

STATE OF MINNESOTA  
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Proposed Adoption  
of Rules of the Public Employment Relations  
Board Governing Issues and Appeals,  
Arbitration of Terms and Conditions of  
Employment, Arbitration of Grievances,  
and Independent Review

STATEMENT OF NEED  
AND REASONABLENESS

8 MCAR § 3.001 Application

Adds punctuation and eliminates repetition.

8 MCAR § 3.003 Definitions

Adds punctuation, eliminates repetition, provides clarification and deletes duplication of statutory language.

Definition of "arbitrator" is deleted since it is not applicable to appeals. Instead, the definition of "arbitrator" appears in the rules governing the arbitration of terms and conditions of employment and the arbitration of grievances.

8 MCAR § 3.004 Presiding officer

Provides clarification and codifies existing practice regarding the establishment of a Board panel to hear an appeal. The Board has found this practice beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.005 Initiating an appeal

Adds requirement that appellant provide copy of the director's determination with its notice of appeal so that the Board has sufficient information to respond expeditiously to an appeal.

Adds requirement that appellant include a statement that it understands the director's rules regarding the purchase of the record and transcript. This will ensure that an appellant is aware of its responsibility to purchase the record and eliminate delay in processing an appeal.

In addition, provides clarification.

8 MCAR § 3.006 Answer

Provides clarification.

8 MCAR § 3.0061 Briefs

Codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.007 Notice of hearing

Eliminates requirement that the Board set a hearing date within 15 days after receipt of an appeal. This requirement is inoperative, since not every appeal requires a hearing. (For instance, the Board may summarily dispose of an appeal without a hearing.) Further, an appeal is ready to be scheduled for hearing upon transmittal of the record and transcript and at the conclusion of the filing of briefs, which necessitates a time period greater than 15 days.

Also extends the notice requirement for a hearing from 10 to 15 days to increase the likelihood of the parties' availability.

In addition, provides clarification.

8 MCAR § 3.008 Continuance of hearing

Provides clarification.

8 MCAR § 3.010 Informal and summary disposition

Adds punctuation, provides clarification, and adds lack of jurisdiction as a basis for dismissal of an appeal. Removes lack of jurisdiction as a basis for summary affirmance since this particular provision is inappropriate.

8 MCAR § 3.011 Default

Provides clarification.

8 MCAR § 3.012 Intervention

Provides clarification.

8 MCAR § 3.013 Substitution of party

Provides clarification.

8 MCAR § 3.014 Consolidation

Eliminates requirement that the Board issue a notice of consolidation within 5 days following an order for consolidation.

The Board has found this time requirement impractical and of an uncritical nature so that deleting it will not result in harm or delay.

In addition, provides clarification.

8 MCAR § 3.015 Remand

Provides clarification.

8 MCAR § 3.016 Extension of time

Provides clarification.

8 MCAR § 3.017 The hearing

Eliminates repetition, provides clarification and codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.018 Board decisions and orders

§ 3.018A is eliminated because the statute expressly states the basis upon which the Board must decide an appeal.

§ 3.018C is eliminated because it is already provided for under § 3.011.

In addition, eliminates repetition and provides clarification.

8 MCAR § 3.019 Rehearing

Time period for the filing of a petition has been shortened from 30 to 10 days after the date of the Board's decision. This change is made to conform with the 10-day time period for the filing of an appeal under § 3.005 and because the Board believes 10 days will be an adequate amount of time.

In addition, adds punctuation and provides clarification.

8 MCAR § 3.030 Application

Provides clarification.

8 MCAR § 3.032 Definitions

Adds definitions of "arbitrator" and "party" which are applicable specifically to the arbitration of terms and conditions of employment.

In addition, adds punctuation and provides clarification.

8 MCAR § 3.034 Certification of impasse

Deletes reference to subdivisions 3 and 5 of section 179.69. This change is made to reflect the repeal of subdivision 5 (Minn. Laws 1980, ch. 617, § 45) and to broaden the scope of the rule to encompass certifications of impasse issued under all subdivisions of section 179.69.

In addition, provides clarification and codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.035 Selection of an arbitrator

§ 3.035A has been deleted to eliminate duplication, since these procedures are contained in the statute.

In addition, provides clarification and codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.036 Submission to arbitrator

Eliminates repetition and provides clarification.

8 MCAR § 3.037 Panel chair

Provides clarification and codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.038 Arbitration procedures

Deletes duplication of statutory language and provides clarification.

8 MCAR § 3.040 Payment of arbitrator

Adds punctuation, eliminates repetition and deletes duplication of statutory language.

8 MCAR § 3.041 Professional responsibility

Corrects citation and provides clarification.

8 MCAR § 3.050 Application

Provides clarification.

8 MCAR § 3.052 Definitions

Adds definitions of "arbitrator" and "party" which are applicable specifically to the arbitration of grievances.

