

In the Matter of
**Proposed Rules of the
State Bureau of Mediation Services
Governing the Labor Arbitration Roster
Maintained by the Agency.**

**STATEMENT OF NEED
AND REASONABLENESS**

GENERAL --

The Bureau of Mediation Services maintains a roster of persons who are not employees of the agency, but who are deemed to be qualified and competent to serve as arbitrators of labor disputes. At the request of a labor union or employer, the Bureau compiles panels or groups of names from this roster and forwards such panels to the parties (who select one or more arbitrators from this grouping to actually arbitrate their dispute). Rules to regulate the administration of this roster are required by Minnesota Statutes (1989) section 179.02, subd. 4, and are necessary to ensure informed and uniform practice and procedure by the Bureau in this area of responsibility.

Because labor arbitrators constitute small businesses pursuant to Minnesota Statutes section 14.115, the rules have a direct impact upon small business. In addition to taking administrative and ministerial note of the legislative directive to minimize the impact of rules on small business, the agency took the following steps to reduce their impact: In preparing the proposed rules, the agency solicited comment and opinion from the labor-management community at large, with extra effort directed at the existing members of the arbitrator roster. Additionally, the Commissioner appointed an ad hoc committee to advise him in the drafting of these proposed rules, consisting of persons knowledgeable and experienced in the field of labor arbitration, four from labor organizations, four from employer organizations, one from another arbitrator empaneling agency, and two representatives of the present arbitration roster membership who were selected by their peers. Drafts of proposed rules were given broad distribution among the current roster members, and all meetings of the advisory committee were open to participation and attendance by the public. All persons currently on the agency roster were provided drafts of proposed rules and invited to attend a special public meeting held to receive their comments.

In all cases, the agency adopted the minimum and least stringent reporting requirements and schedules, consolidated reporting requirements, and established performance, rather than design or operational, standards. Because of the inherent purpose of the rules, it was impossible to exempt labor arbitrators who constitute small businesses from their requirements.

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5530.0100	Defines the scope and application of the rules to ensure public understanding of their boundaries.	The rule is reasonable in that it applies only to persons who utilize the services of the Bureau for the purpose of selecting or empaneling an arbitrator and does not restrict either the arbitrator or the parties from private arrangements which are ethical and otherwise consistent with public policy in this area.
5530.0200	Articulates the public policy of the State with regard to resolution of labor disputes to provide a framework for application of the rules in a manner consistent with such public policy.	The rule accomplishes its need in a manner consistent with the style and thrust of Chapter 5500 rules.
5530.0300	The rule is necessary to ensure that terms are understood and uniformly applied.	Terms and phrases are defined in a manner consistent with general and customary labor relations usage and practice.
5530.0400	The rule is necessary to ensure that the role and limits of the Bureau's authority are understood.	The rule is consistent with the understood principle that arbitrators are the servants of the parties not the empaneling agency.
5530.0500	The rule is needed to ensure that persons appointed to the agency roster are not deemed to be employees or agents of the Bureau.	The rule expresses customary and reasonable treatment of a long-standing practice which protects the State from unintended third-party claims or involvement.
5530.0600	This part is necessary to establish criteria upon which to evaluate applications for appointment to the agency roster.	

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5530.0600 Subp. 1	A background and understanding in labor relations matters is essential to successful functioning as an arbitrator of labor disputes.	The standards established by this rule are satisfied by every current member of the roster and are those which are expected by clients who utilize the agency roster.
5530.0600 Subp. 2	The ability to conduct hearings at sites throughout the State is necessary on the part of all roster members because the Bureau serves a statewide client base and referral systems cannot favor an arbitrator's personal preferences with regard to travel. The ability of arbitrators to perform their responsibilities in a competent manner is necessary to maintain client confidence in the agency's roster.	The standards established by this part are consistent with existing practice and the expectation of agency clients.
5530.0600 Subp. 3	Neutrality and impartiality on the part of arbitrators is crucial to the continued acceptability of the agency roster. The rule is necessary to provide a standard which ensure such impartiality in real as well as perceptual terms.	The rule comports with long-standing practice and is a fair way to protect arbitrators and the roster from appearances of partiality.
5530.0600 Subp. 4	The rule is necessary to ensure that the burden for establishing qualifications is with the applicant and to ensure that the Commissioner's decisions are based upon uniform standards.	The rule is reasonable in allowing the appointing authority to evaluate the nature of claimed experience because the Commissioner is in a position to know whether such experience will be useful and relevant to potential service on the roster. The standards set by this part are reasonable indicators of the experience, training, and acceptability necessary to perform satisfactorily as a labor arbitrator. Because there is no "apprentice" status on the roster, candidates who are unable to satisfy these standards are unlikely to be selected by the parties and to empanel them would be to risk the credibility of the agency's roster.

