|  |  |  |
| --- | --- | --- |
|  |  |   |

**Arbitration Appeal Policy**

**Board of Directors Revision Date:** 1/3/1995

**Delegate Assembly Revision Date:** 10/10/2008

**Board of Directors Revision Date:** 6/18/2010

**Board of Directors Revision Date:** 8/16/2019

**Summary:** The Arbitration team shall consist of Enforcement Business Agents, Steward(s) of record, and the MAPE Statewide Vice President. This policy shall identify the procedures used during an Employee Rights Committee (ERC) arbitration Appeal Hearing.

**Related Information:**

**Policy:**

If a grievance is not resolved through the steps of the grievance process, it ultimately gets moved to MMB (Minnesota Management and Budget). Unless the grievance is settled or the grievant wishes not to arbitrate, the grievance shall go through the following process to determine whether MAPE will arbitrate a case.

1. The Arbitration Team shall vote whether to arbitrate the grievance using a majority vote.
* If approved for arbitration, the grievant is notified and arbitration is scheduled.
* If denied for arbitration, notification shall be sent to the grievant via electronic mail with a read receipt and delivery receipt as to the Arbitration Team’s decision. If the grievant does not have a home email address on file, the letter shall be sent via certified mail.

The grievant may appeal in writing no later than 14 days from the receipt of the notice to the MAPE Statewide Vice President.

1. If an appeal is made, an appeal hearing will be scheduled to take place within forty-five (45) days of receipt of the appeal request.
2. The MAPE Statewide Vice President shall provide the grievant with written instructions as to how to proceed and the date of their hearing, within 14 days of the receipt of the appeal.
3. Appointed steward(s): The MAPE Statewide Vice President should make every effort to appoint the most appropriate steward (steward of record if available or most knowledgeable) to be paid a maximum of 16 hours lost time and mileage to assist the grievant in preparation and presentation of the appeal. Additional lost time for travel and/or other need may be requested and is at the discretion of the MAPE Statewide Vice President). If no steward from the grievant’s region is available, a steward from another region may be appointed.

The MAPE Statewide Vice President will inform the grievant that documentary evidence to be referenced at the hearing is available upon request. The Enforcement Business Agent of record will be available to the appellant and assisting steward, for a reasonable amount of time, to answer questions after the Arbitration Team decision and prior to the ERC Appeal Hearing.

One week prior to the hearing, the grievant shall provide to the MAPE Statewide Vice President any additional documentary evidence that they wish to present at the Appeal Hearing one week prior to the hearing via electronic mail or U.S. mail. If by the U.S. mail, it should be sent certified at MAPE’s expense.

Lost time and mileage for the appointed steward is to be paid from the ERC budget.

All the documentary evidence should be page numbered, dated and show authorship.

1. The Appeal Hearing shall include a quorum of seven (7) or more ERC members, along with the grievant, the steward of record assisting the grievant and the Arbitration Team representative (different than the Enforcement Business Agent of record who represented the grievant). The Enforcement Business Agent of record will be available to provide factual information.
2. The MAPE Statewide Vice President shall provide notification of the committee’s recommendation to the Executive Committee and the grievant within seven days of the hearing. In the case of a Class Action Grievance Appeal, the presenting grievants shall receive such notification.
3. The MAPE Statewide Vice President will present the recommendation of the ERC to the Board of Directors at the next scheduled board meeting

**ERC Arbitration appeal presentation procedure**

1. All written materials are to be distributed at least one hour prior to the appeal hearing for review
2. Arbitration Team representative’s presentation – maximum 15 minutes
3. Grievant’s presentation – maximum 15 minutes
	1. When a Class Action Grievance Appeal is being presented, up to three members may present.
4. Questions from the committee
5. Summation by Arbitration Team representative – two minutes
6. Summation by grievant(s) – two minutes
7. Deliberation by committee (executive session)
8. Decision by majority vote

**Guidance for decisions on recommendations for or against arbitration:**

1. **Nature of decision.** The ERC’s decision shall be either to recommend upholding a) the decision of the Arbitration Team not to seek arbitration of a grievance that has been denied, or b) to recommend that the decision of the Arbitration Team not be upheld and that the grievance be submitted for arbitration. The ERC shall base its decision on the information gathered during the grievance process and the appeal hearing before the ERC.
2. **Record of decision.** If the decision of the ERC is to recommend that the Arbitration Team not be upheld, the ERC shall prepare a written explanation supporting its decision to the Executive Committee.
3. **Standard for decision.** A determination to recommend that the decision of the Arbitration team not be upheld and to recommend that the grievance be submitted for arbitration should be made for cases that have the potential for a significant adverse effect on a member(s) of the bargaining unit, or on the rightful interpretation of one or more contract provisions and the merits of the case based on the evidence provided
4. **Insufficient information.** If the ERC determines that information necessary for an informed decision is not available at the time of the hearing, and that such information can be reasonably obtained, the ERC may postpone the decision for not more than 30 days. If the decision is postponed, the ERC shall provide a description of the requested information to the Enforcement Business Agent, Steward of record and grievant.