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How to file an appeal with the Employment Relations Board

Requesting Michigan Civil Service Commission review through the Employment Relations Board (ERB) of an adjudicating officer's decision.

[You can navigate this presentation with the arrow keys.]



Several different types of administrative decisions may be appealed to the Michigan Civil Service Commission. When commission review is available, the end of a decision will contain instructions for further appeal to the commission. All such appeals must be submitted for initial consideration by the Employment Relations Board, which makes recommendations to the commission. This presentation discusses how to properly file an appeal. You may use the arrow keys to review or advance slides.

Claim of appeal as of right or Application for leave to appeal?

- Grievance decisions over **discharges** of non-exclusively represented employees (NEREs) are appealed by claim of appeal as of right using the [CS-1756](#) form.
- Appeals of **all other** Civil Service adjudicating officer decisions must be filed by application for leave to appeal using the [CS-1743](#) form.



The ERB considers two types of appeals: claims of appeal as of right and applications for leave to appeal.

Claims of appeal as of right are only used for grievances over discharges from state classified employment of NEREs, non-exclusively represented employees. To appeal a NERE discharge grievance, you must use the CS-1756 form.

If you are appealing any other type of Civil Service adjudicating officer decision, you must use the CS-1743 form to file an application for leave to appeal. The CS-1743 is used for decisions like CSHO hearing officer decisions over suspensions, demotions, and other terms and conditions of employment for NEREs; TAD technical review decisions; BRD benefit review decisions; and SPD state personnel director decisions.

How do I appeal?

For applications or claims, you must:

- Complete and sign the proper form: [CS-1756](#) (claim) or [CS-1743](#) (application).
- Provide the ERB with the original **and six additional copies** of the form.
- Provide one copy to all other parties or their representatives.
- Provide a proof of service document to the ERB, such as a [CS-1740](#), showing that copies of the appeal were provided to all other parties or their representatives.



Whether filing an application for leave to appeal or a claim of appeal as of right, you must follow these steps:

First, complete and sign the appropriate appeal form. This is either the claim of appeal as of right (CS-1756) for NERE discharge cases or the application for leave to appeal (CS-1743) for all other authorized appeals.

Second, provide the ERB with the original signed form **plus** six additional copies. Please keep a copy for yourself too.

Third, provide one copy of your application or claim to all other parties who participated in the decision being appealed or their representatives.

Finally, complete a proof of service document, such as the CS-1740, and submit it to the ERB with your appeal. The proof of service is your confirmation to the ERB that you have given a copy of your appeal to the other parties. Additional information on required copies and proof of service is provided later in this presentation.

What is a timely appeal?

- The ERB must **receive** a filing **within 28 calendar days** of the date on the first page of the decision appealed.
 - The calendar runs from the date on the decision, not when you received it.
 - The calendar stops on the date that the ERB receives the appeal, not when you mailed it.
- Any late filing must include a signed, written explanation for the lateness.



It is important to submit your appeal on time. There is a 28-calendar-day deadline for filing appeals, which runs from the mailing date on the first page of the adjudicating officer's decision until the date that the ERB receives your filing.

The deadlines do **not** run from the date that you receive a decision and do **not** end when you mail your appeal. The appeal must be received by the ERB in Lansing within 28 days of the date of the decision being appealed.

If your appeal is late, you must provide a signed, written explanation for your lateness. More detail is provided later in this presentation.

Filing an application for leave to appeal (CS-1743)

- ERB forms are available from www.mi.gov/erb, MCSC-ERB@mi.gov, or (517) 335-5588.
- The CS-1743 consists of boxes for you or your representative to fill out on the first page and instructions and a checklist on the second page.