In addition, adds punctuation and provides clarification.

8 MCAR § 3.053 Petition

Adds requirement that petitioner supply all other parties with a copy of its petition to ensure that other parties receive adequate notice that a petition has been filed.

In addition, provides clarification.

8 MCAR § 3.054 Selection of the arbitrator

Deletes duplication of statutory language, provides clarification and codifies existing practice which the Board has found beneficial in executing its duties in an orderly fashion.

8 MCAR § 3.055 Professional responsibility

Corrects citation and provides clarification.

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8 MCAR §§ 3.060-3.078

These are procedures which have not been codified in rules and are now being promulgated. The Board believes promulgation is necessary to ensure that the public is informed as to these procedures. The majority of these procedures are based upon the existing practices governing appeals.

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8 MCAR § 3.060 Application

Provides clarification and deletes duplication of statutory language.

8 MCAR § 3.062 Definitions

Adds definition of "party" which is applicable specifically to independent review.

In addition, adds punctuation and provides clarification.

8 MCAR § 3.063 Petition

Expands the requirements for a petition so that the petition will provide more specific information which will enable the Board to determine its jurisdiction in accordance with the decision rendered in Boe v. Polk County Library Board, 299 Minn. 226, 217 N.W.2d 208 (1974).

In addition, adds punctuation and deletes duplication of statutory language.

8 MCAR § 3.0641 Answer

Adds requirement of other parties to file an answer to petition and provides what answer shall contain. This change codifies an existing practice which the Board has found beneficial in deciding an independent review matter. This procedure is also similar to the procedure under 8 MCAR § 3.006 allowing for the filing of an answer to an appeal. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.0651 Jurisdiction

Provides that Board may dismiss a petition for lack of jurisdiction and may conduct a hearing to determine its jurisdiction. This change codifies an existing practice which the Board has found beneficial in determining its jurisdiction to grant independent review. This procedure is also similar to the procedure under 8 MCAR § 3.010 allowing for the dismissal of an appeal for lack of jurisdiction. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.0661 Presiding officers

Codifies an existing practice which the Board has found beneficial in executing its duties in an orderly fashion. The procedure proposed is similar to the procedure proposed under 8 MCAR § 3.004.

8 MCAR § 3.067 Briefs

Codifies an existing practice which the Board has found beneficial in executing its duties in an orderly fashion. The procedure proposed is similar to the procedure proposed under 8 MCAR § 3.0061.

8 MCAR § 3.068 Notice of hearing

Codifies an existing practice which the Board has found beneficial in executing its duties in an orderly fashion. The procedure proposed is similar to the procedure proposed under 8 MCAR § 3.007.

8 MCAR § 3.069 Continuance of hearing

Adds provision to request continuance of hearing. This procedure is similar to an existing practice which the Board has followed for appeals, which is codified at 8 MCAR § 3.008. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.070 Right to representation

Codifies an existing practice which the Board has found beneficial in executing its duties in an orderly fashion. This procedure is similar to the procedure for right to representation in appeals under 8 MCAR § 3.009. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.071 Informal disposition

Adds provision for informal disposition. This procedure is similar to the procedure for informal disposition of appeals under 8 MCAR § 3.010. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.072 Default

Adds provision for default. This procedure is similar to the procedure for default in appeals under 8 MCAR § 3.010. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.073 Intervention

Adds provision for intervention. This procedure is similar to an existing practice which the Board has followed for appeals, which is codified at 8 MCAR § 3.012. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.074 Substitution of party

Adds provision for substitution of party. This procedure is similar to the procedure for substitution of party in appeals under 8 MCAR § 3.013. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.075 Consolidation

Adds provision for consolidation. This procedure is similar to an existing practice which the Board has followed for appeals, which is codified at 8 MCAR § 3.014. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.076 Extension of time

Adds provision for extension of time. This procedure is identical to the procedure for extension of time for appeals under 8 MCAR § 3.016. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.077 The hearing

Adds provision for conduct of hearing and codifies an existing practice which the Board has found beneficial in executing its duties in an orderly fashion. This procedure is similar to an existing practice which the Board has followed for appeals, which is codified at 8 MCAR § 3.017. Because that procedure has functioned satisfactorily, it is proposed to be used as part of the independent review procedure.

8 MCAR § 3.078 Board decisions and orders

Eliminates repetition and provides clarification.

Repeals:

8 MCAR § 3.033 Binding arbitration

Deletes practices no longer in effect due to statutory amendments.

8 MCAR § 3.039 Arbitration awards

Deletes duplication of statutory language.

8 MCAR § 3.064 Public Employment Relations Panel

For clarification, placed under new proposed rule 3.0661.

8 MCAR § 3.065 Hearing

For clarification, placed under new proposed rules 3.0661, 3.068 and 3.070.