

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
EMPLOYMENT RELATIONS COMMISSION

APPROVED MINUTES
REGULAR MEETING OF DECEMBER 10, 2013
DETROIT, MICHIGAN

The meeting of the Employment Relations Commission was called to order at 10:00 a.m., by the Commission Chair, Edward D. Callaghan, at MERC's Detroit Office, 3026 W. Grand Boulevard, Suite 2-750, Detroit, Michigan.

Those in attendance: Edward D. Callaghan, Commission Chair; Commissioner Robert S. LaBrant and Commissioner Natalie P. Yaw; Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney; James Spalding, Mediation Supervisor; Mediators Micki Czerniak, Sidney McBride and Fred Vocino; Administrative Law Specialists Ann Warner and Travis Calderwood; Verna Miller, Departmental Specialist, Michelle Easter, Law Clerk and Nancy Pitt, Executive Secretary.

Public in attendance: Attorney Bruce A. Campbell, Wayne County; Kevin Loftis and John Barr, POAM; Attorney Richard G. Mack, AFSCME; Attorney David L. Culberg, Jones Day, Chicago, Illinois.

The agenda of the regular MERC meeting of December 10, 2013 was amended to remove the draft decisions in ***Decatur Public Schools -and- Van Buren Co Ed Assn -and- Decatur Educational Support Personnel Assn***, Case Nos. C12 F-123 & C12 F-124; ***Washtenaw County -and- AFSCME Council 25, Local 3052***, Case Nos. UC09 J-029 & UC06 J-032-A; and ***Delhi Charter Township -and- Delhi Township Fire Fighters, IAFF, Local 5359***, Case No. UC11 J-018, from the Decisional Agenda. It was moved by Commissioner Yaw and seconded by Commissioner LaBrant to adopt the agenda of the regular MERC meeting of December 10, 2013 as amended. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

MINUTES

It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to adopt the minutes of November 19, 2013 as proposed. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

DIRECTOR'S REPORT

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. There are 14 Act 312 cases and 41 Fact Finding cases currently listed on the report. It was reported that 5 Fact Finding cases have been settled and 7 Genesee County Fact Finding cases have been assigned to Fact Finder A. Robert Stevenson. Director Okun also shared that there was a legislative inquiry from the House Policy Office regarding the number of Act 312 cases filed during the past year. Information was timely provided per that request.

The Administrative Law Judge Reports were reviewed and discussed. Director Okun reported that the ALJ case status reports are improved, and the older cases have been issued.

The Event Report was reviewed.

The Representation and Election Reports were reviewed and discussed. Updates were reported by the Director in the Van Buren County, Faust Public Library and University of Michigan cases. There are 62 new and active cases currently listed on the Representation Case Activity Report.

The Mediation Activities Report was reviewed and discussed. There has been an increase in mediation activity in FY 2013 compared to the FY 2012 period. The Mediation Contract and Grievance Summary Report was reviewed. Mediation Supervisor Spalding and Mediator McBride collaborated on the report that can serve as a model for other insertions into the Annual Report.

The Grievance Mediation statistics report was reviewed by Mediation Supervisor Spalding. The report indicated the percentage of grievances submitted and settled through mediation. In 2010-11, 87%; 2011-12, 73% and 2012-13, 81% of grievances were resolved through mediation – a very high number.

There were no work stoppages to report.

The Appellate Report was reviewed. There are 8 MERC cases currently pending before the Michigan Court of Appeals and 1 case pending before the Michigan Supreme Court.

ADMINISTRATIVE AGENDA

Significant/critical cases – Updates were reported by the Director in the City of Detroit/AFSCME cases; Hamtramck School and other cases set forth on the significant case report.

