

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: PAUL W. GOLDBERG, Director
Bureau of Mediation Services

DATE: 10-10-85

ATTN: BRAD ENGDAHL
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY/MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Amendments to Rules of the Bureau of Mediation Services Relating to Public Employees, Labor Negotiations and Dispute Resolution

The above-referenced rule has been approved as to its legality by the Attorney General on October 7, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

atty - Brad Engdahl exchanges to PERB

Problems:

1. ~~small biz - appl?~~
2. SNR -
3. pg 3, line 3 - where auth for 45 days
4. pg 8, line 19 - where auth to make confid -- where " to waive
5. essential - pg 8, line 26 - wh statute

URCHASE. Whenever any per-
s of selling and retailing farm
enters into a written contract,
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CHAPTER 156 — S.F.No. 82

An act relating to real property; requiring that condominium floor plans be approved by county surveyor before recording; amending Minnesota Statutes 1984, section 389.09.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 389.09, is amended to read:

389.09 **APPROVAL OF PLATS AND SURVEYS AND CONDOMINIUM FLOOR PLANS IN CERTAIN COUNTIES.**

Subdivision 1. **PLATS AND SURVEYS IN CERTAIN COUNTIES.** In any county in which there is a county surveyor and the surveyor maintains an office on a full time basis in a building maintained by the county for county purposes, the county board may by ordinance adopted in accordance with section 375.51 require that each subdivision plat or registered land survey plat shall be approved by the county surveyor before recording. The proprietor of the plat shall be charged a fee for the service in accordance with a schedule established by the board of commissioners of the county.

Subd. 2. **CONDOMINIUM FLOOR PLANS.** A county board may, by ordinance adopted in accordance with section 375.51, require that each condominium floor plan submitted for recordation after July 31, 1985, be approved by the county surveyor or other licensed surveyor hired for this purpose by the county, for compliance with section 515A.2-110, before recording. The process of approving the floor plans must be conducted in an expeditious manner so as not to unduly delay the recording of the floor plans. The proprietor of the condominium floor plan may be charged a reasonable fee for the service in accordance with a schedule established by resolution passed by the governing body of the county.

Approved May 20, 1985

CHAPTER 157 — S.F.No. 118

An act relating to public employee labor relations; regulating public employee mediation; regulating mediation and strikes concerning teachers; providing for arbitration awards in principal and assistant principal disputes; providing penalties; amending Minnesota Statutes 1984, sections 179A.04, subdivision 3; 179A.05, subdivision 4; 179A.14, subdivision 1; 179A.15; 179A.16, subdivision 7; 179A.17, subdivision 1; 179A.18, subdivisions 2 and 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 179A.04, subdivision 3, is amended to read:

Subd. 3. **OTHER DUTIES.** The director shall:

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

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

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

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

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

(f) adopt rules regulating the forms of petitions, notices, and orders; and the conduct of hearings and elections;

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

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

(i) conduct elections;

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

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

Sec. 2. Minnesota Statutes 1984, section 179A.05, subdivision 4, is amended to read:

Subd. 4. **OTHER POWERS.** In addition to the other powers and duties given it by law, the board has the following powers and duties:

(a) to hear and decide appeals from determinations of the director relating to "supervisory employee," "confidential employee," "essential employee," or "professional employee";

(b) to hear and decide appeals from determinations of the director relating to the appropriateness of a unit;

(c) to hear and decide on the record, determinations of the director relating to a fair share fee challenge;

(d) collect such fees as are established by rule for empanelment of persons on the labor arbitrator roster maintained by the board.

Sec. 3. Minnesota Statutes 1984, section 179A.14, subdivision 1, is amended to read:

Subdivision 1. **INITIATION OF NEGOTIATION.** (a) When employees or their representatives desire to meet and negotiate an initial agreement establishing terms and conditions of employment, they shall give written notice to the employer and the director. The employer has ten days from receipt of the notice to object or refuse to recognize the employees' representative or the employees as an appropriate unit. If the employer does not object within ten days, the employer must recognize the employee representative for purposes of reaching agreement on terms and conditions of employment for the represented employees. If the employer does object, the employer or employees' representative may petition the director to take jurisdiction of the matter and the director shall investigate the petition.

(b) When a party to a contract desires to meet and negotiate an agreement subsequent to the initial agreement, the party shall give written notice to the other party and to the director at least 60 days before the termination date of the existing contract. If a party fails to give the required 60-day notice, the party is subject to a fine of $10 per day for each day the notice is late. The fine for late notice may be waived at the discretion of the director if the director finds that the failure to give timely notice did not prejudice the director or the other party in the fulfillment of their responsibilities and duties. The fine for late notice shall be the only penalty for late notice under this paragraph.

Sec. 4. Minnesota Statutes 1984, section 179A.15, is amended to read:

179A.15 **MEDIATION.**

Once notice has been given under section 179A.14, the employer or the exclusive representative may petition the director for mediation services.

A petition by an employer shall be signed by the employer or an authorized officer or agent. A petition by an exclusive representative shall be signed by its authorized officer. All petitions shall be delivered to the director in person or sent by certified mail. The petition shall state briefly the nature of the

disagreement of the parties. Upon receipt of a petition and upon concluding that mediation would be useful, the director shall fix a time and place for a conference with the parties to negotiate the issues not agreed upon, and shall then take the most expedient steps to bring about a settlement, including assisting in negotiating and drafting an agreement.

