
BMS



mn BUREAU OF
MEDIATION SERVICES



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History

In 1939, the state legislature enacted the Minnesota Labor Relations Act as a means of peacefully settling disputes resulting from the growing size and strength of Minnesota's labor movement. The Act recognized that a sound economy is aided by a constructive labor-management environment. To administer the Act, the legislature created the Division of Conciliation, the forerunner of the present Bureau of Mediation Services (BMS). The division performed four functions: conciliation/mediation, arbitration, bargaining unit determinations, and bargaining unit certification elections.

Over the years, growth in the state's economy and union representation increased the complexity of contract negotiations. Growing acceptance of mediation caused the legislature to pass additional laws affecting labor-management relations. As a result, in 1969 the division was renamed the Bureau of Mediation Services and established as a separate state agency. Extension of collective bargaining to the public sector by enactment of the Public Employment Labor Relations Act in 1971 substantially expanded the functions of the BMS.


Mission

The mission of the BMS is to promote stable and constructive labor-management relations and promote the use of alternative dispute resolution in public policy disputes other than labor-management.

The mission of the BMS is accomplished within three programmatic areas: mediation, representation, and labor management programs. Collectively, the units:

- Assist parties in resolving collective bargaining, grievance, and public policy disputes
- Resolve questions of labor union representation and bargaining unit structure
- Support, train, and facilitate area and worksite joint labor-management committees
- Provide related technical training and information
- Develop and maintain a roster of labor arbitrators

BMS staff serve mostly public, but some private sector, employers and unions across the state of Minnesota. This includes employees of the state, counties, cities, school districts, public utilities, etc.





REPRESENTATION

The BMS, upon request, certifies groupings or units of employees that are appropriate for the purpose of collective bargaining and determines whether the employees within those groups desire to be represented by a labor organization. When the parties do not agree on the makeup of the appropriate unit or on which employees are to be included, the issue is resolved by the BMS. The issue is addressed at a public hearing where the employer and the labor organization provide evidence and testimony in support of their respective positions. The BMS then makes a determination and issues an order based on the record.

Following the unit determination process, the BMS may conduct a secret ballot election among the employees within the appropriate unit to resolve the question of representation. A labor organization receiving a majority of the votes cast at the election is certified as the exclusive representative for the employees and thereby gains the right to collectively bargain with the employer over terms and conditions of employment. When questions of appropriate unit placement arise after an original certification, the BMS conducts unit clarification hearings in a similar forum.

Representation Forms

Petitions for unit clarifications or unit determinations, as well as other representation documents, can be found at:

<https://mn.gov/bms/about/forms.jsp>

Union Democracy Act Elections

Upon request, the BMS assists labor organizations by supervising elections to select union officers or ratify contracts.

Independent Review

Pursuant to Minn. Stat. §179A.25, the BMS processes employee claims for independent review in cases where an employee does not have access to a neutral disinterested third party by way of policy or union contract. Such claims may be referred to an arbitrator or heard directly by a BMS hearing officer.



MEDIATION

Collective bargaining disputes can arise over the inability to negotiate a new or successor labor agreement (contract mediation) or as a result of an alleged violation of the provisions of the existing contract (grievance mediation). The process to request either form of mediation is similar.

Contract Mediation

When contract negotiations between the parties become unproductive or cease altogether, either party (labor or management) may petition the BMS for the services of a mediator to help the parties reach a mutual agreement to the dispute. A mediator will schedule a meeting—usually in the geographic area of the dispute. At the meeting, the mediator examines and analyzes positions and interests to ensure that both parties have a clear understanding of the issues before them. The mediator then meets with the parties separately to explore options for settlement. If a settlement is not reached the BMS has responsibilities under the Minnesota Statutes to regulate the process necessary for a strike or arbitration.

Grievance Mediation

A significant difference between contract mediation and grievance mediation is that both parties must agree to grievance mediation. This is done through the collective bargaining agreement, with mediation listed as a formal/optional step in the grievance procedure, or by mutual agreement. The parties meet jointly with the mediator to identify the reason for the grievance, the contract language in question, and the remedy sought. The mediator then meets with the parties separately to explore options for settlement.

The BMS has a settlement success rate of over 80%, which results in substantial cost and time savings for both management and labor. The mediation process can also lead to more stable and peaceful working relationships. Grievance mediation is a significant and growing area of BMS services to assist parties with contract interpretation or employee discipline issues, which might otherwise be submitted to arbitration. Either party (labor or management) may petition the BMS for the services of a mediator.