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5530.0600
Subp. 5

This part is necessary to limit the universe of potential roster members to those likely to be selected by Minnesota clients, and to avoid unnecessary costs associated with travel. The rule also is necessary to ensure that "community" standards are applied by the arbitrators when rendering industrial justice and to ensure that arbitrators remain accountable to the selecting community for decisions and deviations from community standards and considerations.

This rule satisfies the need to keep arbitration costs low and to ensure that arbitrators know and understand the "law of the shop" as it is applied in Minnesota. Because labor relations practice and behavior varies widely across the nation, it is important to the notions of predictability and stability for the arbitrator to be familiar and sensitive to community culture and practice. Further, restricting membership to a regional basis strengthens the potential for the arbitrator to be sensitive to the future selection consequences of ignoring regional variations or standards when rendering an award.

5530.0700

This part is needed to establish procedures for administration of the roster of labor arbitrators maintained by the agency.

5530.0700
Subp. 1

This rule is needed to ensure that administration of the roster is manageable within existing agency staff and resource levels and that empanelment on the roster results in a reasonable number of referrals for the roster member.

Historically, the roster has contained 30-35 members. The range of membership and discretion afforded to the Commissioner under this rule are consistent with existing practice and projected levels of activity, as well as the administrative capacity of the agency. With fewer than 25 members on the roster, parties will be denied adequate variation in selection opportunities; with more than 50 members, the administrative capacity of the agency to efficiently meet the requirements of these rules will be taxed.

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5530.0700 Subp. 2	This subpart is need to establish the procedural steps necessary for initial appointment to the roster.	The rule provides standard methods for notifying the public of opportunities; encourages affirmative action efforts consistent with public policy; and allows the Commissioner investigative leeway to ensure that all applications receive adequate review.
5530.0700 Subp. 3	Necessary to establish procedural requirements for renewal appointments for members already on the roster.	The rule provides for substantial notice to existing members and spells out the procedures and standards to be applied in renewal situations. The rule also provides a fair system for staggering the initial terms of persons already empaneled by the agency, so that renewal applications are reasonably dispersed, ensuring that there will be a core of experienced arbitrators on the roster at all times.
5530.0700 Subp. 4	This subpart is necessary to establish standardized formats and elements upon which initial applications for placement on the roster will be evaluated.	The rule is reasonable in requiring use of a standardized application form which can be obtained from the agency without charge.
5530.0700 Subp. 5	Needed to establish the amount of the application fee required by Minnesota Statutes section 179A.04, Subd. 3(k) and to discourage frivolous applications.	The fees established by this rule are very low in comparison to potential income from placement on the roster and help offset administrative costs associated with the processing of applications.
5530.0700 Subp. 6	This rule is needed to establish criteria and standards upon which appointment decisions are to be based.	The rule is reasonable because each factor required by the rule is essential to successful performance as a labor arbitrator and the standards of competence required by the rule are the least stringent standards consistent with maintaining the professionalism and integrity of the agency roster.
5530.0700 Subp. 7	Necessary to ensure that all application are processed in a fair and consistent manner.	Requires appointment of person meeting the standards of the rules, provides notification of the reasons for a rejection of an application, and a fair method to

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5530.0700 Subp. 8 Needed to ensure that all roster members receive equal treatment when appointed to the roster.

making selection decisions when necessary to appoint fewer applicants than the number who meet the standards.