If the director ~~may, at the request of a party to a labor dispute, assist in settling~~ determines that mediation would be useful in resolving a dispute, the director may mediate the dispute even if ~~no petition~~ neither party has ~~been~~ filed a petition for mediation. In these cases, the director shall proceed as if a petition had been filed.

The director shall not furnish mediation services to any employee or employee representative who is not certified as an exclusive representative.

All parties shall respond to the summons of the director for conferences and shall continue in conference until excused by the director. ~~However, for other than essential employees, mediation conferences following: (1) the expiration date of a collective bargaining agreement, or (2) in the case of teachers, mediation over a period of 60 days after the expiration date of a collective bargaining agreement shall continue only for durations agreeable to both parties.~~

Sec. 5. Minnesota Statutes 1984, section 179A.16, subdivision 7, is amended to read:

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

The panel shall render its order within ten days from the date that all arbitration proceedings have concluded. However, the panel must issue its 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 panel's order shall be for the period stated in the order, except that orders determining contracts for teacher units shall be effective to the end of the contract period determined by section 179A.20.

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

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

Sec. 6. Minnesota Statutes 1984, section 179A.17, subdivision 1, is amended to read:

179A.17 **NEW EXCLUSIVE REPRESENTATIVES.**

Subdivision 1. **FOR TEACHERS.** If a new or different exclusive representative of teachers employed by a local school district is certified by the director at any time other than the period between 120 days before the termination date of a contract and the termination date of the contract, or if on July 1 of any odd-numbered year a representation proceeding involving the employer and the employer's teachers is before the director, section 179A.18, subdivision 2, clause (1), shall apply. In those cases, however, the employer and the exclusive representative of the teachers shall execute a written contract or memorandum of contract no later than 60 days after a certification by the director of a new or different exclusive representative or the resolution by the director of a representation proceeding. Either party may petition the director of mediation services for assistance in reaching an agreement. If the employer and the exclusive representative of the teachers fail to execute a contract by 60 days after the certification of a new or different exclusive representative or the resolution by the director of a representation proceeding, they shall be conclusively presumed to be at an impasse after having participated in mediation ~~sessions over a period of no less than 60 days~~ as specified in section 179A.18, subdivision 2, clause (1)(b).

Sec. 7. Minnesota Statutes 1984, section 179A.18, subdivision 2, is amended to read:

Subd. 2. **SCHOOL DISTRICT REQUIREMENTS.** Except as otherwise provided by section 179A.17, subdivision 1, teachers employed by a local school district, other than principals and assistant principals, may strike only under the following circumstances:

(1)(a) the collective bargaining agreement between their exclusive representative and their employer has expired or, if there is no agreement, impasse under section 179A.17, subdivision 1, has occurred; and

(b) the exclusive representative and the employer have participated in mediation over a period of at least ~~60 days,~~ 30 days ~~of which have occurred after the expiration date of the collective bargaining agreement, provided that the~~

~~mediation period established by section 179A.17, subdivision 1, shall govern negotiations pursuant to that section~~. For the purposes of this subclause the mediation period commences on the day ~~following receipt by the director of a request for mediation~~ that a mediator designated by the director first attends a conference with the parties to negotiate the issues not agreed upon; and

(c) neither party has requested interest arbitration or a request for binding interest arbitration has been rejected; or

(2) ~~45 days after impasse under section 179A.16, subdivision 1, neither party has requested interest arbitration; or~~

~~(3)~~ the employer violates section 179A.13, subdivision 2, clause (9).

Sec. 8. Minnesota Statutes 1984, section 179A.18, subdivision 3, is amended to read:

Subd. 3. **NOTICE.** In addition to the other requirements of this section, no employee may strike unless written notification of intent to strike is served on the employer and the director by the exclusive representative at least ten days prior to the commencement of the strike. For all employees other than teachers, if more than 30 days have expired after service of a notification of intent to strike, no strike may commence until ten days after service of a new written notification. For teachers, no strike may commence more than 25 days after service of notification of intent to strike unless, before the end of the 25-day period, the exclusive representative and the employer agree that the period during which a strike may commence shall be extended for an additional period not to exceed five days. Teachers are limited to one notice of intent to strike for each contract negotiation period, provided, however, that a strike notice may be renewed for an additional ten days, the first five of which shall be a notice period during which no strike may occur, if the following conditions have been satisfied:

(1) an original notice was provided pursuant to this section; and

(2) a tentative agreement to resolve the dispute was reached during the original strike notice period; and

(3) such tentative agreement was rejected by either party during or after the original strike notice period.

The first day of the renewed strike notice period shall commence on the day following the expiration of the previous strike notice period or the day following the rejection of the tentative agreement, whichever is later. Notification of intent to strike under subdivisions 1, clause (1); and 2, clause (1), may not be served until the collective bargaining agreement has expired, or if there is no agreement, on or after the date impasse under section 179A.17 has occurred. ~~Notification of intent to strike under subdivision 2, clause (2), may not be served before the 45th day following an impasse under section 179A.16, subdivision 1.~~

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155
TELEPHONE: (612) 297-2040

September 27, 1985

Judith Wehrwein
Legal Assistant
Division of Administration/Finance
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: Bureau of Mediation Services Rules

Dear Ms. Wehrwein:

Enclosed please find the following materials for review by the Attorney General:

1. Four copies of the rules as adopted (Revisor's format);
2. Two copies of the Order Adopting;
3. Notice of Intent to Adopt Without a Public Hearing;
4. Affidavit of Mailing;
5. Mailing List Certificate;
6. Notice in the State Register;
7. Rules as proposed in the State Register;
8. Findings of Fact and Conclusions;
9. Statement of Need and Reasonableness;
10. Comments received during the comment period and responses thereto; and
11. Certificate of Compliance.