CS-1743
Rev. 1/2011

State of Michigan
Civil Service Commission
EMPLOYMENT RELATIONS BOARD
402 South Pine Street, Suite 100, Lansing, Michigan 48910
407 S. Pine Street, Lansing, Michigan 48910
Tel: (517) 335-5588
Fax: (517) 335-5588
www.michigan.gov/erb
www.michigan.gov/mcsc

APPLICATION FOR LEAVE TO APPEAL TO THE EMPLOYMENT RELATIONS BOARD

PART A — CASE NAME

DECLARANT NUMBER	REFERENCE NUMBER
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PART B — PROVIDE A BRIEF, CHRONOLOGICAL HISTORY OF YOUR COMPLAINT OR GRIEVANCE. (Additional sheets may be attached, if needed. If completing electronically, you may use the tab key when you reach the end of this section for more space.)

PART C — CHECK AT LEAST ONE BOX AND EXPLAIN THE GROUNDS FOR APPEAL. (Additional sheets may be attached, if needed. If completing electronically, you may use the tab key when you reach the end of this section for more space.)

The decision of the appointing officer is erroneous. (If selecting this ground, you must identify specific and material errors of fact or law in the decision. You must reference specific evidence and testimony in the record supporting your argument.)

The decision violates Article 11, Section 3 of the Michigan Constitution or is otherwise contrary to law, including the Civil Service Commission Rules or Civil Service Regulations. (If selecting this ground, you must (1) identify the specific law, regulation, or other ground violated by the appointing officer's decision and (2) explain how the decision violates that provision.)

The question presented in the decision is of major significance to the classified service. (If selecting this ground, you must identify how the issue raised in your appeal affects, or could affect, not just yourself, but many others in the classified service.)

PART D — INDICATE WHO IS SUBMITTING THE APPLICATION AND PROVIDE THE INFORMATION REQUESTED. (If there is more than one appealing party, attach Form CS-1743 to additional sheets providing the contact information requested below for each appealing party. If there is an authorized representative, also provide the requested information for the representative.)

Form completed by: APPEALING PARTY APPEALING PARTY'S AUTHORIZED REPRESENTATIVE

APPEALING PARTY'S NAME (Please print)		APPEALING PARTY'S REPRESENTATIVE'S NAME (Please print)	
EMPLOYEE IDENTIFICATION NUMBER		ORGANIZATION	
STREET ADDRESS (P.O. BOX)		STREET ADDRESS (P.O. BOX)	
CITY		CITY	
STATE	ZIP	STATE	ZIP
PHONE NUMBER		PHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
SIGNATURE OF APPEALING PARTY OR REPRESENTATIVE		DATE	



All referenced forms can be accessed by clicking on links in this document. Alternatively, you can obtain them from the ERB website at www.mi.gov/erb or request them at MCSC-ERB@mi.gov or (517) 335-5588.

We will next discuss how to file an application for leave to appeal using the CS-1743. Again, this is the most common form, used for all appeals to the ERB except NERE discharges, which use the CS-1756. The CS-1743 consists of the first page that you or your representative must fill out and the second page with directions and a checklist for a proper filing. It can be filled in and printed using your computer or printed off and filled in by hand.

Identifying the case appealed

- Part A of the [CS-1743](#) requires that you enter the following:
 - Decision Name (Smith and DOC; In re John Doe; etc.)
 - Decision Number (CSHO 2011-001; TAD 2011-001; etc.)
 - Reference Number (Civil Service Ref. No. 2011-0001)

Part A — CASE NAME	
DECISION NUMBER	REFERENCE NUMBER

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Part A requires that you identify the decision that you are appealing. You must enter the name of the decision, decision number, and Civil Service Reference Number assigned to your grievance or complaint. These can all be found on the first page of the decision that you are appealing.



Providing background on your appeal

- Part B of the [CS-1743](#) requires a brief history of your case:
 - Outline with dates what has happened with your appeal thus far.
 - Save any arguments for Part C.

Part B — PROVIDE A BRIEF, CHRONOLOGICAL HISTORY OF YOUR COMPLAINT OR GRIEVANCE. (Additional sheets may be attached, if needed. If completing electronically, you may use the tab key when you reach the end of this section for more space.)