A five year term for initial appointments allows "new" arbitrators an additional, but reasonable, period of time to gain acceptability from the parties, while a three year standard term guarantees periodic review of all roster members without creating adverse or unnecessary burdens for the roster members.

5530.0800 This part is necessary to establish uniform standards for performance and conduct by members of the agency roster so that users may be reasonably assured of high quality and integrity on the part of persons referred by the agency.

5530.0800 Subp. 1 Establishes the scope of application of the rules and sets forth consequences for violating them.

The rule establishes uniformity of application and provides adequate notice of potential consequences of failure to comply.

5530.0800 Subp. 2 This subpart is needed to incorporate by reference the well-established standards of professional conduct for labor arbitrators as adopted by the National Academy of Arbitrators.

These standards of conduct are long-standing and uniformly accepted by labor relations practitioners throughout the country. They establish the high level of ethical and professional performance which is expected from members of the agency roster.

5530.0800 Subp. 3 This part is necessary to ensure that roster members know and accept their responsibility to disclose situations which may give rise to real or perceived conflicts of interest.

Because perception can be just as important as reality in matters of ethical appearance, it is reasonable to expect roster members to disclose relationships with a party to a dispute which may give rise to the appearance of a conflict of interest.

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5530.0800 Subp. 4 This part is necessary to ensure that arbitrators and parties are aware of constraints upon communications between them made necessary to protect the impartiality of the roster members.

The rule is reasonable in that it permits routine, casual communication between roster members, such as scheduling, etc., while prohibiting solicitation of cases or discussion of the merits or facts of a case, which conduct would be detrimental to the real or perceived impartiality of the roster members.

5530.0800 Subp. 5 This part is necessary to set forth limits on the use of assistants by arbitrators and to ensure that the roster members retain full responsibility and accountability for case handling and the award.

The rule is reasonable in setting forth the commonly accepted standards in this area and comports with the ethical standards of the National Academy of Arbitrators which are incorporated by reference in these rules.

5530.0800 Subp. 6 This part is necessary to ensure that arbitrators on the panel are aware of the extreme importance of their timely handling of cases and to provide standards for the assessment of such timeliness.

Because a major reason for reliance upon arbitration as a method for resolving labor disputes is the relative speed of the process in comparison with other methods of disputes resolution, it is reasonable for these rules to emphasize this aspect of the arbitrator's responsibility. Because most agreement's to arbitrate are fashioned by the parties, and the arbitrator is, in effect, the servant of the parties' agreement, it is also reasonable for the arbitrator to be bound by the time limits of that agreement when agreeing to accept appointment to a case. If the arbitrator does not believe those limits are reasonable, he or she may request a waiver or extension. But, routine requests for waiver or extension which are solely for the convenience of the arbitrator are inconsistent with the Bureau's goal of a speedy dispute resolution system when parties rely upon the agency roster.

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5530.0800 Subp. 7 This part is necessary to advise the parties and the roster members that certain administrative fees will be permitted.

The rule is reasonable in that it does not seek to regulate the amount of administrative or cancellation fees, provided adequate notice of such fees is provided in the arbitrator's biographic sketch which is provided to persons who may be subject to such fees. The rule is also reasonable in limiting cancellation fees to cases where cancellation is with less than 21 calendar days notice because the purpose of such fees is to compensate for the loss of income which may occur if the arbitrator is unable to otherwise make productive use of schedule time. Although arbitrators are not entitled to a fee merely because the parties have settled a dispute after reaching the point of selecting an arbitrator and scheduling a hearing, it is reasonable to allow a modest fee which compensates the arbitrator for time which is otherwise lost because of his or her pledge to be available for a hearing on a set date, as well as to discourage "last minute" cancellations by the parties. With three weeks advance notice, the arbitrator has adequate opportunity to make use of reserved time, either through hearing another case or in the research or writing of another award.

5530.0800 Subp. 8 This rule is necessary to ensure full disclosure of the fees charged by roster members, to ensure that reasonable records are maintained by arbitrators in conjunction with such fees, and to specify how disputes over fees may be resolved.