Please be advised that no requests for notice of submission to the Attorney General have been received.

I hope the foregoing is satisfactory. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Brad P. Engdahl

BRAD P. ENGDAHL
Special Assistant
Attorney General

Telephone: (612) 296-1892

BPE:fw

Enclosures

cc: Paul Goldberg
Jean King

05-0009-0650

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-27
DATE FOR REVIEW 10-7
DATE DUE 10-11

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 10-7-85 MJC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 10-9-85 Revisor approved 9/30/85
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 9.25.85 Date

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
8.9.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.19.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness - deminimus version!

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials) + Reply.

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

AG copy.

Bureau of Mediation Services

Adopted Rules Relating to Public Employees, Labor Negotiations and Dispute Resolution

Rules as Adopted

5510.2710 NEGOTIATION NOTICE.

Subpart 1. **Content of notice.** A written notification of the desire to meet and negotiate an original contract, renewal of a contract, or a reopener of a contract must be served on the other party and the director. The notice may be served on forms available from the director or in other written format which includes the following:

A. to J. [Unchanged.]

Subp. 2. **Initial agreement.** ~~The~~ An employer shall have ten days following service of a negotiation notice ~~from~~ by an employee organization to object to the employee organization's status as exclusive representative, or to contest the appropriateness of the unit ~~proposed-to-be-covered-by-the-labor contract~~. An objection must be made in writing to the employee organization and the director, and the director must investigate the matter pursuant to parts 5510.0110 to 5510.2310. FF II A

Subp. 3. **Subsequent agreement.** If a party to an existing labor contract desires to meet and negotiate a subsequent labor contract, the party shall serve written notice of ~~the~~ that FF II B desire upon the other party to the labor contract and the director at least 60 calendar days prior to the expiration date in the existing labor contract. If a party desires to negotiate a subsequent labor contract, but has failed to provide the required 60-day notice, the party may be compelled to pay a penalty of $10 per day for each day the notice of intent is late.

Subp. 4. **Late notice penalty.** A $10-per-day penalty shall be the only penalty for late notice of a desire to negotiate a subsequent labor contract and may be imposed by the director upon request by a party adversely affected by the failure to provide timely notice or the director's own motion. A request

APPROVED IN THE
REVISOR OF STATUTES
BY: Joe Fulli

or motion to assess a penalty shall be made in writing and served upon the director and the other party to the labor contract within ten days of the requesting party's first knowledge of the other party's desire to negotiate or, in the case of the director's own motion, within 15 days of the receipt of a request for mediation assistance involving the same parties and contract. A request from a party or motion by the director shall specify the date of first knowledge of the desire to negotiate, the expiration date of the current labor contract, and a brief statement of the adverse results or impact of the late notice. Upon receipt of a written request or after the director's own motion to assess a penalty for late notice, the director shall investigate the matter pursuant to part 5510.1910. If the director finds that the late notice did not prejudice the director or the other party, the director may waive all or a part of the penalty. The penalty shall be payable to the state of Minnesota general fund. The amount of the penalty and its waiver is not subject to appeal to the board.

5510.2810 PETITION FOR MEDIATION.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Notice.** Upon receiving a petition for mediation and concluding that mediation would be useful, the director shall serve notice of the time and place for a mediation meeting of the exclusive representative and the employer.

Subp. 4. [Unchanged.]

Subp. 5. **Mediation meetings.** Joint or separate mediation meetings of the parties may be scheduled by the director. Mediation meetings are informal and must be limited by the director to matters relevant to the settlement of the dispute. The parties must continue to participate in a mediation meeting until excused by the director. Use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings.

A mediation meeting may be closed to the public by the director when, in the director's judgment, closing will facilitate resolution of the dispute. In all cases a meeting

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will be closed only after receipt by the bureau of a valid and timely petition for mediation or after initiation of mediation by the director. The director may close a meeting to the public prior to its start or at any time during the meeting.

When the director determines that it is in the interest of resolution of a dispute, the director may authorize a closed meeting of the public employer's governing body for the purpose of review and discussion of the status of negotiations and the employer's positions.

No closed meeting may be authorized unless the bureau has received a valid and timely petition for mediation or unless mediation has been initiated by the director.

No closed meeting may be authorized when the director or a representative of the director is not physically present at the meeting unless the bureau has received a timely and valid notice of intent to strike.

In the event the director determines that a closed meeting is necessary, but the director cannot be physically present at the meeting and a timely and valid notice of intent to strike has been received by the bureau, the director may authorize a closed meeting upon written notice to the governing body and exclusive representative at least 24 hours prior to the closed meeting. The written notice must include the date, time, and place of the closed meeting of the governing body and limit the purpose of the meeting to matters relevant to the dispute.

Subp. 6. [Unchanged.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. **Mediation period.** Except for teachers, a 45-day mediation period commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, a 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with both

where get auth for 45 days

REVISOR'S OFFICE BY.

parties in an effort to resolve the dispute.

Subp. 2. [Unchanged.]

Subp. 3. **Expiration of mediation period.** Following the expiration of the mediation period and expiration date of the labor contract, negotiations are presumed to be at impasse and either party may request to arbitrate the dispute.