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Part B requires that you provide a brief history of your appeal. You should describe the order of events that led to filing your application, listing key events and documents previously filed. You should not argue the merits of your appeal in Part B. Instead, just list the chain of events that led to the current appeal. Arguments on the merits of your appeal are included in Part C. If you need additional space, please attach separate sheets.

Providing grounds for your appeal

- Part C of the [CS-1743](#) requires the grounds for your application:
 - Check at least one of the three grounds.
 - Clarify how the decision appealed was wrong, violated Civil Service law, or is significant to all classified employees.
- Do not simply check a box. You must explain.

Part C — CHECK AT LEAST ONE BOX AND EXPLAIN THE GROUNDS FOR APPEAL. (Additional sheets may be attached, if needed. If completing electronically, you may use the tab key when you reach the end of this section for more space.)

- The decision of the adjudicating officer is erroneous. (If selecting this ground, you must identify specific and material errors of fact or law in the decision. You must reference specific evidence and testimony in the record supporting your arguments.)
- The decision violates Article 11, Section 5 of the Michigan Constitution or is otherwise contrary to law, including the Civil Service Commission Rules or Civil Service Regulations. (If selecting this ground, you must (1) identify the specific rule, regulation, or other provision violated by the adjudicating officer's decision and (2) explain how the decision violates that provision.)
- The question presented in the decision is of major significance to the classified service. (If selecting this ground, you must identify how the issues raised in your appeal affect, or could affect, not just yourself, but many others in the classified service.)

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Part C is where you must describe why the ERB should consider your appeal and modify the adjudicating officer's earlier decision. You must check at least one of the three grounds for an appeal, although you may check more than one if appropriate. In addition to checking a box, you must further clarify why that ground applies.

You must describe why the decision appealed was wrong, why it violates some specifically identified provision of Civil Service law, or why your appeal is important to the entire classified service and not just to you. Failure to explain can lead to dismissal of your application. Again, if you need extra space to make your argument, please attach additional sheets.



Decision Status and Research System (DSTARS)

- DSTARS is a searchable database of past Civil Service decisions.
- You can find cases similar to your own using keyword searches.
- Access DSTARS at www.mi.gov/erb.



When preparing the legal grounds section of your application in Part C or doing additional research, you can use the Decision Status and Research System (DSTARS) database. DSTARS allows you to search for decisions in other cases involving similar facts or involving rules, regulations, or agency work rules applicable to your case. You can find DSTARS at www.mi.gov/erb. Further instructions on using DSTARS are available at the DSTARS website.

Providing contact information, signing, and dating

- In Part D, provide contact information in the left column.
- If you have a representative, provide his or her contact information in the right column.
- Check the box indicating who completed the form. Then sign and date the form.

PART D—INDICATE WHO IS SUBMITTING THE APPLICATION AND PROVIDE THE INFORMATION REQUESTED. If there is more than one appealing party, attach form CS-1743 or additional sheets providing the contact information requested below for each appealing party. If there is an Authorized Representative, also provide the requested information for the representative.

Form completed by: (check one) APPEALING PARTY APPEALING PARTY'S AUTHORIZED REPRESENTATIVE

APPEALING PARTY'S NAME (Please print)		APPEALING PARTY'S REPRESENTATIVE'S NAME (Please print)	
EMPLOYEE IDENTIFICATION NUMBER		ORGANIZATION	
STREET ADDRESS/P.O. BOX		STREET ADDRESS/P.O. BOX	
CITY		CITY	
STATE	ZIP	STATE	ZIP
PHONE NUMBER		PHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
SIGNATURE OF APPEALING PARTY OR REPRESENTATIVE			DATE

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In Part D, you must provide information so the ERB can contact you. If this information changes, you must notify the ERB. You may represent yourself or be represented by an attorney, a representative of an authorized labor organization, or a fellow employee, if authorized by CSC Rule 6-5. If you have a representative, his or her contact information must also be provided. Either you or your authorized representative must complete, sign, and date the CS-1743 before sending it to the ERB. Please indicate who completed the form by checking the appropriate box.

