. 4.

PERB ~~40~~ 50 Application. These rules shall apply only only when the parties are unable to agree upon an arbitrator as provided by contract grievance procedures or the procedures established by the Director.

PERB ~~41~~ 51 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. ~~of 1971.~~

PERB ~~42~~ 52 Definitions. The words, terms, and phrases in these rules shall have the same meaning and definition as defined in PERB 3. ~~the definitions as used in Rules and Regulations Governing Issues and Appeals Presented to the Public Employment Relations Board.~~

PERB ~~43~~ 53 Petition. In the event the parties are unable to agree upon an arbitrator or arbitrators as provided by contract grievance procedures or the procedures established by the Director, the parties may petition, in writing, the Board for a list of five arbitrators. The petition shall contain:

1. The name and address of the petitioner;
2. The names and addresses of the adverse parties; and
3. A concise statement of the nature of the grievance, the provisions of the contract ~~in question~~ applicable to the grievance and the relief requested.

PERB ~~44~~ 54 Selection of the Arbitrator.

(A) The Board shall maintain a master list of available arbitrators. The 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 every 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.

(B) The Chairman of the Board, or his designee, shall select five names for consideration as the arbitrator, but final selection of the five-member list shall be made by at least an affirmative vote of three members of the Board which shall include the public member, a public employee member and a public employer member. In selecting the five names, the Board shall endeavor whenever possible to include names of persons from the general geographic area in which the public employer is located.

(C) Once the five arbitrators have been selected, the Board shall notify the parties of the names of the five arbitrators. Within 5 days the parties shall, under the direction of the Chairman or his designee, who need not be physically present, alternately strike names from the list of five arbitrators until only one name remains. 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.

(D) Notice of the selection of the arbitrator shall be immediately transmitted to the Board by the parties. The notice shall contain the name of the arbitrator selected and the date for commencement of arbitration proceedings.

IV. Rules and Regulations Governing Independent Review Pursuant to Minnesota Statutes 179.76. ~~(1971).~~

PERB ~~50~~ 60 Application. The rules and regulations governing independent review and the establishment of a Public Employment Relations Panel shall apply only when no other procedure exists

for the independent review for a public employee of a grievance or grievances arising out of the interpretation of or adherence to terms and conditions of employment.

PERB ~~51~~ 61 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. ~~of 1971.~~

PERB ~~52~~ 62 Definitions. The words, terms and phrases in these rules shall have the same meaning and definition as defined in PERB 3. ~~the definitions as used in Rules and Regulations Governing Issues and Appeals presented to the Board.~~

PERB ~~53~~ 63 Petition. Any public employee may petition the Public Employment Relations Panel for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such procedure exists to hear that grievance. The petition shall contain:

1. The name, address and telephone number of the petitioner;
2. The name, address and telephone number of the public employer;
3. A certification that independent review of the grievance is not available under any other procedure; and
4. A concise written statement of the grievance or grievances arising out of the interpretation of or adherence to terms and conditions of employment and the relief requested.

PERB ~~54~~ 64 Public Employment Relations Panel. The Board, after determining that independent review was not available to the

petitioner, shall within a reasonable time establish a Public Employment Relations Panel, or decide the matter as a full Board. ~~The panel~~ If a Panel is established, it shall consist of one member of the Board who represents public employers, one member of the Board who represents public employees and the Chairman of the Board.

PERB 55 65 Hearing.

(A) The Board or Panel may hear the grievance as a full body or may delegate to one or more of its members the authority to hear the grievance. The Board or Panel may appoint a qualified hearing examiner to conduct the hearing and prepare findings of fact. The Board or Panel reserves the authority to make the final determination of the case.

(B) Within 15 days of selection of a Panel, or a determination that a full Board will hear the matter, the Board or Panel shall serve notice on all parties to the case. Such notice shall contain:

1. The time and place of the hearing;
2. The grievance or grievances to be determined;
3. The procedure for the hearing; and
4. A copy of these rules.

(C) All parties shall be entitled to representation at the hearing.

PERB 56 66 Board or Panel Decisions. Every decision rendered by the Board or Panel shall be in writing and shall be accompanied by a statement of the reasons therefor. Every decision shall be

~~final and~~ binding on both parties and served on all parties to the case. It shall contain:

1. A statement of the decision or order in the case;
2. A statement of the reasons therefor; and
3. An affidavit of service.

A majority vote of the Board or Panel shall constitute a decision of the Board or Panel.

~~V.--Rules-And-Regulations-Relating-To-Policy-Consultants-Pursuant To-Minn.-Stat.-§-179.73-(1971).~~

~~PERB-60-Application.--These-rules-and-regulations-shall-apply only-after-the-parties-have-met-and-conferred-as-provided-by Minn.-Stat.-§-179.73,-subd.-2-and-either-the-public-employer-or an-organized-group-of-professional-employees-petition-the-Board for-a-list-of-qualified-policy-consultants.~~

~~PERB-61--Policy.--The-legislature-has-recognized-that-professional employees-possess-knowledge,-expertise-and-dedication-which-is helpful-and-necessary-to-the-operation-and-quality-of-public service-and-which-may-assist-public-employers-in-developing-their policies.--It-is,-therefore,-the-policy-of-this-state-to encourage-close-cooperation-between-public-employers-and-professional employees-by-providing-for-discussions-and-the-mutual-exchange of-ideas-regarding-all-matters-not-specified-under-section-179.63, subd.-18.--The-parties-are-encouraged-to-select-an-independent policy-consultant-mutually-agreeable-to-both-parties-without-the necessity-of-petitioning-the-Board.~~

~~PERB-62-Definitions.--The-words,-terms-and-phrases-in-these-rules~~

shall have the same meaning and definition as contained in the definitions as used in Rules And Regulations Governing Issues And Appeals presented to the Board.

PERB-63--Petition.--The petition requesting a list of qualified policy consultants shall contain the names and addresses of the parties concerned, a statement that the parties have met and conferred, and a concise written statement of the matters for which the parties seek consideration and an advisory opinion.--If the petition is from a group of professional employees who have an exclusive representative, such requesting petition must be from the exclusive representative.

PERB-64--Selection of Policy Consultants.--The Board shall, upon receipt of a petition, submit to the parties, within a reasonable time, a list of qualified consultants experienced in the subjects to be taken under advisement.

Following receipt of the list of policy consultants, the public employer and the representative of the professional employees shall, within a reasonable time, not to exceed 15 days, each select one consultant, or upon mutual agreement jointly select one consultant who shall meet with the parties and join in the consideration of matters presented.