An overview of the General Advisory Sub-Committee Recommendations was reported by Director Okun and Mediator McBride. It is anticipated that the recommendations from both sub-committees will be received by the February 11, 2014 MERC meeting. Director Okun will provide an update regarding the recommendations to members of both committees. The Public Hearing regarding the Act 312 Rules amendment procedure is scheduled this afternoon, December 13, 2013 at 2:00 p.m., in the Commission's offices at 3026 W. Grand Boulevard, Hearing Room 9, Detroit, Michigan.

The Public Hearing for the proposed changes to MERC's General Rules tentatively scheduled for January 14, 2014 at the State of Michigan Library and Historical Center, has been tentatively rescheduled for February 11, 2014 at 2:00 p.m., in the Commission's offices at 3026 W. Grand Boulevard, Hearing Room 9, Detroit, Michigan. Commission Chair Callaghan will be the facilitator.

An update was reported by Director Okun on pending litigation involving the Commission.

The next MERC meeting is tentatively scheduled for January 14, 2014 at 10:00 a.m., at the State of Michigan Library and Historical Center, Lake Superior Room, 720 W. Kalamazoo, Lansing, Michigan.

DECISIONAL AGENDA

The Commission decided the following matters:

1. ***Grandvue Medical Care Facility -and- Janet Renkiewicz and Tamara Wood***, Case No. C10 C-084.
2. ***Kalamazoo Public School District -and- Kalamazoo County Education Assn, MEA/NEA***, Case No. UC12 K-021.
3. ***Washtenaw Community Education Assn -and- McGuire, Belinda G.***, Case No. CU12 B-005.

The Commission discussed the following matter regarding the Union's Motion for Dismissal of Unit Clarification Petition. The matter was tabled to the January 14, 2014 MERC meeting.

1. ***Washtenaw County -and- AFSCME Council 25, Local 3052***, Case Nos. UC09 J-029 & UC06 J-032-A.

NEW BUSINESS

The Department of Treasury Emergency Manager/DEP Information and the Deficit District list was reviewed and discussed. There are currently 49 schools that are subject to a Deficit Elimination Plan. Mediation Supervisor Spalding reported that the information is reviewed quarterly by the Michigan Department of Education and will be updated later this month.

OLD BUSINESS

The MERC Ethics Statement and Senate Bill 576 was reviewed and discussed. Commissioner LaBrant expressed concerns regarding the listing of the MERC Commissioners as lobbyable public officials on the Secretary of State website and questioned whether this is inconsistent with the tenets set forth in the MERC Code of Ethics. Commissioner LaBrant moved that the Director communicate with Frank Waters, LARA's Director of Policy and Legislative Affairs, to have the Commissioners removed as lobbyable public officials from the Secretary of State website – then MERC's Code of Ethics may be reconsidered. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

Commissioner LaBrant also had comments regarding Senate Bill 576. He stated that a hearing should be held before removal of members and that the removal process does not afford members due process. It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to table the matters until a response on both issues is received from Frank Waters. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

An update was reported by Departmental Specialist Verna Miller on the November 2013 Dashboard Project. She reported that BER is green in all areas. She also reported that she has prepared a summary Dashboard tabulation for the Annual Report.

A shout out was given to Nancy Pitt for the assistance that she provides as Executive Secretary to the Commission and to the Bureau Director.

The targeted deadline for completion of the Annual Report is December 31, 2013.

Director Okun provided an update on the ALJ hiring. She reported that the application period has closed and the interview panel is being set up by LARA.

A letter was filed the day of the December 10 Commission meeting by the AFSCME, Local 312 attorney in response to the City of Detroit expedited fact finding case. MERC's response to the letter was tabled to allow the Commission the opportunity to review and consider the letter and review any response to it before deciding whether to take action.

PUBLIC COMMENT

Attorney Bruce Campbell inquired about the possibility of utilizing grievance mediation services for matters and cases in Wayne County.

ADJOURNMENT

There being no further business before the Commission at this time, it was moved by Commissioner Yaw and seconded by Commissioner LaBrant that the meeting be adjourned at 11:03 a.m. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.