This rule is reasonable in that it does not seek to regulate the amount of the fee, merely ensure that it is adequately disclosed, and requires only simple time and expense records be maintained by the roster members--records which would be necessary for prudent business purposes in the first place. The rule is also reasonable in providing reference to a simple arbitration mechanism for the resolution of fee disputes.

PART	NEED	REASONABLENESS
5530.0800 Subp. 9	The rule is necessary to ensure that parties and arbitrators are aware of the obligation of arbitrators to file copies of their awards with the Bureau, and the public nature of such filings.	The rule is reasonable in continuing a long-standing requirement which provides a central depository, open to the public, of "case law" and trends in this area of industrial justice.
5530.0800 Subp 10	The rule is necessary to ensure that arbitrators are aware of the need to file certain information regarding each case with the Bureau, and to ensure that the Bureau has adequate statistical information regarding the arbitration process and roster members to ensure proper administration of the roster.	The rule is reasonable in that it does not require paperwork or reports of information other than that normally prepared and available to the arbitrator and necessary in the routine performance of the arbitrator's responsibilities. All information requested in the reports directly relates to the ability of the agency to maintain cost and timeliness profiles about the arbitration process and adherence to these rules by the members of the roster.
5530.0900	This part is necessary to establish uniform methods and procedures for referrals of names from the roster maintained by the agency to ensure that such procedures are conducted fairly and impartially.	
5530.0900 Subp. 1	This rule is necessary to inform potential users of the agency roster of the procedures to be followed and information which is necessary to access the roster.	The rule is reasonable in that it requires only routine information which is readily available to any party wishing to utilize an arbitration process and serves to help ensure that each request can be uniquely identified.
5530.0900 Subp. 2	This rule is necessary to establish uniform procedures and size for panels of arbitrators drawn from the agency roster and to ensure that such procedures are unbiased and impartial in terms of their impact on the process.	The rule is reasonable in providing a universal panel of seven members, because seven-member panels are common in labor arbitration and a panel of this size allows more selection opportunities for the parties and the roster members. Utilization of a random selection system is a reasonable way of protecting the impartiality of the selection method, and the provisions for balance between roster members based on length of roster membership helps ensure a reasonable blend of experience

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		<p>on each panel referred--giving "new" arbitrators a chance for selection, without binding parties to a list which consists of all "novice" arbitrators. Similarly, the flexibility afforded the Commissioner in avoiding conflicts helps to protect the ethical standards of the agency roster, while geographic and residency considerations help ensure that the parties have an adequate opportunity to select roster members which they feel are most suited to their circumstances, without unduly restricting roster members.</p>
5530.0900 Subp. 3	This part is necessary to ensure that the Commissioner is empowered to comply with agreements of the parties for direct appointments of roster members.	The rule is reasonable in that it merely enables the Commissioner to comply with the bilateral agreement of the parties to a dispute.
5530.0900 Subp. 4	This part is necessary to establish procedures for dealing with the need to replace one or more panel members.	The rule is reasonable because it allows the parties to an agreement to arbitrate to jointly protect themselves from some unforeseen fluke in panel composition which may be regarded as disadvantageous, while preventing one party from using panel composition as a device to prolong or avoid actual disposition of a dispute without denying that party the right to object to panel membership on the basis of a conflict of interest.
5530.0900 Subp. 5	This part is necessary to set forth uniform procedures for selecting arbitrators from a panel provide under these rules.	The rule is reasonable in allowing the parties own agreement to govern, or in providing an impartial system for selection in the absence of such an agreement between the parties.
5530.0900 Subp. 6	This part is necessary to ensure that parties recognize that notification of the selected arbitrator and scheduling of a hearing is their responsibility and to ensure that the agency is notified of selections.	The rule is reasonable in that scheduling matters are best handled between the involved parties and the reporting requirement on the requesting party is not onerous and provides information which assists the Commissioner in the administration of this roster.