PERB-65--Opinions.--At the conclusion of their discussion and presentations, the consultant or consultants shall submit advisory opinions to the parties regarding the matters presented to it and file a copy with the Board.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 11 1974
Arlen I. Erdahl
Secretary of State

M. B.

APPROVED AS TO FORM AND LEGALITY
Jan 11 19 74
WARREN SPANNAUS, ATTORNEY GENERAL
BY J. Patrick Wilcox
SPECIAL ASSISTANT ATTORNEY GENERAL

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
JAN 11 1974 4:10 pm
BY Edna Staudenmaier
AUTH. SIGNATURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC

EMPLOYMENT RELATIONS BOARD

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Frank Madden, do hereby certify that I am the executive secretary of the Public Employment Relations Board, a Board duly authorized under the laws of the state of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board duly and properly called and heard on the 20th day of July, 1973; a quorum was present at said meeting; a majority of those present voted for the resolution; and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> The Board resolved, that George Seltzer, chairman of the Public Employment Relations Board, be and hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Public Employment Relations Board so that the Board may properly implement the amendments of the Public Employment Labor Relations Act as well as perform any and all acts incidental thereto, including, but without being limited thereto, signing an order for hearing and notice of hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of December, 1973.

Frank J. Madden
Executive Secretary
Public Employment Relations Board

_____
Attest by one other officer

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC

EMPLOYMENT RELATIONS BOARD

In the Matter of the Proposed Adoption of Rules and Regulations for the Public Employment Relations Board Governing Implementation of the Public Employment Labor Relations Act of 1971 (as amended)

ORDER FOR HEARING

To effectively implement the Public Employment Labor Relations Act of 1971 as amended, the Public Employment Relations Board deems it necessary to consider adoption of proposed rules and regulations governing (1) issues and appeals, (2) arbitration of terms and conditions of employment, (3) arbitration of grievances and (4) independent review, pursuant to the authority vested in this Board by the Public Employment Labor Relations Act of 1971 (as amended).

NOW, THEREFORE, IT IS ORDERED this 20th day of July, 1973, that a public hearing on the proposed rules and regulations captioned above be held in the Veterans Service Building, Saint Paul, Minnesota, Conference Room D, on September 6, 1973, commencing at 1 p.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the secretary of state for that purpose.

Chairman
Public Employment Relations Board

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC

EMPLOYMENT RELATIONS BOARD

In the Matter of the Proposed Adoption of Rules and Regulations for the Public Employment Relations Board Governing Implementation of the Public Employment Labor Relations Act of 1971 (as amended)

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Public Employment Relations Board of the State of Minnesota on the 6th day of September, 1973, at 1 p.m., in the Veterans Service Building, Conference Room D, Saint Paul, Minnesota, after proper notice required by Minn. Stat. 15.0412 (1971) was served upon persons, associations and other interested groups registered with the secretary of state for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files, written arguments filed with the Board and the proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules And Regulations Governing Issues And Appeals, Rules And Regulations Governing The Arbitration Of Terms And Conditions Of Employment, Rules And Regulations Governing The Arbitration Of Grievances and Rules And Regulations Governing Independent Review are adopted this 6th day of November, 1973, pursuant to authority vested in this Board.

/s/

Chairman
Public Employment Relations Board

STATE OF MINNESOTA
PUBLIC EMPLOYMENT RELATIONS BOARD
Veterans Service Building
SAINT PAUL 55155

NOTICE OF HEARING ON THE PROPOSED RULES OF THE PUBLIC EMPLOYMENT RELATIONS BOARD

Please take notice that a public hearing will be conducted by the Public Employment Relations Board regarding the Board's Rules and Regulations prepared to implement the Public Employment Labor Relations Act as amended.

The hearing will be held:

Date: September 6, 1973

Time: 1:00 p.m.

Place: Conference Room "D" (5th Floor)
Veterans Service Building
St. Paul, Minnesota

Copies of the proposed Rules and Regulations are available at the Veterans Service Building (first floor, east wing), St. Paul, Minnesota 55155.

Since it is the intent of the Board for all interested parties to be heard at the hearing:

1) Parties desiring oral comment on the proposed rules and regulations are requested to contact Deborah Dorfsman at 612-296-2525 prior to the hearing so that a time for the comments may be scheduled. It is the intent of the Board to limit each party's comments to 15 minutes.

2) Parties desiring oral comment, who do not arrange scheduling prior to the hearing, will be heard in such order as the Chairman shall designate.

3) A party may submit written comments relating to the proposed rules and regulations prior to the hearing. Such comments will be made part of the record and considered for Board deliberation.

PUBLIC EMPLOYMENT RELATIONS BOARD
STATE OF MINNESOTA

GS:jk
Dated at St. Paul, Minnesota,
July 27, 1973

George Seltzer

George Seltzer, Chairman

PUBLIC EMPLOYMENT RELATIONS BOARD
PROPOSED RULES AND REGULATIONS



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PUBLIC EMPLOYMENT RELATIONS BOARD

PROPOSED RULES AND REGULATIONS

I. Rules and Regulations Governing Issues and Appeals Presented to the Public Employment Relations Board pursuant to the Public Employment Labor Relations Act.

PERB 1 Application. These rules shall apply to (1) issues relating to the meaning of the terms supervisory employee, confidential employee, essential employee or professional employee, and (2) appeals from determinations of the Director relating to the appropriateness of a unit or determination of supervisory employee.

PERB 2 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. All parties who present issues and appeals to the Board shall be provided a fair, just and timely hearing.

PERB 3 Definitions.

3.01 Board. "Board" means Public Employment Relations Board.

3.02 Bureau. "Bureau" means Bureau of Mediation Services.

3.03 Director. "Director" means the Director of the Bureau of Mediation Services.

3.04 Party. "Party" means any person, public employee, 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.

3.05 Appeal. "Appeal" means (1) issues relating to the meaning of the terms supervisory employee, confidential employee, essential employee or professional employee, and (2) appeals from determinations of the Director relating to the appropriateness of a unit or determination of supervisory employee.

3.06 Arbitrator. "Arbitrator", when referred to in PERB 30 through 40, means one or a panel of three arbitrators.

3.07 Supervisory Employee. "Supervisory employee," as defined in Minnesota Statutes, Section 179.63, means:

> Subd. 9. "Supervisory employee", when the reference is to other than essential employees as defined in subdivision 11, means any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend any of the aforesaid actions, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

Subd. 9a. "Supervisory employee", when the reference is to essential employees, means the administrative head and his assistant of a municipality, municipal utility, police or fire department, or any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward, or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment. Any determination of "supervisory employee" may be appealed to the public employment relations board.

Minnesota Statutes 179.71 further provides:

Subd. 3. ... with regard to the inclusion or exclusion of supervisory employees, the director must find that an employee may perform or effectively recommend a majority of those functions referred to in section 179.63, subdivisions 9 or 9a, before an employee may be excluded as supervisory. However, in every case the administrative head, and his assistant, of a municipality, municipal utility, police or fire department shall be considered a supervisory employee.

3.08 Confidential Employee. "Confidential employee", as defined in Minnesota Statutes 179.63, means:

Subd. 8. "Confidential employee" means any employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating or who actively participates in the meeting and negotiating on behalf of the public employer.

3.09 Essential Employee. "Essential employee", as defined in Minnesota Statutes 179.63, means:

Subd. 11. "Essential employee" means any person within the definition of subdivision 7 whose employment duties involve work or services essential to the health or safety of the public and the withholding of such services would create a clear and present danger to the health or safety of the public.

