

COMMISSIONER'S SIGNATURE

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BARGAINING UNIT CHANGES

Description and Scope - This Administrative Procedure sets forth the responsibilities of and the procedures to be followed by Appointing Authorities and the Department of Employee Relations when processing bargaining unit assignments and changes.

This Administrative Procedure applies to all classified and unclassified positions except those in Unit 9, State University Instructional; Unit 10, Community College Instructional; Unit 11, Technical College Instructional; and Unit 12, State University Administrative.

Objective - To ensure that job classifications, positions and employees are properly placed in or excluded from bargaining units pursuant to the Minnesota Public Employment Labor Relations Act (PELRA) and determinations of the Bureau of Mediation Services.

Responsibilities -

A. Appointing Authorities:

- Review bargaining unit status of agency employees.
- Review the number of days and hours worked by agency employees whose employment condition is less than full-time unlimited to determine whether they are in a bargaining unit or excluded because of insufficient work time.
- Document the basis for bargaining unit changes and, where required by this procedure, submit requests to DOER.
- Enter or modify human resource information system (HRIS) records for positions and employees to reflect approved changes in bargaining unit status (e.g., moves to supervisory unit or confidential status) and changes which require no approval outside the agency (e.g., moves between non-supervisory units).

Department of Employee Relations:

- Apply State Law and Bureau of Mediation Services rules, policies and determinations on bargaining unit status.
- Assign newly created job classes to the appropriate bargaining unit; notify exclusive representatives and the Bureau of Mediation Services of the temporary unit assignment.
- Petition BMS for reassignment of an existing class to another unit.
- Approve proposals for changes in bargaining unit assignments of positions.
- Represent the State in dealings on bargaining unit change with exclusive representatives.

- File appropriate petitions with, and represent the State before, the Bureau of Mediation Services.
- Maintain accurate bargaining unit status computer coding in the human resource information system.
- Notify Appointing Authorities when a bargaining unit change is made by DOER or BMS.
- Provide HRIS data to notify appropriate exclusive representatives of changes in bargaining unit status of employees.

Provisions

A. Reassignment of an Existing Job Class

An existing job class may be reassigned to another bargaining unit only if the class has been "significantly modified in occupational content" since the initial assignment (M.S. §179A.10, Subd. 4). If reassignment appears warranted, DOER Labor Relations will petition the Bureau of Mediation Services for a hearing. The change in the bargaining unit of the class (and any positions and employees) cannot be implemented prior to the Bureau's decision.

B. Changes in Duties of a Position; Creation of a New Position

1. Movement of a position from a non-supervisory bargaining unit to a supervisory unit and from a supervisory unit to a non-supervisory unit. Since supervisory and non-supervisory positions cannot be in the same class, all requests for changes in supervisory designation necessitate a class change.

a. Movement to supervisory bargaining unit (including moves from manager)

Appointing Authority: Document the supervisory nature of the position, including a position description, a supervisory questionnaire and an organizational chart. If the agency has delegated authority for proposed supervisory class, allocate position and forward completed audit to DOER Labor Relations Bureau. If not, submit request to DOER Staffing Division.

Staffing Division: If determined that the position should be allocated to a class in the supervisory bargaining unit, forward request to Labor Relations Bureau for a review of position's supervisory authorities.

Labor Relations Bureau: Determine whether the position is supervisory pursuant to PELRA supervisory definition. If not, discuss with agency.

If supervisory and the transaction is a change in allocation or unclassified conversion of an occupied position, reclassification of a vacant position, or allocation of a new position: Return completed audit to delegated agency or Staffing Division. Notify the Bureau of Mediation Services that the position has been temporarily placed in the supervisory unit. Changes in position classification and bargaining unit and appointment to the position may be effective on or after the date of the notice to BMS. If supervisory and the transaction is a reallocation of an occupied position: File a petition

with the Bureau of Mediation Services to assign the position to the appropriate supervisory bargaining unit. Changes in position classification and bargaining unit and appointment to the position cannot be implemented prior to final determination by BMS.

If supervisory designation is challenged, meet with the appropriate exclusive representatives to secure agreement and represent employer at the hearing. Notify delegated agency or Staffing Division of outcome.

NOTE: If BMS determines that the job is not supervisory, the delegated agency or DOER Staffing must determine the appropriate non-supervisory classification and bargaining unit. If the position and employee were placed in the supervisory class and unit, changes to a non-supervisory class and unit must be effective on the date of the BMS decision.

