

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

FISCAL YEAR 2014 ANNUAL REPORT
(October 1, 2013 thru September 30, 2014)



Prepared by Bureau of Employment Relations Staff
Adopted November 12, 2014

INTRODUCTION

Message from the MERC Chair.....4
Commission Members5
MERC – History6
Bureau of Employment Relations6
 • Mission Statement.....7
 • Staff Biographies7
 • Organizational Chart.....13

Michigan Administrative Hearing System (MAHS)14
 • Administrative Law Judges.....14

STATUTORY OVERVIEW

Jurisdiction & Statutory Authority.....15
Recent Legislative Changes and Enactments15
2012 PA 43616
 • Emergency Manager Appointments16
Deficit School Districts.....17

MERC PROCESSES

Elections.....18
Unfair Labor Practices20
Mediation – Contract & Grievance.....23
Labor-Management Cooperation Activities25
Fact Finding & Act 312 Compulsory Arbitration.....26
Grievance Arbitration28
Union Audits.....29

OTHER FY 2014 HIGHLIGHTS

Budget.....29
Dashboards (Scorecard Performance Summary)29
Accomplishments of MERC/BER in FY 2014.....30
Reinventing Performance in Michigan (RPM)
 • Advisory Committees30
 ○ Act 312/Fact Finding Panel Member Advisory Committee31

- Advocates General Advisory Committee31
- Recommendations Adopted by the Commission.....31
- Rule Amendments.....32
- Training Presentations and Outreach32
 - Training Presentations32
 - Outreach Activities33
 - Act 312 Arbitrator and Fact Finder Training33
- Employee Engagement34
- Freedom to Work (FTW)34
- MERC WEBSITE RESOURCE MATERIALS35**

INTRODUCTION

MESSAGE FROM THE COMMISSION CHAIR

Thank you for your interest in reviewing this Annual Report of the Michigan Employment Relations Commission (MERC) and Bureau of the Employment Relations (BER) covering the period from October 1, 2013 through September 30, 2014. The fiscal year was filled with change, growth, and opportunity for the agency to administer laws that govern Labor-Management relations in the State of Michigan.

Among our guiding efforts during FY 2014, the Michigan Department of Licensing and Regulatory Affairs (LARA), this agency's parent department, initiated its Executive Goals for 2014 that included the "Reinventing Performance in Michigan" (RPM) projects. MERC/BER sought to meet these goals by targeting several areas designed to improve service delivery to agency constituents and Michigan citizens. Details are summarized in this report.

The Commission further advanced its continuing commitment to provide quality and efficient service by acting on the efforts of two advisory committees (established in FY 2013) and by conducting public hearings on two pending rules revision projects. As a result, various internal processing changes, website enhancements and policy updates occurred during this fiscal period with others slated for implementation in FY 2015. Additionally, a MERC *Back to Basics* presentation was developed by BER staff to provide training highlights on MERC processes to novice labor and management representatives. The initial presentation held in the Detroit area was well received by attendees. Additional offerings are slated for other areas across the State.

Under the capable leadership of Bureau Director Ruthanne Okun, BER staff continues to diligently aid the Commission in resolving the various disputes filed in the agency's mediation and labor relations divisions. Aside from routine matters, FY 2014 activity involved an increased number of cases and issues of 'first impression,' due in part to the evolving impact of the (1) numerous legislative changes enacted since 2011 and (2) expanded number of emergency managers and deficit elimination plans in place in financially strapped municipalities and school districts. Summary details, statistics and updates related are highlighted in this report.

Also noteworthy is the recent collaboration developed between BER and the Library of Michigan. Through this joint effort, the Library has digitized the body of case decisions issued by MERC and the Labor Mediation Board (predecessor to MERC) dating back to 1969. These older and newer decisions are available at no charge from a link on MERC's website.

As FY 2015 commences, be encouraged that MERC/BER will continue to approach existing and new challenges with a renewed zeal to stimulate productive Labor-Management relations in workplaces throughout the State. Visit the MERC website at www.michigan.gov/merc for updated information and please share any feedback on how we can best serve the Labor-Management community.

Respectfully submitted,
Edward D. Callaghan, Chair

COMMISSION MEMBERS

Dr. Edward D. Callaghan was appointed as Chair of the Michigan Employment Relations Commission on June 20, 2011 and reappointed on June 6, 2014. He has been a full-time faculty member at Oakland Community College (OCC) since 2005. He previously served as President of OCC's Orchard Ridge campus and as the College's Vice Chancellor for Human Resources and College Communications. Chair Callaghan has negotiated labor contracts in the public sector for more than 30 years representing public employers including: the Dearborn Public Schools; Wayne County Community College; Henry Ford Community College and Oakland Community College. Dr. Callaghan's extensive collective bargaining experience includes: handling MERC elections; unfair labor practice claims; and mediation cases. He has also served as an Act 312 arbitrator for police and fire municipal disputes and as a fact finder for governmental units in Michigan, both on behalf of MERC.

