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Impartial Arbitrator Selection

Sec. 10-153f-1. Introduction

Sections 10-153f-1 to 10-153f-12, inclusive, of these regulations apply to the selection, nomination, conduct and evaluation of impartial arbitrators on the arbitration panel maintained by the State Board of Education pursuant to the provisions of Section 10-153f of the General Statutes, as may be amended from time to time.

It is the policy of the State Board of Education that in exercising its statutory responsibility to nominate impartial arbitrators to the Governor, every effort will be made to ensure that only qualified, responsible impartial arbitrators are nominated through a fair and valid screening procedure.

(Effective May 24, 1991)

Sec. 10-153f-2. Definitions

As used in Sections 10-153f-2 to 10-153f-12, inclusive:

(a) "Applicant" means an individual who is seeking appointment to the panel as an impartial arbitrator.

(b) "Board" means the State Board of Education.

(c) "Commissioner" means the Commissioner of Education.

(d) "Experience" means three years of responsible active participation in public sector collective bargaining interest impasse resolution.

(e) "Mock award" means any public sector interest arbitration award written by an applicant while serving as an intern to an impartial arbitrator. These awards are written for the sole and exclusive purpose of completing the requirements of the arbitrator intern program (see Section 10-153f-12 of these regulations) and will be available only to the Commissioner or his representative. They are neither binding upon the parties nor accorded any force and effect of law.

(f) "Panel" means the arbitration panel established pursuant to Section 10-153f of the General Statutes, as may be amended from time to time.

(g) "Party" means an employing board of education or exclusive bargaining representative directly involved and affected by a dispute.

(h) "Public sector collective bargaining interest impasse resolution" means mediation, factfinding or interest arbitration but not grievance or rights arbitration.

(Effective May 24, 1991)

Sec. 10-153f-3. Role of the board

The role of the Board under Sections 10-153f-1 to 10-153f-12, inclusive, of these regulations is limited to matters relating to the nomination of applicants to be appointed to the panel of impartial arbitrators and the evaluation of impartial arbitrators so appointed.

(Effective May 24, 1991)

Sec. 10-153f-4. Impartial arbitrator qualifications

(a) Impartial arbitrators shall be representatives of the public in general.

(b) An impartial arbitrator must not currently be, nor within two years of application have been, an advocate of public or private sector employers or employer organizations or public or private sector employees or employee organizations. An advocate is an individual who represents an organization in matters of personnel and labor relations, including but not limited to: unit determination and exclusive representation; collective bargaining; grievance adjustment; arbitration; unfair labor practices and labor-related litigation; wage and benefit administration; equal employ-

ment opportunity; unemployment compensation; and occupational health or safety standards.

(c) An impartial arbitrator shall be a resident of Connecticut.

(d) An impartial arbitrator shall be experienced in public sector collective bargaining interest impasse resolution.

(e) An impartial arbitrator must possess:

(1) knowledge of the Connecticut Teacher Negotiation Act and other labor laws relevant to the public sector;

(2) knowledge of hearing procedures and the ability to conduct arbitration hearings and to develop an accurate record of proceedings;

(3) knowledge of and application of the principles of arbitrator ethics;

(4) knowledge of the labor relations concepts, principles and practices of contract negotiation and administration;

(5) knowledge of the limits of arbitrator authority;

(6) knowledge of the basic tenets of public sector finance, particularly municipal finance;

(7) ability to evaluate the costs of wage and fringe benefits and improvements;

(8) ability to write clear and comprehensive arbitration awards;

(9) ability to complete the written award within statutory timelines; and

(10) commitment to the public interest.

(Effective May 24, 1991)

Sec. 10-153f-5. Application

(a) An applicant may apply for appointment as an impartial arbitrator by filing an application with the Office of Legal Affairs, Department of Education, 165 Capitol Avenue, Hartford, Connecticut, 06106.

(b) An applicant must provide clear, complete and accurate information on the application, during an interview and throughout the application process. Failure to do so shall result in rejection of application.