Filing a claim of appeal as of right using a CS-1756

- The CS-1756 is only used for discharges.
- Part A requires the same case information discussed earlier.
- Part B requires that you confirm that this is a discharge case
- Part C requires the same contact info discussed earlier.

CS-1756
REV. 1/2018

Please review the instructions on the reverse side of this form.

State of Michigan
EMPLOYMENT RELATIONS BOARD
400 South State Street, Suite 100, Lansing, Michigan 48911
4020 South State Street, Suite 100, Lansing, Michigan 48911
Phone: (517) 373-3333
Fax: (517) 373-3333
Toll-Free: 1-800-292-2333

CLAIM OF APPEAL AS OF RIGHT TO THE EMPLOYMENT RELATIONS BOARD

Part A — CASE NAME

DECISION NUMBER	REFERENCE NUMBER
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Part B — ELIGIBILITY: I am filing a claim of appeal as of right in accordance with Civil Service Commission (CSC) Rules 9.7 (2)(a) and (2)(b) (Check one)

An employee with status aggrieved by a final decision of an adjudicating officer upholding the employee's discharge for just cause.

An appealing authority approved by a final decision of an adjudicating officer upholding an employee discharged for just cause. **NOTE:** As a condition of this claim of appeal, the appealing authority must comply with C.S.C. Rule 9.2.2. As a result (1) temporarily reassigning the employee according to the terms of the Hearing Officer's decision or (2) temporarily restoring the employee's base pay and benefits as of the date of this claim of appeal.

Part C — INDICATE WHO IS SUBMITTING THE CLAIM AND PROVIDE THE INFORMATION REQUESTED: If there is an authorized representative, also provide the requested information for the representative. (See instructions.)

Appealing Party Appealing Party's Authorized Representative

APPELLING PARTY'S NAME (Please print)	APPELLING PARTY'S REPRESENTATIVE'S NAME (Please print)
EMPLOYEE IDENTIFICATION NUMBER (if applicable)	ORGANIZATION
STREET ADDRESS (P.O. BOX)	STREET ADDRESS (P.O. BOX)
CITY	CITY
STATE	STATE
ZIP	ZIP
TELEPHONE NUMBER	TELEPHONE NUMBER FAX NUMBER
E-MAIL ADDRESS (if applicable)	E-MAIL ADDRESS (if applicable)
Signature of Appealing Party or Representative	DATE

If your appeal involves a NERE discharge from employment, use the CS-1756 form for your claim of appeal as of right. The first page of the CS-1756 requires only three things.

Part A requires basic information about the decision being appealed. Simply copy the decision name, decision number, and reference number from the first page of the decision.

Part B only requires that you confirm your involvement in a discharge case as employee or employer by checking the appropriate box.

Part C requires the same contact information that was discussed in the previous slide. The completed CS-1756 form can then be signed, dated, and submitted. Please remember that if your appeal is not over a NERE discharge you cannot use the CS-1756. All other appeals except for discharge grievance appeals must use the CS-1743 form discussed previously.



Consult the instructions and checklists for further help

- The CS-1743 and CS-1756 contain instructions and checklists to help ensure a timely and complete appeal.
- Regulation 8.05, *ERB Appeal Procedures*, available at www.mi.gov/erb, is the best source for ERB appeal procedures.

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The CS-1743 and CS-1756 include extensive instructions and a checklist to help you submit a timely and complete appeal. Please review these carefully when completing your filing. Regulation 8.05 further describes ERB appeal procedures and can be found at www.mi.gov/erb.