Commissioner Callaghan has a bachelor's degree from the University of Detroit, an MBA from Wayne State University and a Ph.D. from the University of Michigan. His 3-year term expires June 30, 2017.

Robert S. LaBrant was appointed to the Commission on July 1, 2012. He previously served as Senior Vice President and General Counsel at the Michigan Chamber of Commerce, from where he retired after nearly 35 years. Commissioner LaBrant came to the Michigan Chamber from the Business-Industry Political Action Committee in Washington, D.C. He also worked for the Appleton, Wisconsin Area Chamber of Commerce, the Metropolitan Milwaukee Association of Commerce and served on the staff of Congressman Harold V. Froehlich of Wisconsin. He was a Captain in the U.S. Army with service in Viet Nam.

Commissioner LaBrant holds a Juris Doctorate (Cum Laude) from the Thomas M. Cooley Law School in Lansing, Michigan. He has served as an adjunct faculty member at Lansing Community College and the Cooley Law School. Commissioner LaBrant's appointment expires June 30, 2015.

Natalie Priest Yaw was appointed to the Commission in June of 2013. She has years of experience working with businesses and associations. Commissioner Yaw is vice president and legal counsel for RBS Citizens, N.A. in Southfield, where she represents Citizens Financial Group and RBS Citizens on legal issues concerning claims regarding lender liability from commercial loans, retail banking customers, and consumer lending. She previously worked at the Dickinson Wright law firm in Detroit where she managed complex litigation. Commissioner Yaw is a member of the State Bar of Michigan, the Detroit Metropolitan Bar Association, Wayne County Chapter of the Women Lawyers Association of Michigan, and the Federal Bar Association, Eastern District of Michigan.

Commissioner Yaw has a bachelor's degree from Rice University and Juris Doctorate (Summa Cum Laude) from Michigan State University College of Law. Her term expires June 30, 2016.

MERC HISTORY

The Michigan Employment Relations Commission (MERC or the Commission) is an independent agency charged with administering various laws governing Labor-Management relations throughout the State of Michigan. The Commission is comprised of three members, one of whom is the designated chairperson, appointed for staggered 3-year terms by the Governor with the advice and consent of the Senate. No more than two members may be of one political party. MERC, formerly known as the Michigan Labor Mediation Board, was established in 1939 pursuant to the Labor Relations and Mediation Act (LMA).

MERC administers two principal statutes, the Public Employment Relations Act (PERA) and the LMA. These statutes grant collective bargaining rights to public (PERA) and private (LMA) sector employees within the State of Michigan, except for employees in state classified civil service, the federal government, and those within the exclusive jurisdiction of the National Labor Relations Board (NLRB). MERC also administers the compulsory arbitration process available to some municipal police and fire department employees (Act 312 of 1969) as well as to state police troopers and sergeants (Act 17 of 1980).

Chairs of the Michigan Employment Relations Commission, 1960-2014:

- Allen D. Chisholm
- Malcolm R. Lovell, Jr.
- Robert Howlett
- Charles Rehmus
- Morris Milmet
- William M. Ellmann
- David S. Tanzman
- Joseph B. Bixler
- Maris Stella Swift
- Honora J. Lynch
- Christine A. Derdarian
- Edward D. Callaghan

BUREAU OF EMPLOYMENT RELATIONS

The Bureau of Employment Relations (BER) is the administrative arm of the Commission. MERC/BER activities are conducted through two separate divisions -- the Labor Relations Division and the Mediation Division. The Labor Relations Division assists in resolving unfair labor practice charges (ULPs) and union representation matters (e.g., bargaining unit determinations). The Mediation Division assists with settling disputes involving contract negotiations and contract grievances in the public and private sectors. Other services provided by BER include: fact finding, compulsory arbitration, grievance arbitrator selection, last offer elections, establishing Labor-Management committees, and training in collaborative negotiations.

Mission Statement

The mission of the Bureau of Employment Relations is to provide high quality support to the Michigan Employment Relations Commission, and to foster peaceful, cooperative and effective public and private sector employer-employee relationships by neutral, timely and accurate adjudication of labor disputes, application of conflict resolution processes, and education and training.