3.10 Professional Employee. "Professional employee", as defined in Minnesota Statutes 179.63, means:

Subd. 10. "Professional employee" means:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes;

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(c) a teacher shall be deemed to be a professional employee.

3.11 De Novo Hearing. "De novo hearing" means a new and full factual hearing on the issues stated in the notice of appeal and answer. In no event will issues be heard by the presiding officer which were not presented to the Bureau.

3.12 Presiding Officer. "Presiding officer" means the Board, one or more of its members or a hearing examiner appointed by the Board who may hear the appeal.

3.13 Service; Serve. "Service" or "serve" means service of a document required by these rules, by person or certified United States mail, with return requested, postage prepaid and addressed to the party at his last known address, unless some other manner of service is required by law. Certified mail means mail which must be signed for by the addressee upon receipt of said mail.

3.14 Time. In computing any period of time prescribed or allowed by these rules, the day of act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. For any time period of 10 days or less, Saturdays, Sundays or legal holidays shall not be included in computing the period of time.

PERB 4 Presiding Officer.

4.01 Conducting Hearings. The Board may hear appeals as a full body or may delegate to one or more of its members the authority to hear an appeal. The Board may also appoint a hearing examiner to hear an appeal.

4.02 Authority of Hearing Examiner. The appointment of the hearing examiner shall, to the extent permitted

by law, grant the hearing examiner such authority as the Board deems necessary and appropriate to hear the appeal. The hearing examiner shall not have authority to make the final decision on the appeal.

4.03 Function of Hearing Examiner. The hearing examiner shall hear the appeal consistent with law and the terms of his appointment. His functions shall include, but not be limited to, to hear and rule on preliminary motions, conduct the hearing and prepare findings of fact. The final decision on the appeal shall in all cases be made by the Board.

PERB 5 Initiating an Appeal. 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 Director and filing the original with the Board within 10 days of a determination by the Director. A notice of appeal shall contain:

1. The name and address of the applicant;
2. A statement of the nature of the decision requested, the reasons therefor and the BMS case number;
3. The names and addresses of all parties who were parties to the determination by the Director, and all other parties known to the applicant who will be directly affected by such appeal; and
4. The signature of the applicant or his representative.

PERB 6 Answer. Within ~~5~~ 10 days after service of a notice of appeal, all other parties may submit a concise answer to the notice of appeal. A copy of such answer shall be served on all parties to the appeal and filed with the Board. Failure to submit an answer shall not be deemed as an admission of any statement contained in the issue of appeal or waiver of any rights afforded to respondent in any statute or rule.

PERB 7 Notice of Hearing. Within 15 days following receipt of a notice of appeal the Board shall serve upon all known parties not less than 10 days prior to hearing a notice stating:

1. The date, place and time of hearing;
2. The rights of the parties to representation (See PERB Rule 9);
3. That failure to attend will prejudice the party's rights (See PERB Rule 11);
4. That a de novo hearing must be requested within 5 days of receipt of this notice.

A copy of these rules shall be included with the notice of hearing.

PERB 8 Continuance of Hearing. No request for continuance of a scheduled hearing will be granted within 7 days of a hearing unless exceptional circumstances are shown. A request for continuance shall be made in writing and served upon the other party or parties and filed with the Board.

PERB 9 Right to Representation. Any party may be represented by a designated agent throughout the proceedings in an appeal before the Board.

PERB 10 Informal Disposition. Informal disposition may be made of any appeal or any issue therein by stipulation, settlement or agreement at any point in the proceedings so long as said stipulation, settlement or agreement does not violate any provisions of law and is approved by the Board.

PERB 11 Default. The Board may dispose of an appeal adverse to a party who fails to appear after receiving due notice and an opportunity for hearing.

PERB 12 Intervention. The Board may, upon timely application, allow a person or organization to intervene in an appeal upon a showing of substantial interest in the outcome of the appeal.

PERB 13 Substitution of Party. Substitution of a party or their representative may be allowed only if notice of the substitution is served on all other parties, at least 5 days prior to the hearing date, and filed with the Board.

PERB 14 Consolidation.

14.01 Basis. The Board may, prior to hearing, consolidate cases either on its own motion or upon petition

by any party, if it determines (1) that separate appeals present substantially the same issues, (2) that a decision in one case would affect the rights of parties in another case, and (3) that consolidation would not substantially prejudice any party. Notwithstanding the requirements of this rule, the parties may stipulate and agree to ~~such~~ consolidation subject to Board approval.

14.02 Notice. Within 5 days following an order for consolidation the Board shall serve on all parties a notice of consolidation.

14.03 Objection to Consolidation. Within 5 days of receipt of notice of consolidation, any party may file with the Board a petition for severance from consolidation which shall include the BMS case number and reasons for objection.

PERB 15 Remand. Prior to hearing of an appeal, the Board may remand to the Director all or part of the appeal for rehearing or the taking of specified additional evidence.

PERB 16 Extension of Time. The parties, with the approval of the Board, or its designee, may stipulate and agree to extend any time period provided in these rules.

PERB 17 The Hearing.

17.01 Review Procedure. Unless a de novo hearing is requested within 5 days of receipt of the notice of hearing or is so ordered by the Board, appeals shall be made upon the record of the proceeding of the Bureau. Such record may be supplemented by argument of th e parties. Oral and written argument shall be allowed upon request. The presiding officer may allow or request submission of additional evidence or the taking of additional testimony. All hearings shall be public meetings provided, however, the deliberations of the Board shall be private.

17.02 Witnesses. In a de novo hearing any party may be a witness or may present witnesses on his behalf at a hearing. All testimony at a hearing shall be under oath.

17.03 Rules of Evidence.

(A) General Rules. The presiding officer may admit and ~~give probative effect to~~ consider evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial or repetitious shall be excluded.

(B) Record of Bureau. The official record of the proceeding conducted by the Bureau shall be competent evidence.

(C) Evidence Must be Offered to be Considered. All evidence to be considered in the case, including all records and documents in the possession of the Board, shall be offered and made a part of the record in the case. No other evidence or factual information, except as provided in (E) below, shall be considered in the determination of the case.

(D) Documentary Evidence. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the presiding officer or upon agreement of the parties.

(E) Notice of Facts. The presiding officer may take ~~notice of facts and may take~~ notice of general, technical or scientific facts within his specific knowledge. The presiding officer shall notify the parties of any facts that are to be so noticed.

(F) Depositions. Upon a showing of good cause the presiding officer may allow the taking of

depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules of Civil Procedure.

17.04 The Record.

(A) Board Prepares Record. The Board shall prepare an official record in each appeal.

(B) What the Record Shall Contain. The record in an appeal shall contain:

1. All pleadings, motions and intermediate rulings;
2. Evidence received or considered;
3. A statement of matters noticed;
4. Proposed findings and exceptions;
5. Any decision, opinion or report by the presiding officer; and
6. The record of proceedings of the Bureau unless a de novo hearing has been requested or ordered.