(c) An applicant attempting to influence any member of the Board, the Commissioner, the staff of the Department of Education or any person involved with the screening of applicants regarding nomination or appointment to the panel through means other than the formal selection process will be rejected and permanently barred from reapplying for nomination.

(Effective May 24, 1991)

Sec. 10-153f-6. Review of applications

(a) At such times deemed appropriate by the Commissioner, applications shall be reviewed.

(b) Applications will be screened by a committee of not less than five persons appointed by the Commissioner. The committee shall include the Commissioner's designee, representatives of local and regional boards of education, exclusive bargaining representatives of certified professional employees employed by local or regional boards of education, and local legislative and fiscal authorities.

(c) Application review shall be the preliminary screening method used to determine whether an applicant appears to have minimum qualifications sufficient to invite for an interview, i.e. they are Connecticut residents and are experienced in public sector collective bargaining interest impasse resolution.

(d) Applicants shall be rated by the application review committee as "qualified for an interview" or "not qualified for an interview." If a majority of the application review committee indicates that an applicant is "qualified for an interview," then

an invitation will be extended. If a majority of the application review committee indicates that an applicant is "not qualified for an interview," then the applicant will be so notified.

(Effective May 24, 1991)

Sec. 10-153f-7. Interview

(a) The Commissioner shall appoint an interview committee. Interviews shall be coordinated by the Commissioner's designee, who shall serve as chairperson of the committee. The committee shall include: three representatives of local and regional boards of education; three representatives of exclusive bargaining representatives of certified professional employees employed by local or regional boards of education; three representatives of local legislative and fiscal authorities; and three representatives of public or private neutral dispute resolution agencies which shall include the Commissioner's designee.

(b) The interview committee shall evaluate applicants on the factors contained in Section 10-153f-4 (e) of these regulations and rate candidates using the following scale:

(1) UNSATISFACTORY: Applicant's performance on the factor is well below the level required for effective job performance.

(2) MARGINAL: Applicant's performance on the factor is at a level below the level required for effective job performance.

(3) SATISFACTORY: Applicant's performance on the factor is at a satisfactory level for effective job performance.

(4) GOOD: Applicant's performance on the factor is clearly above the level required for effective job performance.

(5) EXCELLENT: Applicant's performance on the factor is at a superior level of extremely high quality.

(c) In order to be recommended by the committee, all committee members must give the applicant an overall rating of satisfactory or better. Names of applicants who achieve such a cumulative rating shall be forwarded to the Commissioner.

(Effective May 24, 1991)

Sec. 10-153f-8. Role of the commissioner

(a) The Commissioner shall review the recommendations of the interview committee. For good cause, the Commissioner may direct the interview committee to review again an unsuccessful applicant.

(b) The Commissioner shall forward the list of recommended applicants to the Board for action.

(Effective May 24, 1991)

Sec. 10-153f-9. Role of the board

(a) The Board shall review the recommendations forwarded by the Commissioner. The Board may approve or reject any or all of the recommendations submitted by the interview committee. For good cause, the Board may direct the interview committee to review any applicant.

(b) The Board shall submit its list of qualified impartial arbitrators to the Governor. Said list shall contain only names of persons approved by the interview committee.

(Effective May 24, 1991)

Sec. 10-153f-10. Evaluation

(a) The Commissioner shall develop an evaluation instrument and cause all arbitrators appointed to the panel to be evaluated. Such evaluation shall include but not be limited to: compliance with the provisions of Section 10-153f of the General Statutes, as it may be amended from time to time; compliance with arbitration statutes or rules; meeting, on a continuing basis, the arbitrator qualifications; filing complete and accurate biographical data with the Commissioner; apprising the Commissioner of changes in personal status or availability to arbitrate cases; compliance with requests from the Commissioner concerning arbitration activities and potential conflicts of interests; submitting awards in a timely manner; meeting statutory time schedules; and, evaluations of an arbitrator's performance by the parties.

(b) Evaluations or a comprehensive summary thereof, of impartial arbitrators shall be provided to the interview committee, Commissioner and the Board when each considers the reappointment of impartial arbitrators pursuant to Sections 10-153f-7 through 10-153f-9, inclusive, of these regulations.

