

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

APPROVED MINUTES  
REGULAR MEETING OF MAY 13, 2014  
LANSING, MICHIGAN

The meeting of the Employment Relations Commission was called to order at 10:01 a.m., by the Commission Chair, Edward D. Callaghan, at the State of Michigan Library and Historical Center, Lake Superior Room, 720 W. Kalamazoo, Lansing, 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; Micki Czerniak, Mediator; Lisa Lane, Administrative Law Specialist and Nancy Pitt, Executive Secretary.

Public in Attendance: Attorney Bruce A. Campbell, Wayne County; Attorney Eric Delaporte and Attorney Ryan Nicholson, Thrun Law Firm; and Dennis Raterink, Attorney General's Office.

The Commission moved to amend the agenda of the regular MERC meeting of May 13, 2014, to move up the Closed Session to accommodate the representative from the Attorney General's Office. 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 Yaw and seconded by Commissioner LaBrant to adopt the minutes of the regular meeting of April 8, 2014 as proposed. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

### **Pending Litigation (closed session)**

The Commission called for a closed session at 10:05 a.m. Updates were provided by Dennis Raterink, Assistant Attorney General regarding pending litigation cases involving the Commission including *Alex Toth, et al v Callaghan, et al*, Case No. 12-cv-11700, *Michigan State AFL-CIO, et al v Callaghan, et al*, Case No. 13-cv-10557 and *UAW, et al v Nino Green, et al*, Case No. 314781.

The Commission moved to return to Open Session at 10:31 am.

## **DIRECTOR'S REPORT**

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. There are 15 Act 312 cases and 35 Fact Finding cases listed on the report.

The Administrative Law Judge Reports were reviewed and discussed.

The Event Report was reviewed.

The Representation and Election Reports were reviewed and discussed. There are 65 new and active cases currently listed on the Representation Case Activity Report. The overall activity remains steady for the Representation cases.

The Mediation Activities Report was reviewed.

There were no work stoppages to report.

The Appellate Report was reviewed. There are 12 MERC cases currently pending before the Michigan Court of Appeals and 2 cases pending before the Michigan Supreme Court.

## **ADMINISTRATIVE AGENDA**

The interviews for the paralegal position are scheduled for Thursday, May 15, 2014. Law Clerks Mike Long and Carl Wexel are scheduled to graduate and will begin preparing for the Bar exam. Extern Molly Sykes is leaving to accept summer employment and will not return to MERC in the Fall.

Updates were reported by the Director on the significant case report. The significant case report and the litigation updates will be divided into two separate reports per the request of Commission Chair Callaghan. The size of the significant case report will be reduced when the less critical cases are removed.

The MERC Act 312/Fact Finder Constituent Training was discussed. Director Okun stated that the October 2014 date for the training is not feasible due to the schedule of Mary Bedikian. The training is tentatively scheduled for the end of March 2015. The Schoolcraft College Vista Tech Center was suggested as a possible site. Jim Spalding will inquire about the availability of dates for March 2015, to be finalized at/by the June 10 MERC meeting. Commission Chair Callaghan recommended the planning of a half-day training seminar at MERC following the adoption of the Rules to bridge the gap to the March 2015 training seminar. Kudos to Jim Spalding for his efforts in locating the site and dates for the training seminar to be held next year.

The MERC *Back to Basics* training is tentatively scheduled for August 2014. The training is being sponsored by the Metro Detroit Bureau of School Studies.

The 2013-14 Annual Report was discussed. The committee members are Ruthanne Okun, Jim Spalding, Sidney McBride, Tracy Marr and Deborah Stewart.

There will be a presentation by a NLRB Regional Attorney at the General Staff Meeting on Monday, June 2, 2014 at 1:30 p.m. The topics will be provided by BER staff members, and Commissioners are invited to attend.

The next regular MERC meeting is scheduled for June 10, 2014 at 10:00 a.m., in the Commission's offices at 3026 W. Grand Boulevard, Suite 2-750, Detroit, Michigan.

Jim Spalding has confirmed the following dates for the 2015 Commission meetings in Lansing at the State of Michigan Library and Historical Center: January 13, March 10, May 12, July 14, September 8 and November 10.

## **DECISIONAL AGENDA**

The Commission decided the following matters:

1. ***Pontiac School District -and- Pontiac Education Ass'n, MEA/NEA***, Case No. C13 B-033.
2. ***Pontiac School District -and- Pontiac Education Association***, Case No. C12 D-079.

The Commission discussed the following matters:

1. ***Wayne County -and- Michigan AFSCME Council 25, AFL-CIO***, Case No. C10 J-266.
2. ***Keego Harbor -and- Police Officers Labor Council***, Case No. C10 A-008.
3. ***Taylor School District -and- Taylor Federation of Teachers, AFT Local 1085 -and- Nancy Rhatigan, Rebecca Metz and Angela Steffke***, Case Nos. C13 G-133 & CU13 G-029.

The Commission considered the motion of the National Right to Work Legal Defense Foundation to file an *amicus curiae* brief in the above-captioned matter. The Commission granted the motion pursuant to Rule 176(7) of the General Rules of the Michigan Employment Relations Commission, 2002 AACS, R423.176(7). The brief must be received at a Commission office within seven days of the date of the letter advising that the Motion was granted.

## **NEW BUSINESS**

There was discussion regarding Item #3 of the Advocates Advisory Committee recommendations. The adoption of the Advocates Advisory Committee recommendations were tabled for reconsideration to the June 10 MERC meeting pending further review by the Commission.

The Department of Treasury Emergency Manager/DEP Information and the Deficit School District list were reviewed. There are 12 municipalities with an EM; 4 K-12 districts with an EM and 28 districts projected to be out of deficit by the end of the year.

The results from the April 2014 Dashboard Project were reviewed. Lynn Morison and Molly Sykes were recognized for their efforts by the Commission.

Director Okun provided an update on the General Administrative Rules and MERC's Act 312 Rules amendment processes. The final approval of MERC's Act 312 and General Administrative Rules is anticipated to occur by the end of the 2014 calendar year.

The Commission requested an update by Denise Hinneburg and Tracy Marr on the audits of unions representing public sector employees. This will occur at the June 10, MERC meeting.

## **PUBLIC COMMENT**

There were public comments from Attorney Bruce A. Campbell, Wayne County and Attorney Eric Delaporte, Thrun Law Firm.

## **ADJOURNMENT**

There being no further business before the Commission at this time, Commissioner Yaw moved that the meeting be adjourned at 11:42 a.m. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.