Petitions for mediation can be filed online through the BMS website at:

<https://mn.gov/bms/about/forms.jsp>



INTEREST-BASED COLLECTIVE BARGAINING AND ARBITRATION

Interest-Based Collective Bargaining (IBCB)

The BMS offers training and facilitation services in interest-based collective bargaining (IBCB). IBCB is a facilitated, collaborative, problem-solving process that creates effective solutions, while improving the working relationship between labor and management. It is an alternative form of negotiations that identifies interests, options, and standards for each issue. This is in contrast to traditional bargaining, which focuses on labor and management positions on each issue to achieve settlement. A sports analogy might view traditional bargaining as a tennis match, where one side serves while the other side counters, until the match is complete. IBCB might be seen as a rowing event, where both parties are in the same boat, rowing in the same direction.

Under the BMS model, both negotiating teams must complete a two-hour overview session covering the principles and procedures of IBCB. The committees then jointly participate in a one-day training session to learn and practice techniques used in IBCB. Request forms can be found on the BMS website.

General Arbitration Roster

The BMS maintains a roster of up to 60 qualified arbitrators. Names from the roster are forwarded to labor and management representatives upon written request. Referrals from this list are made for both contract and grievance disputes. Arbitrators selected for membership on the BMS roster must meet rigorous standards of professional experience, knowledge of labor relations, arbitration, and neutrality.

Specialized Arbitration Roster

The BMS also maintains a separate roster specific to resolving peace-officer discipline-grievance disputes. The roster is comprised of six arbitrators who can't participate on the other roster. Parties don't select these arbitrators; instead, they are referred by alphabetical rotation to the parties. The arbitrators must complete 12 hours of training on (1) cultural competency, racism, and implicit bias, and (2) the daily experience of peace officers.



LABOR-MANAGEMENT COOPERATION

The BMS actively promotes joint labor-management partnerships. Through such partnerships, labor and management representatives collaboratively address problems and develop plans for improving the relationships and operations of the organization.

Worksite Labor-Management Committees (LMCs)

The BMS supports the development of worksite committees by:

- providing committees with technical development and facilitation assistance
- offering conflict resolution, committee effectiveness, and other customized training programs
- assisting committees in evaluating their effectiveness

BMS staff coordinate with the leadership of labor and management to access the needs of the parties and set up exploratory and/or full-day trainings. They also assist with facilitating the process for a period of time. LMC services can be requested online at:

<https://mn.gov/bms/about/forms.jsp>

Area/Industry Labor-Management Councils / Grant Program

Councils are multiemployer and multi-union joint committees providing programs and services that seek to improve labor-management relations within a specific industry or geographic region of the state. Upon application, councils may be awarded initial seed money and matching grant funds to help implement their programs and services. Councils also provide assistance to joint worksite committees within their geographical or industrial areas.

Training/Technical Support Services

The BMS offers a variety of training support to the labor-management community. One group of courses consists of three skill-building classes of instruction and practical exercises aimed at committee effectiveness and dispute resolution. A second group of offerings consists of presentations on labor-relations topics, including mediation, negotiations, representation, and the Public Employment Labor Relations Act. These courses are available to employers and unions upon request.





Why use a collaborative approach?

Collaborative processes bring stakeholders together with the assistance of a trained neutral to define a problem, identify the core interests and concerns of all involved, and generate solutions that address these interests and concerns.

Collaborative approaches have been successfully deployed to deal with a wide variety of collective bargaining issues including wages, insurance, time-off, holidays, employee discipline, and more.

The benefits of collaborative approaches include:

- **Makes efficient use of the public and private resources.** There are fewer federal, state, and local dollars available to deal with critical issues facing our society. Collaborative processes engage a range of public and private organizations and leadership to bring a wider array of resources to bear on the problem.
 - **Develops high quality solutions.** As people learn about each other's views and needs, they learn more about the problem. In developing options together, they consider a wider variety of possibilities. In arriving at a plan or policy that reflects the concerns and ideas of all parties, they develop the best possible solutions.
 - **Accelerates the pace of a project.** Parties are less likely to block implementation if they understand that a plan or policy reflects their input and has been crafted to meet their basic interests. Parties involved in this process often have a high commitment to the success of the plan or policy.
 - **Bridges differences.** Collaborative processes allow parties to better understand each other's interests, build trust, improve relations, work together, and find mutually acceptable solutions based on common interests.
 - **Deal productively with shared power for decision-making.** This process brings a wide array of stakeholders to the table to seek mutually beneficial solutions.
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For additional information, please contact the Bureau at

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