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5530.0900 Subp. 7	This part is needed to ensure that the obligation for roster members to ensure that biographic information is available and accurate is understood and to inform parties regarding such data.	The rule is reasonable in that it only requires roster members to provide information which is necessary and commonly available to parties for the purposes of evaluating roster members for possible selection by the parties. The burden for administration of this requirement remains with the agency, although it is reasonable to hold arbitrators responsible for the content of what the agency will be saying about them.
5530.0900 Subp. 8	This part is necessary to ensure that the limits of the agency's involvement and liability in the arbitration process is set forth and know by the roster members and public.	The rule is reasonable because it merely articulates the scope and nature of agency involvement under existing state law and customary practice.
5530.1000	This part is necessary to establish uniform standards of procedure for arbitration proceedings conducted by roster members to ensure that such procedures are consistent with public policy goals of reduced cost and expeditious resolution of labor disputes.	
5530.1000 Subp. 1	This part is necessary to establish the arbitrator's obligation for compliance with the general objectives of the agency.	The rule is reasonable because it creates only general obligations, not stringent deadlines or requirements, yet it is consistent with good public policy in the field of labor arbitration.

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5530.1000
Subp. 2

This part is necessary to reduce the potential for one party to unnecessarily drive up the cost of arbitration for the other and to encourage an atmosphere which is less litigious in nature.

The rule is reasonable because it comports with the underlying premise of labor arbitration as a less-formal, faster and non-litigious way for resolving disputes than the courts. The rule permits the taking of transcripts in cases where the parties agree that the case warrants such measures, yet discourages such transcripts. Single parties are not denied the right to secure a transcript under this subpart, but may not impose the expense of such a record on the other party, nor create a disadvantage to the other party or the arbitrator because of the economic advantage of being able to afford such legalistic devices.

5530.1000
Subp. 3

This part is necessary to establish procedures and obligations if the arbitrator wishes to utilize a tape recorder during a hearing on a case.

The rule is reasonable in that it imposes the least stringent standard possible upon the arbitrator while remaining consistent with good business practice and due process.

5530.1000
Subp. 4

This part is necessary to establish policy with regard to written briefs in arbitration proceedings initiated under these rules.

The rule is reasonable in that the purpose of arbitration is to reduce the litigious nature of dispute resolution and that briefs are frequently regarded as a "crutch" which increase the cost and time required in arbitration, rather than a necessity to effective resolution of the case. The rule allows maximum discretion with the arbitrator to discourage briefs and to ensure a prompt schedule where they are needed.

5530.1000
Subp. 5

This part is needed to ensure that parties are aware of their obligations for the fees and expenses of the arbitrator for proceedings initiated under these rules.

The rule is reasonable in requiring prompt, pro rata payment of costs by the parties who benefit from the arbitrator's services and in establishing an arbitration mechanism for the resolution of disputes over such fees and expenses.

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5530.1000
Subp. 6

The rule is needed to establish procedures and obligations for the resolution of disputes which may arise over the fees and expenses charged by a roster member.

The rule is reasonable in that it provides for informal administrative investigation of disputes by the Commissioner in an effort to resolve them at the lowest possible threshold, while ensuring the availability of tripartite arbitration of the matter by a representative panel of interests in the event the dispute is not easily resolved.

5530.1100

This part is needed to establish an impartial uniform procedure for expediting the processing of disputes which the parties agree are suitable for resolution under the constraints of this part. Although there is much call among labor and management officials for more efficient arbitration proceedings, agency experience and observation indicates that the absence of an alternative model is a barrier to the actual implementation of new methodologies.

The rule is reasonable in that it is totally voluntary on the part of parties and roster members and is consistent with customary practice and policy in the area of expedited arbitration procedures. No party or roster member is bound by this part unless they voluntarily agree to participate in the expedited procedures.

5530.1100
Subp. 1

This part is needed to establish procedures for accessing the expedited arbitration procedure.

The rule is reasonable in that it ensures that both parties to the matter in dispute agree to submit the matter to expedited proceedings and requires the parties to provide only such information as is necessary to distinguish one case from another.

5530.1100
Subp. 2

This part is needed to specify that the arbitrator of cases expedited pursuant to these parts is appointed by the Commissioner, rather than selected by the parties.

The rule is reasonable in that the appointment process is consistent with the goal of expedited handling and will not impose conditions upon roster members unless they have indicated a desire to be included in such appointments.

5530.1100
Subp. 3

This part is needed to ensure that expedited proceedings do not compromise the ethical standards of the agency's roster and overall arbitration procedures.