(C) Transcript. A verbatim record of the hearing shall be taken by a hearing reporter and/or recording equipment.

17.05 Hearing Procedure.

(A) The hearing that is not de novo shall include the following:

1. The presiding officer shall open the hearing and introduce the following exhibits:

(a) Notice of appeal and supporting documents, if any;

(b) If consolidation has occurred, notice of consolidation, supporting documents, if any;

(c) Notice of hearing, supporting documents, if any, and affidavits of service;

(d) Any stipulations, settlements or agreements entered into by any of the parties prior to the hearing; and

(e) The record of the hearing held before the Director.

2. The presiding officer may allow additional evidence or testimony;

3. All parties will be entitled to present oral arguments not to exceed 30 minutes, beginning with the party who initiated the appeal;

4. All parties shall be allowed 5 minutes for rebuttal.

5. The presiding officer may allow filing of typewritten memorandums by the parties in support of their positions.

(B) If a de novo hearing is requested, the hearing shall be conducted as follows:

1. The presiding officer shall open the hearing;

2. All parties may present evidence and argument with respect to the issues;

3. All witnesses must be sworn and are subject to cross-examination by all parties;

4. The rules of evidence as set forth in PERB Rule 17.03 will be followed;

5. Written matter may be marked as an exhibit and offered into evidence;

6. The presiding officer shall introduce the following exhibits:

   (a) Notice of appeal and supporting documents, if any;

   (b) If consolidation has occurred, notice of consolidation, supporting documents, if any;

   (c) Notice of hearing, supporting documents, if any, and affidavits of service;

   (d) Any stipulations, settlements or agreements entered into by any of the parties prior to the hearing;

7. If there is agreement between the presiding officer and all parties, the record of the proceeding held by the Director may be introduced and supplemented by additional evidence and testimony;

8. The party who initiated the appeal may make an opening statement. All other parties may make such statements in a sequence determined by the presiding officer;

9. The party who initiated the appeal shall begin the presentation of evidence and shall be followed by the other parties in a sequence determined by the presiding officer;

10. Cross-examination shall be conducted in a sequence determined by the presiding officer;

11. Rebuttal evidence and final argument shall be allowed;

12. All parties will be entitled to present oral arguments not to exceed 30 minutes, beginning with the party who initiated the appeal;

13. All parties shall be allowed 5 minutes for rebuttal.

14. The presiding officer may allow filing of typewritten memorandums by the parties in support of their positions.

15. After final argument, the hearing shall be closed or continued at the discretion of the presiding officer.

17.06 Decorum.

(A) The presiding officer may prohibit the operation of a television, newsreel, motion picture, still or other camera and mechanical recording devices in the hearing room while the hearing is in progress, if such operation has a significantly adverse effect on the hearing.

(B) No person shall interfere with the free, proper and lawful access or or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with the hearing.

PERB 18 The Board Decision.

18.01 Basis for Determination. No factual information or evidence which is not part of the record shall be considered by the Board in the determination of an appeal.

18.02 Decisions and Orders.

(A) Formal Decision or Order with Reasons Required. All decisions or orders rendered by the Board in an appeal shall be in writing and shall be accompanied by a statement of the reasons therefor.

(B) Service and Contents. All decisions or orders shall be served on all parties to the appeal and a copy filed with the Bureau. It shall contain:

1. A statement of the decision or order in the case;
2. A statement of the reasons therefor;
3. An affidavit of service.

18.03 Default. When a party with adequate notice fails to plead or otherwise appear within the time allowed therefor by these rules or by statute, judgment by default may be entered against him.

PERB 19 Rehearing.

19.01 Board Right to Rehear. The Board may, upon request and for good cause shown or on its own motion,

reopen, rehear and redetermine an appeal. The petition for rehearing must be filed with the Board within 30 days of the determination of the initial hearing.

19.02 Obtaining a Rehearing.

(A) A party to such appeal may request a rehearing by filing a petition. Such petition shall contain:

1. The name and address of the petitioner;
2. The Board designation for the case;
3. The reasons in support of the petition for rehearing.

(B) Determination. The Board shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted only if ~~it appears on the face of~~ the petition ~~and~~ or the record reveal irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the Board in written or oral form or both by any party to the appeal with respect to the petition.

19.03 Notice of Rehearing. A notice of rehearing will be provided in the same manner prescribed for a notice of hearing.

19.04 Rehearing Procedure. A rehearing of an appeal will be conducted in the same manner prescribed for a hearing.

19.05 Decision After Rehearing. The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

PERB 20 Issues not Determined by Director. In the event an issue relating to the meaning of the terms "supervisory employee, confidential employee, essential employee or professional employee" arises on which the Director has not made a determination, a request for determination shall be filed in lieu of a notice of appeal, and the Board may remand the matter to the Director for a determination or hear the matter de novo as provided herein.

II. Rules and Regulations Governing the Arbitration of Terms and Conditions of Employment Pursuant to Minnesota Statutes 179.72.

PERB 30 Application. These rules shall apply to the procedures governing the creation of an arbitration panel to hear and decide disputes concerning the terms and conditions of employment.

PERB 31 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

PERB 32 Definitions. The words, terms and phrases in these rules shall have the same meaning and definition as contained in ~~the definitions as used in Rules and Regulations Governing Issues and Appeals presented to the Public Employment Relations Board.~~ pages 1 through 5 of these Rules.

PERB 33 Binding Arbitration.

(A) Non-essential 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 179.69, Subds. 3 or 5, the Board shall submit to the parties a list of seven arbitrators.

(B) 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 section 179.72, Subd. 6.

(C) Statutory Time Limitations.

If the parties to a dispute fail to execute a contract within the time periods prescribed by Minnesota Statutes 179.69, Subd. 5, they must submit their final positions to the Director. 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.

PERB 34 Certification of Impasse.

A certification by the Director pursuant to section 179.69, subds. 3 or 5 shall contain the following:

1. The petition or petitions requesting arbitration.
2. A concise written statement by the Director indicating that an impasse has been reached and that further mediation efforts would serve no purpose.
3. A determination of matters not agreed upon based upon the Director's efforts to mediate the dispute.
4. The final positions submitted by the parties.
5. Those agreed upon items to be excluded from arbitration.

The Director shall file the certification with the Board and notify the parties by certified mail of the said certification.

~~PERB-34~~
PERB 35 Selection of an Arbitrator. ~~Arbitration Panel.~~

(A) 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.

(B) 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. 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 5 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 of seven until only three names remain, which three persons shall constitute the panel if there is not agreement to select a single arbitrator. 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 convenor of the panel. If the parties fail to agree upon a convenor, the parties shall each strike, in the continued order of striking, one name from the arbitration panel. The remaining arbitrator shall act as the convenor for the arbitration panel for the purpose of commencing the proceeding.

(C) The parties may, by mutual agreement, select a single arbitrator to hear the dispute. In selecting a single arbitrator, the parties may avail themselves of the procedures outlined in (B) above or mutually agree on a single arbitrator without the necessity of using the Board.