Subp. 4. [Unchanged.]

Subp. 4a. **Final positions.** Upon notice of an agreement to arbitrate, the director shall notify the parties and direct that each party submit its final position on each item determined by the director to remain in dispute. The final positions must be in the form of the contract language desired by that party to resolve each matter in dispute and must be received by the director on or before the date specified in the director's letter.

where auth? OK

Subp. 5. **Certification of impasse to board.** Following receipt of a joint request to arbitrate or receipt of an acceptance of a single-party offer to arbitrate, the director shall notify the board of the existence of an impasse. The notice will include a list of the issues determined by the director to be at impasse, and the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

Subp. 6. **Option of final offer arbitration.** The parties may agree in writing to limit the arbitrator's authority to a final offer item-by-item or a final offer total-package award.

A. In the event of an agreement, the parties must file a written copy of the agreement with the bureau prior to the date upon which final positions are due, as set forth in the director's determination of impasse. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration.

B. and C. [Unchanged.]

Subp. 7. **Notice of intent to strike, other than teachers.**

A. and B. [Unchanged.]

C. The 30-calendar-day strike notice period commences the day following receipt by the director of the notice of intent to strike, provided:

(1) A strike shall not begin during the first ten calendar days of a strike notice period.

(2) The right to strike matures effective 12:01 a.m. of the 11th day and continues until 12:00 midnight of the 30th day of the strike notice period.

(3) If the bureau receives a notice of intent to strike not more than five calendar days prior to the expiration of the mediation period ~~or 45-day teacher impasse period~~, the strike notice period begins the day following the expiration of the mediation period. Notices received prior to these periods are void and of no effect.

? no FF re this change but consistent with title of rule section

D. [Unchanged.]

E. The director may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but the notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

Subp. 8. **Notice of intent to strike, teachers.**

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210. The notice must be served on the employer and the director by the exclusive representative.

B. A notice of intent to strike is timely when the requirements of Minnesota Statutes, section 179A.18, subdivisions 2 and 3, have been fulfilled.

C. A 25-calendar-day strike notice period commences the day following receipt by the director of a properly-served notice of intent to strike, provided:

(1) a strike shall not begin during the first ten

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days of a strike notice period;

(2) the right to strike matures effective 12:01 a.m. of the 11th day and continues until 12:00 midnight of the 25th day of the strike notice period; and

(3) prior to the expiration of the 25-day period, the exclusive representative and the employer may agree to extend the period up to an additional five calendar days.

D. If the 25-day period, or any proper extension, expires without a strike, the right to strike shall be terminated with respect to the current contract negotiation, except that the strike notice shall be renewed for an additional ten days, the first five days of which shall be a notice period during which no strike may occur, if all of the following conditions are satisfied:

(1) an original notice of intent to strike was provided pursuant to this part;

(2) a tentative agreement was reached during the original strike notice period or extension thereof; and

(3) the tentative agreement was rejected by either party during or after the original strike notice period.

Satisfaction of subitems (1) to (3) shall automatically renew the strike notice period. The first day of the renewal period shall be the day following expiration of the previous strike notice period or the day following rejection of the tentative agreement, whichever is later.

E. No notice of intent to strike will be accepted prior to the expiration of the mediation period and the expiration of the agreement in effect.

F. The director may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

5510.3010 MEDIATION, IMPASSE AND ARBITRATION FOR CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND FOR PRINCIPALS AND ASSISTANT PRINCIPALS.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

Subpart 1. **Mediation.** Upon concluding that it would be useful, mediation shall be scheduled by the director.

Subp. 2. **Impasse.** During mediation of the dispute, the parties, individually or jointly, may request the director to declare the negotiations at impasse. If, as a result of ~~the~~ an individual request or at the director's own initiative, the director determines that further mediation efforts ~~would not~~ are not likely to resolve the dispute, the director may declare the negotiations to be at an impasse and notify the parties in writing of that determination. The director shall regard a joint request as evidence of the impasse. The notice by the director shall include:

A. the date on which an impasse was declared;

B. a list of the matters or impasse items determined by the director to remain in dispute; and

C. the date upon which final positions of the parties with respect to the matters at impasse are to be received by the director.

Subp. 3. **Final offer arbitration.** Except for principals and assistant principals, the parties may agree to limit the arbitrator's authority to a final offer item-by-item or a final offer total package award. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration. For principals and assistant principals, the panel shall be restricted to selecting between the final offers of the parties on each impasse item.

Subp. 4. **Final positions.** Final positions submitted by each party shall be in the form of the contract language desired by that party to resolve each matter in dispute. The director shall review all final positions submitted by the parties and may make additional efforts to resolve the dispute. If the final offer arbitration option is agreed to, the parties may not withdraw or amend the final positions filed with the director unless otherwise agreed to in writing by the parties. The agreement to amend may include, but is not limited to, an agreement:

A. that an item certified to be at impasse has been dropped as an item in dispute;

B. that an item certified to be at impasse has been settled by the parties; and

C. to amend the submitted final positions on any or all items certified to be at impasse. Such agreement must specify the conditions and manner in which the final positions are to be amended.

Subp. 5. **Certification of impasse to board.** Following the date established for submission of final positions of both parties, the director shall notify the board of the existence of an impasse. The notice of impasse shall contain a statement that the negotiations between the parties are at impasse, a list of the issues or impasse items determined by the director to be at impasse, and the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

FF II D

Where get auth by rule

Subp. 6. **Confidentiality of final positions.** All final positions submitted to the bureau are confidential, except as otherwise provided by this chapter.