The rule is reasonable in providing for full disclosure and knowledge by the parties and in establishing a fair and efficient administrative procedure for remedying situations which the parties find discomforting.

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5530.1100 This part is needed to specify that the
Subp. 4 time, date and place of expedited
proceedings are set by the Commissioner
unless otherwise agreed upon by the
parties and the arbitrator.

The rule is reasonable in providing administrative procedures which ensure prompt hearing of the expedited matter in a neutral location at no cost to the parties or the arbitrator. The rule is also reasonable in ensuring that the arbitrator has an equal voice in scheduling such matters since it is probable that the arbitrator will have more than one case scheduled for the same day in an expedited proceeding.

5530.1100 This part is necessary to establish uniform
Subp. 5 standards and procedures for expedited
cases.

It is well-established that private sector labor disputes are private matters which should not be made public through unintended devices such as reliance upon these rules for resolving a dispute. It is also well-established that, while the results of public sector arbitrations are a matter of public record, the closing of the actual hearing is a matter within the discretion of the arbitrator or the commissioner. This subpart sets a reasonable and uniform policy which ensures a dignified atmosphere at arbitration proceedings which is conducive to frank discussion and disclosure, without jeopardizing any public interest in the final outcome of the matter. The prohibition of transcripts and recordings is consistent with the goal of informal, yet judicious, resolution of disputes in a prompt fashion, as are time constraints for the presentation of cases. The time constraints upon roster members are consistent with the goals of this part and the standards imposed upon the arbitrator are the least stringent conditions consistent with general integrity of the process.

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REASONABLENESS

5530.1100 Subp. 6 This part is necessary to ensure that parties enter the expedited process fully informed and prepared to present their case.

The rule is reasonable in following custom and practice in vesting the arbitrator with the authority to resolve issues which arise regarding evidence in a case. Restricting the presentation of material to the course of the hearing is a reasonable restraint on the parties which is consistent with the expedited goals of this part.

5530.1100 Subp. 7 This part is needed to emphasize the ban on written post-hearing briefs.

This part is reasonable in ensuring that all arguments are made in a manner which is consistent with the expedited goals of the process and takes administrative note of the fact that a complex case requiring briefs is not a likely candidate for this expedited process.

5530.1100 Subp. 8 This part is needed to establish uniform constraints on the issuance of the award.

The rule is reasonable in providing a uniform and fair period of time for the resolution of the dispute by the arbitrator and an impartial method for notification of the parties as to the award.

5530.1100 Subp. 9 Because the procedures of this expedited process may abridge rights otherwise available to parties in an arbitration forum, and because the arbitrator is compelled to render an award within short time frames, there is often reluctance to enter into an expedited form unless the issue of precedential value is resolved. This part is needed to establish policy regarding such precedential value of an award under this part in a manner which reduces the likelihood of disputes over that matter and which encourages parties to take advantage of these expedited procedures.

The rule is reasonable in providing that all awards under an expedited procedure shall have no precedential value because the issue of precedence may preclude parties from referring an otherwise innocuous case to arbitration.

PART**NEED****REASONABLENESS**

5530.1100 Subp. 10	This part is needed to establish uniform fee and expense policy under this expedited procedure.	The rule is reasonable in setting a fee and actual expense policy which is consistent with contemporary fee practices among roster members and because the policies do not bind any party or roster member who does not voluntarily agree to be bound by them.
5530.1100 Subp. 11	This part is needed to establish a uniform policy with regard to cancellation fees in the expedited arbitration procedure.	The rule is reasonable in providing a modest fee which makes it cost effective for parties to resolve their own disputes, yet provides the arbitrator with reasonable protection from frivolous filings and last minute cancellations.
5530.1200	This part is needed to establish uniform standards for measuring the performance of members of the agency roster.	The part is reasonable in that it adopts general standards rather than specific operational requirements and uses the least stringent standards which are consistent with maintaining the professional and ethical standards of the agency roster.
5530.1200 Subp. 1	This part is necessary to establish the standards to be used in evaluating applications for reappointment to the agency roster.	The rule is reasonable in that it creates uniform standards for the Commissioner to apply for all applicants.
5530.1200 Subp. 2.	This part is necessary to establish selection frequency as a standard upon which reappointments will be considered.	Because the parties to an arbitration agreement are the final deciders of acceptability of the members of the agency roster, and express their acceptance of an arbitrator by whether or not they strike that individual's name from the panel provided by the agency, it is reasonable to look at the frequency of selection as a measure of continued acceptability as an arbitrator. The standard established by this part is not stringent in that it guarantees that 3/4 of the entire roster will satisfy the standard and does not permit removal on this singular basis unless acceptability has been demonstrably low.