PERB 36 Submission to Arbitrator.

After the arbitrator has been selected, the Board shall submit to the arbitrator the certification of impasse

by the Director.

~~positions in the appropriate case.~~ The arbitrator shall then proceed to hold hearings and make deliberations necessary to render an award.

PERB 3637Panel 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 PERB 34 35, subdivision (B) above.

PERB 38 Arbitration Procedures.

(A) 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 arbitrator's 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.

(B) Guidelines in Rendering a Decision. In considering a dispute and issuing its order the arbitrator shall give due consideration to the statutory rights and obligations of public employers to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The arbitrator's orders 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 section 179.63, subd. 18; provided, however, items not within terms and conditions of employment may be included in an arbitration decision if such items are contained in the employer's final position. Any issue or order or part thereof issued by the arbitrator determining any matter not included under section 179.63, subd. 18 or the employer's final position shall be void and of no effect.

(C) Uniform Arbitration Act. The arbitrator may avail himself of the procedures provided for in the Uniform Arbitration Act (Minnesota Statutes 572.08-.30) as long as the procedures stated therein do not conflict with any provisions of the Public Employment Labor Relations Act.

PERB 39 Arbitration Decisions and Orders.

(A) Final and Binding. The arbitrator's decision and order

shall be final and binding upon the parties, subject to the provisions of Section 179.64, Subd. 7; provided, however, in accordance with Section 179.66, Subd. 5, if the implementation of the award is in violation of or in conflict with any statute, rule, regulation, charter, ordinance or resolution of the State of Minnesota or its political subdivisions, the award shall be returned to the arbitrator for amendment to make the provision consistent with the statute, rule, regulation, charter, ordinance or resolution.

(B) Procedure. The arbitrator shall render his decision within 10 days from the date that all arbitration proceedings have been concluded, but in any event must issue his order by the last date the employer is required by statute, charter, ordinance or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The arbitrator's order shall be for such period as the arbitrator shall direct, except that orders determining contracts for teacher units shall be effect-

ive to the end of the contract period as determined by section 179.70, subd. 1. Upon issuing its decision ~~and order~~ involving any dispute, the arbitrator shall transmit the decision and order to the Board and to the parties.

PERB 40 Payment of Arbitrator or Panel. The arbitrator or members of the panel shall be paid their traveling and expenses incurred in the performance of their duties plus a per diem allowance of $100 for each day or part thereof while engaged in the consideration of a dispute. All expenses and costs of the arbitrator or panel shall be shared and assessed equally to the parties to the dispute. "Consideration of a dispute" includes, but is not limited to, time incurred in preparation, conduct of hearings, deliberations and preparation of the decision.

III. Rules and Regulations Governing the Arbitration of Grievances Pursuant to Minnesota Statutes 179.70, Subd. 4.

PERB 50 Application. These rules shall apply only when the parties are unable to agree upon an arbitrator as provided by contract grievance procedures or the procedures established by the Director.

PERB 51 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. ~~of 1971.~~

PERB 52 Definitions. The words, terms, and phrases in these rules shall have the same meaning and definition as contained in ~~the definitions as used in Rules and Regulations Governing Issues and Appeals Presented to the Public Employment Relations Board.~~ in pages 1 - 5 of these Rules.

PERB 53 Petition. In the event the parties are unable to agree upon an arbitrator or arbitrators as provided by contract grievance procedures or the procedures established by the Director, the parties may petition, in writing, the Board for a list of five arbitrators. The petition shall contain:

1. The name and address of the petitioner;
2. The names and addresses of the adverse parties; and
3. A concise statement of the nature of the grievance,

the provisions of the contract ~~in question~~ applicable to the grievance and the relief requested.

PERB 54 Selection of the Arbitrator.

(A) The Board shall maintain a master list of available arbitrators. The 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 every 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.

(B) The Chairman of the Board, or his designee, shall select five names for consideration as the arbitrator, but final selection of the five-member list shall be made by at least an affirmative vote of three members of the Board. In selecting the five names, the Board shall endeavor whenever possible to include names of persons from the general geographic area in which the public employer is located.

(C) Once the five arbitrators have been selected, the Board shall notify the parties of the names of the five arbitrators. Within 5 days the parties shall, under the direction of the Chairman or his designee,

who need not be physically present, alternately strike names from the list of five arbitrators until only one name remains. 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.

(D) Notice of the selection of the arbitrator shall be immediately transmitted to the Board by the parties. The notice shall contain the name of the arbitrator selected and the date for commencement of arbitration proceedings.

IV. Rules and Regulations Governing Independent Review Pursuant to Minnesota Statutes 179.76. ~~(1971).~~

PERB 60 Application. The rules and regulations governing independent review and the establishment of a Public Employment Relations Panel shall apply only when no other procedure exists for the independent review for a public employee of a grievance or grievances arising out of the interpretation of or adherence to terms and conditions of employment.

PERB 61 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act. ~~of 1971.~~

PERB 62 Definitions. The words, terms and phrases in these rules shall have the same meaning and definition as contained in ~~the definitions as used in Rules and Regulations Governing Issues and Appeals presented to the Board:~~ pages 1 through 5 of these Rules.

PERB 63 Petition. Any public employee may petition the Public Employment Relations Panel for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such procedure exists to hear that grievance. The petition shall contain:

1. The name, address and telephone number of the petitioner;

2. The name, address and telephone number of the public employer;

3. A certification that independent review of the grievance is not available under any other procedure; and

4. A concise written statement of the grievance or grievances arising out of the interpretation of or adherence to terms and conditions of employment and the relief requested.

PERB 64 Public Employment Relations Panel. The Board, after determining that independent review was not available to the petitioner, shall within a reasonable time establish a Public Employment Relations Panel, or decide the matter as a full Board. ~~The panel~~ If a Panel is established, it shall consist of one member of the Board who represents public employers, one member of the Board who represents public employees and the Chairman of the Board.

PERB 65 Hearing.

(A) The Board or Panel may hear the grievance as a full body or may delegate to one or more of its members the authority to hear the grievance. The Board or Panel may appoint a qualified hearing examiner to conduct the hearing and prepare findings of fact. The Board or Panel reserves the authority to make the final determination of the case.

(B) Within 15 days of selection of a Panel, or a determination that a full Board will hear the matter, the Board or Panel shall serve notice on all parties to the case. Such notice shall contain:

1. The time and place of the hearing;
2. The grievance or grievances to be determined;
3. The procedure for the hearing; and
4. A copy of these rules.

(C) All parties shall be entitled to representation at the hearing.

PERB 66 Board or Panel Decisions. Every decision rendered by the Board or Panel shall be in writing and shall be accompanied by a statement of the reasons therefor. Every decision shall be ~~final and~~ binding on both parties and served on all parties to the case. It shall contain:

1. A statement of the decision or order in the case;
2. A statement of the reasons therefor; and
3. An affidavit of service.