Late filings and new evidence

- Late filings and new evidence are not accepted without a written motion establishing:
 - Good cause for filings up to 28 days late.
 - Special extenuating circumstances for filings over 29 days late but less than one year late.
 - Why any new evidence was not presented earlier.
- **Late appeals and new evidence offered without adequate explanation will be disregarded.**
- You must provide the ERB with (1) the original and six copies of the complete motion and (2) Proof of Service (CS-1740) on all other parties. The ERB will decide if the explanation is adequate.

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If your filing is late or if you offer new evidence, you must make a written motion requesting permission to allow these extraordinary filings. The motion should describe either why your appeal was late or why new evidence should be accepted at this late step in the appeal process.

If you do not demonstrate an adequate basis for a late filing, your appeal may be administratively dismissed without further consideration. If you do not demonstrate an adequate basis to allow new evidence, it will not be considered in reviewing your appeal.

As with all filings with the ERB, you must provide the ERB with the original plus six additional copies of any motion (including copies of any new documents), provide one complete copy of the motion to all other parties, and provide the ERB with a proof of service on the other parties.



Perfecting an appeal with the ERB

- Any document filed with the ERB must include the original and six copies (**seven** total copies).
- You must also provide one copy to all other parties or their representatives.
 - Parties are (1) listed as parties or interested parties on the decision appealed and (2) the adjudicating officer in a technical review or state personnel director decision.

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When you have completed your appeal form, you must then make additional copies. The ERB must receive the signed original plus six additional copies (making seven total copies).

You must also send one copy of your complete filing to all parties that participated in the decision being appealed or their representatives. Also keep a copy for yourself. Parties are (1) those listed on the decision you are appealing as parties or interested parties and (2) the adjudicating officer in appeals from technical review or state personnel director decisions.

Perfecting an appeal with the ERB (continued)

- You must provide a Proof of Service ([CS-1740](#)) stating that you gave copies of your filing to all other parties or their representatives.
 - You only need to send one signed proof of service to the ERB.
 - You do not need to send a proof of service to the other parties.
- Using the [CS-1740](#) will ensure that your proof of service is sufficient.

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Additionally, you must present the ERB with a proof of service, documenting that you sent copies of your filing to all other parties. You do not need to send a proof of service form to the other parties. Simply enclose a signed and completed CS-1740 form to the ERB. A general statement in a cover letter stating that all other parties were copied is insufficient.

Please use the CS-1740 to ensure that your proof of service is adequate.

Completing a CS-1740 Proof of Service

- Insert the case name and numbers.
- List the names and addresses of other parties served.
- Check how the documents were served.
- List all documents sent to other parties.
- Include your address and then sign and date the form.
- Provide a signed proof of service to the ERB.

The form is titled "PROOF OF SERVICE TO OTHER PARTIES" and is used for filing with the Environmental Review Board (ERB). It includes the following sections:

- Case Name:** Decision Number and Reference Number.
- PARTIES SERVED:** A table with columns for "Name and Address" and "DELIVERY METHOD USED". The delivery methods include Personal Delivery, First Class U.S. Postal Service, Overnight Mail Service, Non-Registered Mail, Certified U.S. Postal Service (Receipt No.), and Other.
- DOCUMENTS SERVED:** A section where the filer certifies that they served all parties at the addresses shown, with a copy of the following documents (use additional sheets if necessary): 1, 2, 3, 4.
- SIGNATURE AND MAILING ADDRESS OF FILING PARTY:** A section for the filer's signature, date, name (Phone/Fax), street address, city, state, and ZIP code.

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Completing a CS-1740 Proof of Service form only requires that you provide the following information:

The decision name, decision number, and Civil Service Reference Number for the decision being appealed.

The names and addresses of the parties provided copies of your filing.

The method by which the copy was provided to each party, indicated by checking the appropriate box.

A list of the documents provided to each party.

And your address, signature, and date.

The original signed copy of the completed CS-1740 can then be sent to the ERB with your filing. No additional copies to the ERB or to other parties are needed.

Options for submitting your appeal

Four choices: mail, delivery, e-mail, or fax.