5510.3110 NEW OR DIFFERENT EXCLUSIVE REPRESENTATIVE; MEDIATION, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Mediation period.** For all public employees except essential employees and teachers, the 60-day or 45-day mediation period provided under part 5510.2910 commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, the 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with the parties in an effort to resolve the dispute.

FF II E

w/ statute

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 9 1985
Joan Anderson Growe
Secretary of State
2:30 PM

APPROVED AS TO FORM AND LEGALITY
October 7 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Bureau of Mediation Services Relating to Public Employees, Labor Negotiations and Dispute Resolution

ORDER ADOPTING RULES

Notice of the Bureau's intent to adopt the above-entitled rules without a public hearing was published in the State Register on August 19, 1985, and sent by United States mail to all persons on the list maintained by the agency pursuant to Minn. Stat. §14.22, on August 9, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minnesota Rules Parts 5510.2710 to 5510.3110 are adopted this 25th day of September 1985, pursuant to authority vested in me by Minnesota Statutes 179A.04, subd. 3 (f) (1985).

STATE OF MINNESOTA

Paul W. Goldberg

PAUL W. GOLDBERG
DIRECTOR
BUREAU OF MEDIATION SERVICES

STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption of Rules of the Bureau of Mediation Services Governing the Implementation of the Public Employment Relations Act.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 9th day of August, 1985, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Bureau of Mediation Services for that purpose and be published in the State Register.

BUREAU OF MEDIATION SERVICES

Paul W. Goldberg, Director

BUREAU OF MEDIATION SERVICES

Proposed Rules Governing Public Employee Labor Negotiations and Dispute Resolution

Notice of Intent to Adopt Rule Amendments without a Public Hearing

NOTICE IS HEREBY GIVEN that the Bureau of Mediation Services proposes to adopt amendments to the above entitled rules without a public hearing. The Director of the Bureau has determined that the proposed amendments to these rules are noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§14.21-14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified prior to final adoption, if such modifications are supported by data or views submitted to the Bureau and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. The written request must be specific as to which rule(s) a hearing is desired on. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the Bureau will proceed according to the provisions of Minnesota Statutes §§14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons wishing to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to:

Paul W. Goldberg, Director
Bureau of Mediation Services
205 Aurora Avenue
St. Paul, Minnesota 55103

The Bureau's authority to adopt rules is found in Minn. Stat.§179A.04, subd 3(f). A statement describing the need and reasonableness of the proposed amendments is available from the Bureau upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comment received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues,in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

A copy of the proposed amendments is attached to this notice.

~~July~~ August 19, 1985.

Paul W. Goldberg
Director
Bureau of Mediation Services

STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption of Rules of the Bureau of Mediation Services Governing the Implementation of the Public Employment Labor Relations Act.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ramona M. Anderson, being first duly sworn, deposes and says:

That on the 9th day of August, 1985, at the City of Saint Paul, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of Saint Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Bureau of Mediation Services for the purpose of receiving notice of the proposed adoption of rules by this agency.

Subscribed and sworn to before me this 9th day of August, 1985.

Kenneth L. Boxell

NOTARY PUBLIC

KENNETH L. BOXELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires April 19, 1991

STATE OF MINNESOTA

BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed
Adoption of Rules of the Bureau
of Mediation Services Governing
the Implementation of the Public
Employment Labor Relations Act.

CERTIFICATE

I hereby certify that the list of names, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1a (Supp.1983), that their names be placed on file with and maintained by the State Bureau of Mediation Services for the purpose of receiving notice of the proposed adoption of rules by this agency is accurate and complete as of 4:00 p.m., this 5th day of August, 1985.

Paul W. Goldberg, Director
Bureau of Mediation Services

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St. Paul, MN 55104

Robert Norton, Director of
General Services
City of Winona; City Hall
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Winona, MN 55987

Claudia Hennen
Executive Director
PERB

MPELRA
9150 Central Ave NE
Blaine, MN 55434

Mn Assn. of Counties
555 Park St., Suite 300
St. Paul, MN 55103

Tad Selzer & Eric Miller
Suite 1700
First Nat'l. Bank Bldg.
St. Paul, MN 55101

Susan P. Robertson
Executive Director
Room 430
State Office Bldg.
St. Paul, MN 55155

STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 8

August 19, 1985

Pages 413-496

D. profit or loss in the work depends upon the relationship of receipts to expenditures;

E. expenses incurred in connection with the work are paid by the individual;

F. specific jobs are performed for prices agreed upon in advance; and

G. performance of the services affects the individual's business reputation, and not the business reputation of those who purchase the services.

Subp. 6. Termination. The worker's right to terminate the working relationship with the purported employer at will and without incurring liability for noncompletion indicates employment. A requirement to provide notice of termination for some period in advance of the termination is not relevant for purposes of this subpart. Independent contractor status is indicated where the individual agrees to complete a specific job, is responsible for its satisfactory completion, and is liable for failure to complete the job.

Subp. 7. Substantial investment. A substantial investment by a person in facilities used in performing services for another indicates an independent contractor status. The furnishing of all necessary facilities by the employing unit indicates the absence of an independent contractor status. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, and similar items that are provided by individuals working in employment as a common practice in their particular trade. Substantial investment means a monetary investment representing something of considerable worth, in relation to the overall requirements of the person's chosen profession, trade, occupation, or vocation. A substantial expenditure of time or money for an individual's education is not indicative of an independent contractor status.