A majority vote of the Board or Panel shall constitute a decision of the Board or Panel.

ADDITIONAL DELETIONS FROM PERB RULES:

No. 1, third line: ~~Pursuant to Minn. Stat. 179.72, Subd. 3(a) and (b) (1971).~~

No. 3.10 - page 4: "De novo hearing" means a new and full factual hearing ~~before the presiding officer~~

No. 5 - page 6 Line 4 of PERB 5: "within 10 days of a ~~unit~~ determination by the Director.

Line 10 (same change)

Section II. page 19: Minnesota Statutes 179.72.~~(1971).~~

PERB 33 - page 19:

~~PERB 33 Jurisdiction of the Board. The Board has jurisdiction to constitute an arbitration panel when the final positions are certified to the Board as provided in Minn. Stat. § 179.69, subd. 3 (1971), or are submitted to the Board as provided in Minn. Stat. § 179.69, subd. 5 (1971). Nothing in these rules should be construed to in anyway provide for the arbitration of the terms and conditions of employment for state employees, confidential employees, supervisory employees or principals and assistant principals.~~

~~(A) Certification. A certification by the Director pursuant to section 179.69, subd. 3, shall contain a concise written statement by the Director indicating that an impasse has been reached, that further~~

~~mediation efforts would serve no purpose, and a statement of the terms and conditions of employment not agreed upon. The Director shall file the certification with the Board and notify the parties by certified mail of the said certification. The parties, within 5 days of receipt of the notification of certification, shall file in writing with the Board their respective final positions on matters not agreed upon. The parties may stipulate to the Board those agreed upon items to be excluded from arbitration.~~

~~(B) Mandatory Arbitration. In the event the public employer and the exclusive representative fail to execute a contract pursuant to section 179.69, subd. 4, each party, at least 75 days prior to the last day the employer is required to submit its tax levy or budget, or certify the taxes voted, to the appropriate public office, agency or public body or office, or by October 1, whichever date is earlier, shall file in writing with the Board their respective final positions stating concisely the terms and conditions of employment not agreed upon. The parties may stipulate to the Board those agreed upon items to be excluded from~~

(Additional deletions page 2)

arbitration.--The public employer shall be required to give notice to the Board and the exclusive representative of its public employees of the 90th day prior to the last day the employer is required to submit its tax levy or budget or certify the taxes voted to the appropriate public office, agency or public body or office so that all parties will have at least 15 days advance notice of the date on which mandatory arbitration will be required pursuant to Minn. Stat. §179.69, subd. 5 (1971).

(G) Final Position.--Forms for filing final positions may be obtained from the Board.

PERB 35 Submission to Arbitrator or Panel.--After the arbitrator or arbitration panel has been selected, the Board shall submit to the arbitrater or arbitration panel

(Additional deletions page 3)

~~the final positions of the parties on the terms and conditions of employment not agreed upon and any stipulations agreed upon by the parties on items to be excluded from arbitration.~~

~~(A) The Board shall also transmit to the arbitrator or arbitration panel any agreement by the parties (to a dispute involving other than essential employees) that the decision of the arbitrator or arbitration panel shall be binding on both notwithstanding Minn. Stat. § 179.72 subd. 9 (1971).~~

~~(B) If both parties to a dispute involving essential employees so request, the Board shall consider only the final positions of the parties in establishing an arbitration panel, and the Board shall instruct the arbitrator or arbitration panel to make its decision and order in terms of either of the final positions. The order shall be binding on both notwithstanding Minn. Stat. § 179.72 subd. 9 (1971).~~

~~PERB 37 Arbitration Decisions and Orders. Upon issuing the decision and order, the arbitrator or arbitration panel shall immediately transmit such decision and order to the Board. Upon receipt of the decision and order, the Board shall through the Director, serve copies of the decision and order by certified mail on the appropriate representative or officer of the public employer and the public employees.~~

(Additional deletions page 4)

PERB ~~34~~ 35 Line 2 under Section B:

arbitrator ~~or arbitration panel~~

PERB ~~40, 41, 42, 43, 44,~~ 50, 51, 52, 53, 54

PERB ~~50, 51, 52, 53, 54, 55, 56,~~ 60, 61, 62, 63, 64, 65, 66

SECTION V - Policy Consultants - This section deleted in its entirety.

(Additional deletions page 5)

PERB
~~Bureau of Mediation Services~~ State of Minnesota St. Paul, Minnesota 55155

Case No. _____ Time _____

Employer _____ Date _____

Location _____

Employee Organization _____

Hearing Officer P. Obermeyer Hearing Reporter D. Rosseland

APPEARANCE RECORD

PIEASE PRINT

Name	Title / Affiliation & Address	Oral Comment ~~Phone~~
DAVE McIVOR	Federal Program Coordinator Wright County Buffalo MN 55313	
Larkin McLellan	State Negotiator	
Karl F. Landholm	Bus. Rep. Suburban School Employees Local 284	
Geo. Mueller	Civil Service	
J. E. Ewen	Labor Rel Intern from Louisiana	
Jack Coombe	Minn. Fed. of Teachers	
Ron Cohen	Mpls. Labor Review 117 4th St. S.E.	
JIM SCHMID	MINN School Bds Assn.	
✓ ART Gillen	IFO St. Colleges 201 No Concord St., Co. St. Paul, 55075	
✓ Duke Addicks	Assn. Minn. Counties, 55 Sherburne St. Paul	✓
✓ Joe Olynn	Minn School Boards Assn 314 Minn Bldg St Paul	✓
Thos A McDonald	Local 967 I.U.O.E	
✓ James E Lashy	A.F.S.C.M.O.E. 66	X
Roger Armstrong	Local 101 Duluth	
Robert La Flamme	Local 101 Duluth	

Employer Organizations

(1) ~~Assn. of Mun. Societies~~
~~55 Sherburne Ave., Suite 203, St. Paul 55103~~
~~Ralph Keyes~~

(2) ~~Robert B. Gerber Jr.~~
~~209 Commerce Bldg, St. Paul 55101~~
~~Consultant – Labor Relations~~

(3) ~~Metropolitan Transfer Men's Assn.~~
~~1821 University Ave. & 325 Griggs-Midway Bldg., St. Paul 55104~~
~~Abe Rosenthal, Executive Vice Pres.~~

(4) Minnesota Employers Assn.
1600 Pioneer Bldg., St Paul 55101
Oliver Perry, Executive Sec'y

(5) Minn. School Boards Assn.
117 South Minnesota Ave., St. Peter (Box 367)
Wm. Wettergren, Executive Secretary

(6) Metropolitan Sewer Bd.
350 Metro Square Bldg., St. Paul 55101
Richard Dougherty, Chief Administrator

(7) City of Mpls. - Administrative Services
315 City Hall, Mpls. 55415
Robert Bruce, Asst. City Coordinator
&

(8) Dept of Civil Service (City of Mpls.)
309 M City Hall, Mpls. 55415
John Proctor, Personnel Director

Minn. Education Ass'n.
41 Sherburne Ave, St. Paul 55103
Patrick Churchill, Pres.