Bureau Directors between 1971 and 2014:

- Hyman Parker
- Robert Pisarski
- Shlomo Sperka
- Ruthanne Okun

Staff Biographies

Ruthanne Okun, BER Director has been in the field of labor and employment relations for the past 34 years. She graduated magna cum laude from Michigan State University and from Notre Dame Law School, where she was the Assistant Legislative Research Editor of the Journal of Legislation. Prior to attending law school, Director Okun served as the Personnel & Employee Relations Director of Larden Company, with facilities in Davisburg, Michigan and Plymouth, Indiana. Director Okun was employed nearly 5 years with the law firm of Miller, Canfield, Paddock & Stone in its labor and employment relations department, and was a partner at the Riverview law firm of Logan, Wycoff and Okun, PC. Since 1998, she has served as the Bureau Director at MERC and supervises staff located in Detroit, Lansing, and out-state areas. She also serves as legal advisor to the Commission. Director Okun is a member of the State Bars of Michigan and Illinois.

Travis Calderwood joined the Bureau of Employment Relations as an Administrative Law Specialist in 2013, handling matters related to the “Freedom to Work” laws. Prior to joining the Bureau, Travis was employed at the law firm of Collins & Blaha, P.C. in Farmington Hills, where he represented numerous public school districts in all areas of employment and labor law, as well as in state and federal compliance and regulatory issues. Travis attended Hillsdale College where he earned numerous scholarships, awards and graduated with a B.A. in Political Economy. He received his law degree from Ava Maria School of Law in Ann Arbor, where he was awarded a full tuition scholarship. Travis is a member of the State Bar of Michigan. Travis left the Bureau of Employment Relations in May of FY 2014 to join the Michigan Administrative Hearing System as an ALJ.

Miles Cameron has been a Labor Mediator with the Bureau of Employment Relations since July of 2008. Prior to joining the Bureau, he had been an active member of the United Steelworkers since 1978 and held many positions in his local union including; Safety Chair, Steward, Committee Man, Negotiations Chair, Grievance Chair, Educational Coordinator and President. In 1995, he began working as a staff representative for the United Steelworkers with duties that

included representing members in arbitrations, settling grievances, negotiating contracts and other responsibilities.

Jim W. Corbin joined the mediation staff in April, 1999. Prior to his BER appointment, Jim held positions in the public and private sectors including: Deputy Director of the Office of Human Resources and Labor Relations for the Michigan Department of Labor, Director of Labor Relations for the Michigan Family Independence Agency and co-founder and owner of CDET, Inc., a Michigan company specializing in customized employment and job training programs. Jim received his Bachelor of Science Degree and Master's Degree in Labor and Industrial Relations from Michigan State University. Jim serves on the Board of Directors of the Michigan Labor-Management Association and served on the Alumni Board of Directors as a past president of the MSU School of Labor and Industrial Relations.

Micki Czerniak has been a Labor Mediator with the Bureau of Employment Relations since 1998, and with state government since 1988. Prior to coming to the bureau, she served as the state's Compensation Specialist with the Department of Civil Service where she managed the Employment Relations Board's Impasse Resolution and Coordinated Compensation Proceedings. Prior to joining state government, Ms. Czerniak was employed by Sachs, Waldman, et al., during which time, she testified as an expert witness on subjects of compensation and benefits in more than 20 Act 312 and other arbitration proceedings. Ms. Czerniak has a B.A. from MSU and an M.A. in Industrial Relations from Wayne State University.

Ed Eppert has been with the Bureau of Employment Relations since 2004 as a labor mediator in the Upper Peninsula, where he lives with his family. His previous work experience has been balanced between management and labor, including retail, education, and other government service. He has held Teamster, RCIA and MEA union cards, serving 17 years in school union leadership roles while a teacher/coach. He then was a school superintendent for 11 years. He later worked several years promoting small business growth at the county level. He obtained a B.A. from MSU majoring in economics, an MBA from Central Michigan University and an Ed. Specialist Degree in School Administration from Northern Michigan University.

Maria Greenough has been a staff court reporter for the Bureau of Employment Relations since 1982. Prior to coming to the bureau, Maria was a freelance reporter affiliated with several court reporting firms in the southeast Michigan area, handling medical malpractice and auto negligence matters for insurance companies. She has a BA in Business from Cleary Business College; her certifications include Registered Professional Reporter and Certified Stenograph Reporter.

Denise A. Hinneburg has been employed by the State of Michigan, Bureau of Employment Relations, since 1996. She came to the Bureau as a Governor's Management Intern and became an Elections Officer in 1998. Prior to joining the Bureau, Denise had experience as a Human Resource Generalist, Academic Advisor and Placement Director. Denise received a Bachelor of Arts Degree from Michigan State University and received a Masters of Arts in Industrial Relations from Wayne State University.