Staffing Division: Notify agency of decision

Appointing Authority: Determine appropriate appointment method and process HRIS changes to employee and position.

b. Movement from supervisory to non-supervisory bargaining unit

Appointing Authority: Prepare job audit moving existing vacant or occupied position from supervisory to non-supervisory class. If the agency has delegated authority for proposed non-supervisory class, allocate position and forward completed audit to DOER Labor Relations Bureau. If not, submit request to DOER Staffing Division.

Staffing Division: If determined that the position should be moved to a non-supervisory class, forward request to Labor Relations Bureau for review.

Labor Relations Bureau: Determine whether the position is now non-supervisory. If not, discuss with agency.

If non-supervisory, send copy of audit (coversheet, position description and, if available, organization chart) to exclusive representative of supervisory bargaining unit. Return completed audit to delegated agency or Staffing Division. Changes in position classification and bargaining unit and appointment to the position may be effective on or after the date of sign-off by the Labor Relations Bureau.

If non-supervisory designation is challenged, meet with the appropriate exclusive representatives to secure agreement and represent employer at the hearing. Notify delegated agency or Staffing Division of outcome.

NOTE: If BMS determines that the job is supervisory, the delegated agency or DOER Staffing must determine the appropriate classification. If the position and employee were

placed in a non-supervisory class and unit, changes to a supervisory class and unit must be effective on the date of the BMS decision.

Staffing Division: Notify agency of decision.

Appointing Authority: Determine appropriate appointment method and process HRIS changes to employee and position.

2. Movement of an existing position from a bargaining unit to managerial status. Since bargaining unit and managerial positions cannot be in the same class, all requests for changes in managerial designation necessitate a class change.

Appointing Authority: If agency has delegated authority for proposed managerial class, allocate position and, if the position is moving from the supervisory bargaining unit, notify DOER Staffing. If the agency does not have delegated authority, submit request to DOER Staffing Division.

Staffing Division: Reclassify position and notify agency of determination. If position is moving from the supervisory bargaining unit to a managerial class, provide advance notice to exclusive representative of supervisory unit, as required by collective bargaining agreement.

Appointing Authority: Determine appropriate appointment method and process HRIS changes to employee and position.

3. Movement of positions to and from confidential status. Since bargaining unit and confidential positions may be in the same class, requests for changes in confidential designation of existing positions may or may not involve a class change. The following procedures apply to the creation of new confidential positions and to changes in existing vacant and occupied positions in the same or a different class.

- a. Movement to confidential status

Appointing Authority: Document the confidential nature of the position (i.e., how it satisfies PELRA definition).

If no job class change is required, send request and current position description directly to DOER Labor Relations Bureau.

If class change is required and agency has delegated authority, determine new class and forward completed audit directly to Labor Relations Bureau.

If class change is required and agency does not have delegated authority, forward audit request to DOER Staffing Division which will determine the proper classification and forward completed audit to Labor Relations Bureau.

Labor Relations Bureau: Determine whether position is confidential pursuant to PELRA definition. If not, discuss with agency.

If the position is determined to be confidential, notify the Bureau of Mediation Services that the position has been temporarily designated as confidential. Changes in position classification (if any) and bargaining unit and appointment to the position may be effective on or after the date of the notice to BMS.

If confidential designation is challenged, meet with the appropriate exclusive representative to secure agreement and represent employer at hearing. Notify delegated agency or Staffing Division of outcome.

NOTE: If BMS determines that the job is not confidential, the delegated agency or DOER Staffing must determine if a job class change is required. If the position and employee were designated as confidential, changes to the bargaining unit (and class, if necessary) must be effective on the date of the BMS decision.

Appointing Authority: If job class changed, determine appropriate appointment method. Process HRIS changes to employee and position.

b. Movement of existing position from confidential status

Appointing Authority: If a class change is required, prepare job audit and allocate to job class for which the agency has delegated authority or forward to DOER Staffing Division for allocation. Once the position has been allocated, determine appropriate appointment method and process HRIS changes to employee and position.

If no class change is required, enter HRIS changes to employee and position.

Other Relevant Laws, Rules, Contracts and Administrative Procedures:

The following items have an impact on material contained in this procedure. Review of these items is essential for a total understanding of the subject.

- A. Minnesota Statutes Chapter 179A.03 - .051 and 179A.10
- B. Minnesota Statutes Chapter 43A.01 - .08
- C. Bureau of Mediation Services Policies and Procedures IV.07, Representation - Appropriate State Bargaining Units
- D. Collective Bargaining Agreements
- E. Administrative Procedure 7 - Maintenance of the Classification Plan
- F. Administrative Procedure 8 - Designation of Unclassified Positions and Establishment of Salary Rates and Ranges for Such Positions