- Mail your complete appeal to:
Employment Relations Board
Civil Service Commission
P.O. Box 30002
Lansing, Michigan 48909
- Deliver your complete appeal (either personally or by a private delivery company) to the ERB offices at [Capitol Commons Center, 400 S. Pine St., Suite 102, Lansing, MI 48913](#). You will need a picture ID to enter the building.
- E-mail your appeal as attachments to MCSC-ERB@mi.gov or fax it to (517) 335-2884. If you e-mail or fax, your original, plus six copies and a proof of service on the other parties must still be **received** by the ERB **within seven calendar days of the fax or e-mail date**.

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After you complete your appeal, any motions, and a proof of service, you are ready to file with the ERB. You may deliver by mail, personal delivery, e-mail, or fax.

If you use U. S. Mail, address your appeal to the Employment Relations Board, Civil Service Commission, P. O. Box 30002, Lansing, Michigan 48909.

If you personally deliver or use a private delivery company, the ERB's street address is Capitol Commons Center, 400 South Pine Street, Suite 102, Lansing, MI 48913. The building is on the corner of Pine Street and Kalamazoo Street. You will need picture identification to enter the building.

You can e-mail your documents as attachments to MCSC-ERB@mi.gov or fax them to (517) 335-2884. If you initially use e-mail or fax, you still must ensure that the ERB receives your original documents, plus six copies, and a proof of service within seven calendar days after your e-mail or fax submission. If the ERB does not receive the follow-up copies within seven calendar days, your filing will be considered late.



Next steps in an application

After you file a complete [CS-1743](#), the ERB will:

- Review the filing for deficiencies.
- Accept responses from other parties.
- Notify you when the ERB intends to consider your application.
- Review the underlying decision, application, and response in a closed meeting to determine whether to grant, deny, or remand.
- Provide a written decision to the parties, which is posted in DSTARS.
- Forward its decision to the Commission.

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Any application for leave to appeal will first be reviewed by the ERB's Administrative Officer for deficiencies. The other parties will then be allowed to respond. Other parties must also provide you a copy of their response. The ERB will notify you when it intends to consider your application in a closed meeting. The parties are not present during this consideration. The ERB will grant the application, deny it, or remand for another review by the adjudicating officer. If it grants the application, the ERB may request additional presentations from the parties, in writing or in person. A written decision will be sent to all parties notifying them of the ERB's recommended decision. The decision will be published in DSTARS. The decision is automatically forwarded to the Commission for its review. You do not need to file any additional documents for this review to occur.



Next steps in a claim of appeal

- After you file a complete [CS-1756](#), the ERB will notify you of due dates and instructions for written briefs and the date for oral argument.
- After briefing and oral argument, the ERB will issue a written recommended decision, which will be sent to the parties, their representatives, and the Civil Service Commission.
- It will also be published in DSTARS.
- You do not need to file any further documents to request Commission review.

Once the ERB receives an appropriate and complete claim of appeal as of right, it will notify both sides of a schedule for filing written statements and having oral arguments before the ERB.

After oral arguments, a written recommended decision will be sent to all parties and published in DSTARS. The decision is automatically forwarded for review by the Commission.

Further questions?

- This presentation and instructions on the [CS-1743](#) and [CS-1756](#) should provide all information needed to file your appeal.
- ERB procedures are in [Regulation 8.05](#) and information on computing time and filing documents is in [Regulation 8.06](#).
- If you have further questions:
 - Phone: (517) 335-5588
 - E-mail: MCSC-ERB@mi.gov
 - Website: www.mi.gov/erb

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This presentation and the instructions and checklists on the appeal form should provide all the information needed to properly file an appeal with the ERB. You can also refer to Regulation 8.05, which describes the ERB's appeal procedures.

If you have additional questions after reviewing this presentation and the forms and instructions, please contact the ERB at (517) 335-5588 or by e-mail at MCSC-ERB@mi.gov. All Civil Service rules and regulations and appeal forms can also be found by visiting www.mi.gov/erb.