Minnesota Government Engineers Council
60 W. 4th St., St Paul 55102
C. A. Siggerud, President

Minnesota Federation of Teachers
2147 University Ave, St. Paul 55114
Edward Bolstad, Executive Secretary

Ramsey County Bar Ass'n.
Capitol Square Bldg., St. Paul 55101

City of St. Paul
Dept. of Civil Service
265 City Hall, St. Paul 55102
John Haider, Personnel Director

Minn. State College Board
550 Cedar Street, St. Paul 55101
G. Theodore Mitau, Chancellor.

State Jr. College System
550 Cedar St., St. Paul 55155
Phillip C. Helland, Chancellor

University of Minnesota
Dept. of Civil Service
2651 University Ave., St. Paul 55114
Lee Hart ~~Frank Pieper~~

Ramsey County Civil Service
County Courthouse, St. Paul
Personnel Director

(17) Minn. Ass'n. of School Administrators
6 - West 5th Street
St. Paul

(18) Minn. Ass'n. of Secondary School Principals
6 - West 5th St, St. Paul
David Meade, Exe Sec'y

(19) Metropolitan Transit Commission
330 Metro Square Bldg.
St. Paul Atty.

~~(20) League of Minn. Municipalities~~
~~3300 University Ave SE~~
~~Mpls. 55414~~

(21) Hennepin County
Court House, Mpls.
John Hanson, Personnel Director

(22) Cy Smythe
Smythe Obermeyer & Associates
3300 University Ave SE, Mpls. 55414

Employee Organizations

(1) AFL-CIO Fed. of Labor
408 Auditorium St., St. Paul 55102
David Roe, Pres.

(2) Auto Workers Local 867
624 Gillette St, LaCrosse, Wisc. 54601
Donald Yolton, Int'l. Rep.

(3) City & County Employees #66
Room 103 - 2002 London Rd, Duluth 55812
James Lasky, B.R.

(4) City Employees #363
708 So. 10th St, Mpls. 55404
Archie M. Shand, Bus. Mgr.

(5) CWA -
1905 3rd. Ave. So., Mpls. 55404
Hugh Gallagher, Rep &
Mrs. Florine Koole, Rep.
1905 - 3rd Ave So., Suite 203, Mpls.

(6) Cottage Grove Police Ass'n.
7516 - 80th St. So., Cottage Grove 55016
George Carpenter, Rep.

(7) Bureau of Criminal Apprehension Agents Assn
1246 University Ave, St. Paul 55104
Richard J. Bacon, Secretary

(8) ~~Crystal Police Assn.~~
~~414 Douglas Drive No., Crystal 55427~~
~~Donald Bownik, Chairman~~

(9) I.U.O.E.
2611 Central Ave. N.E. Mpls. 55418
B.F. Maluchill, Int'l. Rep.

(10) I.U.O.E. Local 34
811 Midland Bank Bldg., Mpls. 55401
Frank Zaragoza, Bus. Mgr.

(11) IOUE, Local #36
509 American Nat'l. Bank Bldg., St. Paul 55101
B.J. Motschenbacher, Bus. Mgr.

(12) IOUE, Local #49
2580 University Ave., St. Paul 55114
Arthur Abbott, Pres.

(13) IOUE, Local #808
1027 - 6th Ave So, St. Cloud 56301
John Willenbring, Sec'y.

(14) Int'l. Ass'n. of Fire Fighters
4230 Upton Ave. So., Mpls. 55410
Samuel P. Terry, State Rep.

(15) Fire Fighters Ass'n of Mpls., Local 82
Rm 200 - Grain Exchange Bldg. Mpls. 55415
Gordon L. Norheim, Pres.

(16) Int'l Ass'n. of Fire Fighters, Local 1986
140 Rickard Rd., NE, Fridley
Dennis M. Ottem, Pres.

(17) Hotel + Rest. Employees, Local 21
405 1/2 So. Broadway, Rochester 55901
Buck Jackson, Bus. Mgr.

(18) Minn. Law Enforcement Union, Inc.
331 NW 2nd Ave., Faribault 5502
Herbert J. Cook Atty

(19) Office + Professional Employees Local #2
842 Raymond Ave, St. Paul 55114
Terry Schmit, Bus. Rep

(20) AFSCME, Council #6
475 Rice St., St. Paul 55103
~~Joseph Robison~~, Director

(21) AFSCME, Local #8
City Hall, Kennedy Rm, St. Paul 55102
[redacted], Bus. Rep

(22) AFSCME, Local #9
25 University Ave, Mpls. 55414
Stanley Stalno, Bus. Rep.

(23) AFSCME, Council #3
Room 206 Delmac Bldg, Mpls. 55415
John McDonald, Pres.

(24) AFSCME, Council #65
312 1/2 E. Howard St., Hibbing 55746
Al Church, Executive Director
Clare S. McRoberts, Rep.
Spicer, 56288

(25) AFSCME, Local 147-A
Harold Schmidt, Staff Rep.
829 Spring Ave., Fergus Falls 56537

(26) AFSCME, Local 1687
Box 304, Tyler 56178
Robert Dillerman, Pres.

(27) Suburban School Employees Local 284
8053 S.E. Interstate 35W, Suite 133L, Bloomington 55420
Jane Allen, Bus. Rep.

(28) Teamsters Joint Council #32
3001 University Ave SE Mpls 55414
Jack Fitzgerald, Pres.

(29) Teamsters #120
320 University Ave, St. Paul 55103
Carl Klammer, Pres.

(30) Teamsters #149
1131 University Ave, St. Paul [illegible]
Joseph Penfrel, Bus. Rep.

(31) Teamsters #[illegible]
Box 306, Redwing 55066
Don Cook, Sec.-Treas.

(32) Teamsters #320
3001 University Ave SE, Mpls. [illegible]
David Nickels, Pres.

3) TEAMSTERS #346
2802 W. 1st St., Duluth 55806
Sherman
Mr Limatainen, Sec'y Treas

~~4) TEAMSTERS #358~~
~~1903 North 4th St, St. Cloud 56301~~
~~LeRoy Morgan, Pres.~~

35) TEAMSTERS #487
Rt. #1 - Box 212, Mankato 56001
J.J. McIlvenna, Sec'y-Treas

36) TEAMSTERS #799
208 E. 3rd St., Winona 55987
Donald Cummings, Bus. Rep.

37) TEAMSTERS #874
405½ So. Broadway, Rochester 55901
Matt. Ginter, Sec'y-Treas.

~~38) Minn. State Capitol Employees Union~~
~~113 University Ave, St. Paul 55103~~
~~Robert Smith III~~

39) Inter-Faculty Organization
c/o Rod Henry - Winona State
College, Winona, Minn 55987

~~40) TEAMSTERS #664~~
~~3001 University Ave, SE, Mpls 55414~~
~~John Skeate~~

41) IBEW, Local 1426
P.O. Box 1096
Grand Forks, N.D. 58201
Wm. Couchigian, Bus. Mgr.