(c) Evaluations of all arbitrators, or a comprehensive summary thereof, shall be forwarded to the Governor at the same time the Board submits its list of qualified impartial arbitrators to the Governor.

(Effective May 24, 1991)

Sec. 10-153f-11. Impartial arbitrator conduct, standards, and responsibilities

(a) Impartial arbitrators must continuously demonstrate competence in labor relations, including procedural and substantive matters, integrity, and neutrality.

(b) Except as otherwise provided, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes approved and published by the National Academy of Arbitrators is incorporated by reference and is applicable to and shall govern the professional behavior of impartial arbitrators.

(c) Impartial arbitrators shall not solicit parties for selection to cases. An impartial arbitrator must uphold the integrity of the profession and must not advertise or solicit arbitration assignments.

(d) It is the responsibility of the impartial arbitrator to schedule time commitments in a manner consistent with the needs of the parties and the expeditious handling of disputes. Assignment to an arbitration case must be declined if the impartial arbitrator is unable to schedule or participate in a hearing within the statutory time limits.

(e) All arbitrators are responsible for providing the Commissioner with complete and accurate data and for keeping the Commissioner informed of changes in personal status and availability to arbitrate cases. Revisions regarding changes in per diem fee schedules, biographical and availability data must be timely submitted. Before acceptance of an arbitration case, an impartial arbitrator must disclose to the parties and the Commissioner any personal or professional relationships or other circumstances that might reasonably raise a question regarding the arbitrator's impartiality. If the circumstances requiring disclosure are not known to the arbitrator before acceptance of the case, disclosure must be made when circumstances become known to the arbitrator. An impartial arbitrator shall withdraw from an arbitration at any time the impartial arbitrator perceives a conflict of interest.

(Effective May 24, 1991)

Sec. 10-153f-12. Intern training program

(a) An arbitrator training program shall be available to applicants or other persons who lack intern arbitration experience in public sector education but who are otherwise qualified.

(b) In order to be considered for the arbitrator intern training program, an individual shall be:

(1) a resident of Connecticut; and

(2) experienced in public sector collective bargaining interest impasse resolution.

(c) The Commissioner shall select persons for the arbitration intern program.

(d) Persons selected to the intern program may:

(1) be recommended by the interview committee; or

(2) apply directly to the Commissioner.

(e) The Commissioner shall select persons who, in the opinion of the Commissioner, will serve the best interests of the state. The Commissioner may limit the number of interns selected in order to ensure that the intern program may be operated in an administratively efficient manner maximizing the opportunities for all interns.

(f) The Commissioner shall keep a list of intern applicants and may, from time to time, select interns from that list.

(g) Interns will be required to attend training classes conducted, sponsored or endorsed by the Commissioner or his designee.

(h) Interns will be required to attend not less than six arbitrations conducted under the provisions of the Teacher Negotiation Act, Section 10-153a *et seq.* of the General Statutes, as may be amended from time to time. The intern must attend these with not less than three different impartial arbitrators, however, only one intern may be present at any one arbitration hearing at the same time. Interns will be required to write not less than three mock awards and submit same to the Commissioner or his designee. The Commissioner or his designee shall review the mock awards.

(i) If in the opinion of the Commissioner the mock awards reflect a degree of proficiency sufficient to be considered for the arbitration panel, the intern will be considered to have completed successfully this portion of the program.

(j) Interns who have completed the requirements of subsection (h) and (i) of this section will be so informed by the Commissioner.

(k) The successful intern shall be invited to an interview with the interview committee at the next available interview date and shall be interviewed pursuant to Section 10-153f-7 of these regulations.

(l) After the interview, successful applicants shall be reviewed pursuant to Section 10-153f-8 and 10-153f-9 of these regulations. Unsuccessful applicants may be given the opportunity to participate in the intern program for a second time, if so recommended by the interview committee or the Commissioner. Successful completion of the intern program does not mean that such intern shall be automatically considered a successful applicant.

(m) No person shall be permitted to participate in the intern program more than twice.

(Effective May 24, 1991)