Subp. 8. Responsibility. If an employing unit is responsible for the negligence, personal behavior, and work actions of an individual in contacts with customers and the general public during times that services are performed for the employing unit, an employment relationship is indicated.

Subp. 9. Services fundamental to business. Employment is indicated where the services provided are necessary to the fundamental business purpose for which the organization exists.

Bureau of Mediation Services

Proposed Rules Relating to Public Employees, Labor Negotiations and Dispute Resolution

Notice of Intent to Adopt Rule Amendments without a Public Hearing

NOTICE IS HEREBY GIVEN that the Bureau of Mediation Services proposes to adopt amendments to the above entitled rules without a public hearing. The Director of the Bureau has determined that the proposed amendments to these rules are noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.21-14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified prior to final adoption, if such modifications are supported by data or views submitted to the Bureau and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. The written request must be specific as to which rule(s) a hearing is desired on. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the Bureau will proceed according to the provisions of Minnesota Statutes §§ 14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons wishing to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to:

Paul W. Goldberg, Director
Bureau of Mediation Services
205 Aurora Avenue
St. Paul, Minnesota 55103

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The Bureau's authority to adopt rules is found in Minn. Stat. § 179A.04, subd. 3(f). A statement describing the need and reasonableness of the proposed amendments is available from the Bureau upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comment received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials, or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

A copy of the proposed amendments is attached to this notice.

July 19, 1985

Paul W. Goldberg
Director
Bureau of Mediation Services

Rules as Proposed

5510.2710 NEGOTIATION NOTICE.

Subpart 1. Content of notice. A written notification of the desire to meet and negotiate an original contract, renewal of a contract, or a reopener of a contract must be served on the other party and the director. The ~~written~~ notice ~~shall include~~ may be served on forms available from the director or in other written format which includes the following:

A. to J. [Unchanged.]

Subp. 2. Initial agreement. The employer shall have ten days following service of a notice from an employee organization to object to the employee organization's status as exclusive representative, or to contest the appropriateness of the unit proposed to be covered by the labor contract. An objection must be made in writing to the employee organization and the director, and the director must investigate the matter pursuant to parts 5510.0110 to 5510.2310.

Subp. 3. Subsequent agreement. If a party to an existing labor contract desires to meet and negotiate a subsequent labor contract, the party shall serve written notice of the desire upon the other party to the labor contract and the director at least 60 calendar days prior to the expiration date in the existing labor contract. If a party desires to negotiate a subsequent labor contract, but has failed to provide the required 60-day notice, the party may be compelled to pay a penalty of $10 per day for each day the notice of intent is late.

Subp. 4. Late notice penalty. A $10-per-day penalty shall be the only penalty for late notice of a desire to negotiate a subsequent labor contract and may be imposed by the director upon request by a party adversely affected by the failure to provide timely notice or the director's own motion. A request or motion to assess a penalty shall be made in writing and served upon the director and the other party to the labor contract within ten days of the requesting party's first knowledge of the other party's desire to negotiate or, in the case of the director's own motion, within 15 days of the receipt of a request for mediation assistance involving the same parties and contract. A request from a party or motion by the director shall specify the date of first knowledge of the desire to negotiate, the expiration date of the current labor contract, and a brief statement of the adverse results or impact of the late notice. Upon receipt of a written request or after the director's own motion to assess a penalty for late notice, the director shall investigate the matter pursuant to part 5510.1910. If the director finds that the late notice did not prejudice the director or the other party, the director may waive all or a part of the penalty. The penalty shall be payable to the state of Minnesota general fund. The amount of the penalty and its waiver is not subject to appeal to the board.

5510.2810 PETITION FOR MEDIATION.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Notice. Upon receiving a petition for mediation and concluding that mediation would be useful, the director ~~must~~ shall serve notice of the time and place for a mediation meeting of the exclusive representative and the employer.

Subp. 4. [Unchanged.]

Subp. 5. Mediation meetings. Joint or separate mediation meetings of the parties may be scheduled by the director. Mediation meetings are informal and must be limited by the director to matters relevant to the settlement of the dispute. The parties must continue to participate in a mediation meeting until excused by the director. Use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings.

A mediation meeting may be closed to the public by the director when, in ~~his~~ the director's judgment, closing will facilitate resolution of the dispute. In all cases a meeting will be closed only after receipt by the bureau of a valid and timely petition for mediation or after initiation of mediation by the director. The director may close a meeting to the public prior to its start or at any time during the meeting.

When the director determines that it is in the interest of resolution of a dispute, ~~he~~ the director may authorize a closed meeting of the public employer's governing body for the purpose of review and discussion of the status of negotiations and the employer's positions.

No closed meeting may be authorized unless the bureau has received a valid and timely petition for mediation or unless mediation has been initiated by the director.

No closed meeting may be authorized when the director or a representative of the director is not physically present at the meeting unless the bureau has received a timely and valid notice of intent to strike.

In the event the director determines that a closed meeting is necessary, but the director cannot be physically present at the meeting and a timely and valid notice of intent to strike has been received by the bureau, the director may authorize a closed meeting upon written notice to the governing body and exclusive representative at least 24 hours prior to the closed meeting. The written notice must include the date, time, and place of the closed meeting of the governing body and limit the purpose of the meeting to matters relevant to the dispute.