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314 Minnesota Bldg.
St. Paul 55101

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854 Midland Bank Bldg.
Mpls. 55401

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So. St. Paul, Minn. 55075

~~(4) Richard Felhaber Atty~~
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~~St. Paul, Minn. 55101~~

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St. Paul 55101

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Degree of Honor Bldg
St. Paul 55101

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Mpls. 55402

(8) Andrew Larson, Atty
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Duluth, Minn.

(9) George Latimer, Atty
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St. Paul 55101

Publications =

The Labor World Inc.
34 E. Superior St., Duluth 55802
Norman L. Levine, Editor

Minneapolis Labor Review
112 S.E. 4th St., Mpls. 55414
Ronald G. Cohen, Editor

Minnesota Teamster
3001 University Ave. SE, Mpls, 55414
Otto Kraemer, Editor

Union Advocate
440 W. Minnehaha Ave, St. Paul 55103
Carlton Spielman, Editor

Lead ~~Mpls. Star~~
~~425 Portland Ave~~
~~Mpls. 55415 - Ed Schaefter~~

St. Paul Dispatch
55 East 4th St., St. Paul
Harry Hite

~~Mpls. Tribune~~
~~425 Portland Ave, Mpls. 55415~~
~~Charles~~ McFadden
Duluth Herald & News Tribune
424 West 1, Duluth
Editor
Rochester Post Bulletin
18 SE 1 Ave, Rochester 55901
Editor

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So. St. Paul, Minn. 55075

(11) Leonard Lindquist, Atty
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55 E. 5th St., St. Paul 55101

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Albert Lea, Minn. 56007

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210 ~~Rochester State~~ Bank Bldg.
~~Rochester, Minn. 55901~~

(17) ~~Peter~~ S. Popovich, Atty
~~Minnesota~~ Bldg.
~~St. Paul, Minn. 55101~~

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St. Paul 55101

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909 Farmers & Mechanics Bank Bldg.
Mpls. 55402

Clarence R. Smith, Atty
115 - 5th St., Bemidji

STATE OF MINNESOTA
PUBLIC EMPLOYMENT RELATIONS BOARD
Veterans Service Building
SAINT PAUL 55155

AFFIDAVIT

Frank Madden, being duly sworn on oath, deposes and says:

1. That he is employed as Executive Secretary for the Public Employment Relations Board on July 23, 1973.

2. That on the 23rd day of July, 1973, he went to the secretary of state's office for the state of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the secretary of state for the purpose of obtaining notices of public hearings relating to the promulgation of rules and regulations pursuant to Minn. Stat. 15.0412.

3. That on the 25th day of July, 1973, in response to the above request, the secretary of state provided me with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Frank J Madden

Subscribed and sworn to before me this 17th day of December 1973.

Cecilia Loughrey

CECILIA LOUGHREY
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 16, 1980

Neil Dion
Representative, Secretary of State's Office

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Shirley Brogger, being first duly sworn, hereby deposes and says:

That at the City of Saint Paul, county and state aforementioned, on the 2nd day of August, 1973, she deposited in the United States mail at said City of Saint Paul, true and correct copies of a Notice of Hearing on the proposed rules of the Public Employment Relations Board, pursuant to Minn. Stat. 15.0412 subd. 4, properly enveloped, with first class postage prepaid, and addressed to representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for that purpose.

Shirley Brogger

Subscribed and sworn to before
me this 17th day of December, 1973.

Cecilia Loughrey

CECILIA LOUGHREY
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 16, 1980

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC

EMPLOYMENT RELATIONS BOARD

In the Matter of the Proposed Adoption of Rules and Regulations for the Public Employment Relations Board Governing Implementation of the Public Employment Labor Relations Act of 1971 (as amended)

STATEMENT OF NEED

The need to amend these rules arises because the Minnesota legislature amended the Public Employment Labor Relations Act which covers almost all public employees and public employers and which created a new Board titled the Public Employment Relations Board is required by that Act (Minn. Stat. 179.72 subd. 4) to promulgate rules and regulations governing the presentation of issues and the taking of appeals to the Board. The Act created additional responsibilities for the Board which require rules and regulations, those areas being: Selection of an arbitration panel to hear and decide disputes involving terms and conditions of employment (Minn. Stat. 179.72 subds 5 - 11); provide an arbitration list to hear the decide contract grievances (Minn. Stat. 179.70 subd. 4); and provide for the mechanisms for the Public Employment Relations Panel to independently review a grievance of a public employee (Minn. Stat. 179.76).

/s/

Chairman
Public Employment Relations Board

Dated: 12/18/73

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC

EMPLOYMENT RELATIONS BOARD

In the Matter of the Proposed Adoption of Rules and Regulations for the Public Employment Relations Board Governing Implementation of the Public Employment Labor Relations Act (as amended).

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Public Employment Relations Board of the State of Minnesota on the 6th day of September, 1973, at 1:00 p.m., in the Veterans Service Building Conference Room B, St. Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (1971) was served upon all persons, associations and other interested groups registered with the secretary of state for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence presented, the Public Employment Relations Board makes and enters the following findings:

1. The Public Employment Relations Board is specifically authorized, pursuant to Minn. Stat. § 179.72, subd. 4, to adopt rules and regulations pursuant to chapter 15 governing the presentation of issues and the taking of appeals to the Board. The Public Employment Relations Board is also specifically required to establish procedures, pursuant to Minn. Stat.

§ 179.76, to independently review grievances for some public employees. In addition, the Act requires the Public Employment Relations Board to maintain a list of qualified arbitrators (Minn. Stat. §§ 179.72, subd. 5 and 179.70, subd. 4), and requires the Board to establish an orderly procedure whereby parties can avail themselves of these services. The rules and regulations as approved are in the public interest, and they provide a comprehensive set of guidelines and procedures which will effectively implement the Public Employment Relations Act (as amended).

2. A definite need exists for these rules and regulations. The 1973 Minnesota legislature, by amending the Public Employment Labor Relations Act of 1971, established different procedures which require amendments to existing rules and regulations. Clearly, these amended rules and regulations are necessary to effectively implement the Act. The rules and regulations as approved fulfill that need.

3. The vast majority of those who testified supported the rules and regulations as they were presented at the public hearing. Based on the evidence presented, both oral and written, a number of clarifications have been made in the amended rules and regulations.

4. Some of the more substantive issues raised at the public hearing were as follows:

(a) Whether the Board was required to hear appeals de novo.

(b) Whether an independent review decision of the Board is binding on the parties.

5. Other oral and written comments were made which have been reviewed and considered. Changes were made in the rules and regulations based upon these comments only if a definite improvement would be accomplished by such change. The rules and regulations have not, however, been modified in any significant manner.

6. These rules and regulations will help fulfill the State's policy as expressed in Minn. Stat. § 179.61 and will help effectively implement the Public Employment Labor Relations Act as amended.

Gerald Seltzer
Chairman
Public Employment Relations Board

Dated: 12/18/73, 1973.