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REASONABLENESS

5530.1200 Subp. 3 This part is needed to establish that the availability of an arbitrator to hear a case is an element which is related to the roster member's continued appointment.

The rule is reasonable in that it does not establish an affirmative obligation upon the arbitrator to report or give notice to the agency or the parties, but it does provide for the right of parties to file written complaints about availability and for the agency to take notice of such complaints when reviewing reappointment requests.

5530.1200 Subp. 4 This part is needed to establish that the arbitrator's compliance with his or her obligation to render awards in a timely manner is directly related to reappointment considerations.

The rule is reasonable in that it guarantees that at least half of the roster members will not even be scrutinized on the matter of timeliness, while establishing a standard which can be demonstrated as attainable in most circumstances. Although the most common time limit allowed arbitrators under arbitration agreements is 30 days, the rule establishes a less stringent 60 day standard--and, even then, provides that the lack of timeliness shall not be the sole basis for refusal to reappoint an arbitrator.

5530.1200 Subp. 5 This part is necessary to ensure that parties are aware of the desirability of their evaluations of arbitrators and to permit the Commissioner to take note of such evaluations when considering applications for reappointment to the agency roster.

The rule is reasonable because it encourages the actual end-user to express opinions regarding the performance of the roster members and allows the Commissioner reasonable administrative flexibility in the use of such information.

5530.1200 Subp. 6 This part is needed to establish a linkage between availability to hear cases and the likelihood of reappointment to the roster.

The rule is reasonable in that it presupposes that arbitrators who have demonstrated their availability and willingness to accept cases will continue to do so for the future, the least stringent standard which can be applied in this area of performance.

PART**NEED****REASONABLENESS**

5530.1200
Subp. 7

This part is needed to establish a requirement for roster members to remain proficient and competent and to comply with these parts.

The rule is reasonable in establishing that it is necessary to comply with these parts in order to benefit from them and that members of the agency roster are expected to remain competent and proficient.

5530.1300

This part is necessary to establish uniform and impartial procedures for handling potential complaints regarding performance or conduct of roster members.

5530.1300
Subp. 1

This part is necessary to emphasize that the agency roster is a service to both labor-management clients and the arbitrators who are empaneled on it and that the agency has both professional interests in and authority to ensure that its professional and ethical standards are adhered to.

The rule is reasonable in providing the appointing authority with the right to investigate complaints and with a range of options designed to protect both the roster member and the integrity of the agency and the roster.

5530.1300
Subp. 2

This part is needed to establish procedures for handling a complaint at the least complex level possible.

The rule is reasonable because it allows matters to be resolved at the lowest possible level of tension and complexity, without compromising the ability to provide adequate review of the matter with appropriate due process considerations.

5530.1300
Subp. 3

This part is necessary to establish procedures for formal disciplinary action against a roster member.

The rule is reasonable in that probable cause is required prior to triggering a formal proceeding against a roster member and in that adequate due process rights of the roster member are protected.

5530.1300
Subp. 4

This part is needed to establish uniform procedures for conducting disciplinary hearings involving a roster member.

The rule is reasonable in that it provides for a fair and adequate administrative investigation and hearing on the matter by the Commissioner, relying upon conventional rules used by the agency for the conduct of contested hearings.

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5530.1300
Subp. 5

This part is needed to ensure that the final authority in such matters remains vested with the Commissioner.

This rule is reasonable in that the Commissioner has final accountability for the administration and practice of labor arbitration under these parts and for the overall image and reputation of the agency.