Subp. 6. [Unchanged.]

5510.2910 RENEWAL OF EXISTING CONTRACT; MEDIATION PERIOD, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES EXCEPT CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. Mediation period. Except for teachers, a 45-day mediation period commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, a 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with both parties in an effort to resolve the dispute.

Subp. 2. [Unchanged.]

Subp. 3. Expiration of mediation period. Following the expiration of the mediation period and expiration date of the labor contract, negotiations are ~~considered~~ presumed to be at impasse and either party may request to arbitrate the dispute.

Subp. 4. [Unchanged.]

Subp. 4a. Final positions. Upon notice of an agreement to arbitrate, the director shall notify the parties and direct that each party submit its final position on each item determined by the director to remain in dispute. The final positions must be in the form of the contract language desired by that party to resolve each matter in dispute and must be received by the director on or before the date specified in the director's letter.

Subp. 5. Certification of impasse to board. Following receipt of a joint request to arbitrate or receipt of an acceptance of a single-party offer to arbitrate, the director shall notify the board of the existence of an impasse. The notice ~~of impasse must contain a statement that the negotiations between the parties are at impasse.~~ will include a list of the issues determined by the director to be at impasse, and ~~any~~ the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

Subp. 6. Option of final offer arbitration. The parties may agree in writing to limit the arbitrator's authority to a final offer item-by-item or a final offer total-package award.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. In the event of ~~that~~ an agreement, the parties must file a written copy of the agreement with the bureau prior to the date upon which final positions are due as set forth in the director's determination of impasse. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration.

B. and C. [Unchanged.]

Subp. 7. Notice of intent to strike, other than teachers.

A. and B. [Unchanged.]

C. The 30-calendar-day strike notice period commences the day following receipt by the director of the notice of intent to strike, provided:

(1) A strike shall not begin during the first ten calendar days of a strike notice period.

(2) The right to strike matures effective 12:01 a.m. of the 11th day and ~~continuing~~ continues until 12:00 midnight of the 30th day of the strike notice period. ~~the right to strike matures~~.

(3) If the bureau receives a notice of intent to strike not more than five calendar days prior to the expiration of the mediation period or 45-day teacher impasse period, the strike notice period begins the day following the expiration of the mediation period. Notices received prior to these periods are void and of no effect.

D. [Unchanged.]

E. The director ~~shall~~ may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but the notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

Subp. 8. Notice of intent to strike, teachers.

A. A notice of intent to strike must be in writing and signed by an authorized representative of the exclusive representative. The notice must set forth the date upon which the exclusive representative believes the right to strike will mature. The date shall be subject to adjustment by the director to conform to parts 5510.2410 to 5510.3210. The notice must be served on the employer and the director by the exclusive representative.

B. A notice of intent to strike is timely when the requirements of Minnesota Statutes, section 179A.18, subdivisions 2 and 3, have been fulfilled.

C. A 25-calendar-day strike notice period commences the day following receipt by the director of a properly-served notice of intent to strike, provided:

(1) a strike shall not begin during the first ten days of a strike notice period;

(2) the right to strike matures effective 12:01 a.m. of the 11th day and continues until 12:00 midnight of the 25th day of the strike notice period; and

(3) prior to the expiration of the 25-day period, the exclusive representative and the employer may agree to extend the period up to an additional five calendar days.

D. If the 25-day period, or any proper extension, expires without a strike, the right to strike shall be terminated with respect to the current contract negotiation, except that the strike notice shall be renewed for an additional ten days, the first five days of which shall be a notice period during which no strike may occur, if all of the following conditions are satisfied:

(1) an original notice of intent to strike was provided pursuant to this part;

(2) a tentative agreement was reached during the original strike notice period or extension thereof; and

(3) the tentative agreement was rejected by either party during or after the original strike notice period.

Satisfaction of subitems (1) to (3) shall automatically renew the strike notice period. The first day of the renewal period shall be the day following expiration of the previous strike notice period or the day following rejection of the tentative agreement, whichever is later.

E. No notice of intent to strike will be accepted prior to the expiration of the mediation period and the expiration of the agreement in effect.

F. The director may notify the parties in writing of the date of any strike notice, the date upon which the right to strike matures, and the date upon which the right to strike expires, but notice by the director shall not alter rights established under Minnesota Statutes, section 179A.18.

5510.3010 ~~RENEWAL OF EXISTING CONTRACT.~~ MEDIATION, IMPASSE AND ARBITRATION FOR CONFIDENTIAL, ESSENTIAL, SUPERVISORY EMPLOYEES, AND FOR PRINCIPALS AND ASSISTANT PRINCIPALS.

Subpart 1. Mediation. Upon concluding that it would be useful, mediation shall be scheduled by the director ~~upon receipt of a petition filed under part 5510.2810~~.

Subp. 2. Impasse. During mediation of the dispute, the parties, individually or jointly, may request the director to declare the negotiations at impasse. If, as a result of the request or at the director's own initiative, the director determines that further mediation efforts would not resolve the dispute, ~~he shall~~ the director may declare the negotiations to be at an impasse and notify the parties in writing of that determination. The notice by the director shall include:

A. the date on which an impasse was declared.

B. a list of the matters determined by the director to remain in dispute; and

C. the date upon which final positions of the parties with respect to the matters at impasse are to be received by the director.

Subp. 3. Final offer arbitration. Except for principals and assistant principals, the parties may agree to limit the arbitrator's authority to a final offer item-by-item or a final offer total package award. If the parties do not agree to final offer arbitration, the impasse shall be decided by conventional arbitration. For principals and assistant principals, the panel shall be restricted to selecting between the final offers of the parties on each impasse item.

Subp. 4. Final positions. Final positions submitted by each party shall be in the form of the contract language desired by that party to resolve each matter in dispute. The director shall review all final positions submitted by the parties and may make additional efforts to resolve the dispute. If the final offer arbitration option is agreed to, the parties may not withdraw or amend the final positions filed with the director unless otherwise agreed to in writing by the parties. The agreement to amend may include, but is not limited to, an agreement:

A. that an item certified to be at impasse has been dropped as an item in dispute;

B. that an item certified to be at impasse has been settled by the parties; and

C. to amend the submitted final positions on any or all items certified to be at impasse. Such agreement must specify the conditions and manner in which the final positions are to be amended.

Subp. 5. Certification of impasse to board. Following the date established for submission of final positions of both parties, the director shall notify the board of the existence of an impasse. The notice of impasse shall contain a statement that the negotiations between the parties are at impasse, a list of the issues determined by the director to be at impasse, and ~~any~~ the final positions submitted by the parties. The director shall advise the board whenever a party does not submit final positions within the format or time frames required by this chapter.

Subp. 6. Confidentiality of final positions. All final positions submitted to the bureau are confidential, except as otherwise provided by this chapter.

5510.3110 NEW OR DIFFERENT EXCLUSIVE REPRESENTATIVE; MEDIATION, IMPASSE, ARBITRATION, AND STRIKE NOTICE FOR PUBLIC EMPLOYEES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Mediation period. For all public employees except teachers, the 60-day or 45-day mediation period provided under part 5510.2910 commences on the day following receipt by the bureau of a petition for mediation or the day following issuance of notice that the director has initiated mediation. For teachers, the 30-day mediation period commences on the first day that a mediator first attends a mediation meeting with the parties in an effort to resolve the dispute.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA
BUREAU OF MEDIATION SERVICES

In the Matter of the Proposed Adoption of Amendments to Rules of the Bureau of Mediation Services Governing the Conduct of Negotiations Between an Exclusive Representative and an Employer; the Conduct of Mediation; and the Certification of Impasse.

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter has been considered without a public hearing in accordance with Minn. Statutes 14.21-14.26(1985).

After affording interested persons an opportunity to present data, statements, and arguments, having reviewed all timely comments, and having considered all of the evidence adduced upon the records, files, and proceedings herein, the Bureau finds the following:

I. The State of Need and Reasonableness demonstrates the need for and reasonableness of the proposed rules.

II. The following amendments are not substantial in nature and are necessary and reasonable:

A. 5510.2710, Subp. 2. Minor grammar revisions and clarification of employer's right to contest unit pursuant to Minn Stat. 179A.14.

B. 5510.2710, Subp. 3. Grammatical revision.

C. 5510.2910, Subp. 5-9. Renumbered subparts.

D. 5510.3010, Subp. 2 & 5. Language clarified based upon comment received to avoid conclusion that the director could delay or fail to certify a joint request for arbitration. "Impasse items" added to the list to be prepared by the director provide consistency with the language used in Subp.4.

E. 5510.3110, Subp. 3. Language clarified based upon staff review to reflect changes in mediation period enacted during 1985 legislative session.

III The rules as proposed, together with the above described amendments, are needed and reasonable.

STATE OF MINNESOTA

September , 1985

Paul W. Goldberg, Director
Bureau of Mediation Services

State of Minnesota
Bureau of Mediation Services
STATEMENT OF NEED AND REASONABLENESS
Proposed amendments to Minnesota Rules 5510.2710, 5510.2810, 5510.2910, 5510.3010 and 5510.3110, as noticed on August 19, 1985.

5510.2710 Negotiation Notice

Specifies availability of notice forms from the agency. Reflects new statutory time limits for serving a notice for renewal of existing agreements and sets forth policies and procedures for investigating late notices and for assessing penalties.

5510.2810 Petition for Mediation

Specifies that the director may defer action upon a request for mediation which the director believes is premature. Clarifies that a representative of the director is empowered to close certain meetings.

5510.2910 Renewal of Existing Contract, Mediation Period, Impasse, Arbitration, and Strike Notice of Public Employees Except Confidential, Essential, Supervisory Employees, and Principals and Assistant Principals.

Subparts 1-4; 8-9. Specifies a new mediation period and special strike rights and limits for teachers, pursuant to statutory change. Minor grammatical change.

Subparts 5-7. Specifies that final positions submitted in conjunction with interest arbitration must be in the

form of actual contract language, a requirement which will increase opportunities for settlement prior to arbitration and reduce artificial posturing prior to arbitration.

5510.3010 **Mediation, Impasse and Arbitration for Confidential, Essential, Supervisory Employees, and for Principals and Assistant Principals.**

Incorporates statutory changes enacted by the 1985 legislature, including final offer interest arbitration procedures for principals and assistant principals.

5510.3110 **New or Different Exclusive Representative; Mediation, Impasse, Arbitration, and Strike Notice for Public Employees.**

Specifies new mediation period for teachers, as provided in recent statutory changes.

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Brad Engdahl, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Brad P. Engdahl

BRAD ENGDAHL

Special Assistant

Attorney General

DATED: September 27, 1985