Milli Kennedy has worked for the State of Michigan for 40 years exclusively within the Department of Labor under its various names. Ms. Kennedy has received several promotions and

worked at four different levels within the Civil Service System. She is currently the Mediation Secretary in Lansing. Before working the State, Ms. Kennedy worked in the private sector for 12 years.

Tom Kreis joined the mediation staff of the Bureau of Employment Relations in 2004 and currently works out of Alpena as the mediator assigned to the geographic area of the Northern Lower Peninsula. Prior to becoming a mediator, Tom had been on the Alpena Police Department from 1975 to 1989 when he assumed the position as a full time Staff Representative for the Police Officers Labor Council representing over 45 Police, Sheriff and Public Safety Departments in all matters of labor relations, including: Act 312 hearings, grievance arbitration, negotiations and unfair labor practices.

Lisa Lane was welcomed to the Bureau of Employment Relations in 2014, to serve as an Administrative Law Specialist, handling Freedom to Work issues and responding to FTW inquiries from individuals, employers, labor representatives, legislators and others. Ms. Lane graduated with a degree in Political Science from the University of Michigan. She received her J.D. from Wayne State University Law School, where she served as an Assistant Editor of the Wayne Law Review. Lisa has advocated on behalf of both management and labor. Her legal experience includes inter-related areas such as traditional labor law, labor relations, employment law and litigation, including employee benefits matters, having worked at several law firms, known at the time as Gregory, Moore, Jeakle, Heinen, Ellison, Brooks & Lane P.C.; Cattel, Tuyn & Rudzewicz; and Hardy, Lewis & Page. In 2008, Ms. Lane shifted from the role as an “advocate” to a neutral role as a grievance arbitrator handling cases as a panel member with both MERC and the American Arbitration Association (AAA).

Tracy Marr returned to State service in 2008 as a Legal Secretary for three MAHS Administrative Law Judges. In January, 2013 she also began working in the Bureau of Employment Relations as Elections Secretary. Previously she worked for private practice attorneys handling small claims, bankruptcy, collections and probate court cases. While working for the State from 1997-2004 she worked in Corrections as a medical secretary, legal secretary and bookkeeper/supervisor. During her leave from State employment, she worked with her husband in their construction business handling bookkeeping, bidding and related duties.

Wanda Mayes has been a Labor Mediator for the Bureau of Employment Relations since 2000. She is currently assigned to the Detroit Office. As a mediator, Wanda mediates labor disputes in the public and private sector. She conducts grievance mediation for the three casino’s located in Detroit. She has mediated EEOC and Civil Rights complaints, established and facilitated Labor Management Committees as well as contracts negotiated using Interest Based Bargaining techniques. Her educational background includes a Bachelor of Science in Business Administration (1985) and a Master of Arts in Industrial Relations (1998), both from Wayne State University. She is currently attending Wayne State University Law School. Her career began in 1988 with the City of Detroit’s Labor Relations Division. There she was responsible for negotiating labor contracts; conducting grievance hearings and preparing written responses; advising department human resources officers concerning grievance and contract administration; preparing and presenting arbitration cases before arbitrators and umpires; and coordinating petitions with Michigan Employment Relations Commission (MERC).

Sidney McBride joined the Bureau of Employment Relations in 2009 and currently serves as a Labor Mediator. Before becoming a mediator, he worked as an Administrative Law Specialist with responsibilities that included drafting Commission decisions, administering the Act 312 and Fact Finding programs and conducting election matters. Prior to coming to MERC, Sidney worked at the Third Circuit Court in management and labor (AFSCME) roles that included, in part, collective bargaining, grievances, arbitrations and MERC proceedings. He is an active member of the State Bar of Michigan, member of the Labor and Employment Law Section. He graduated from Wayne State Law School in the top third of his class.

D. Lynn Morison is Staff Attorney for the Bureau of Employment Relations, having previously worked for the Bureau as an administrative law judge. Before joining the Bureau, she was a staff attorney for the Michigan Employment Security Board of Review. Prior to working for the state, she was on the faculty of Michigan State University where she taught business law and published two articles on labor law topics. She is a member of the Labor and Employment Law Section of the State Bar of Michigan. She is also a member of the State and Local Government Bargaining and Employment Committee of the ABA's Section of Labor and Employment, and serves as a co-chair of its subcommittee on Practice & Procedure – Unfair Labor Practices. Ms. Morison received a B.A. from Michigan State University, a J.D. from the University of Michigan, and an LL.M. in labor law from Wayne State University.

Barbara Norris joined the Bureau in 1981 and currently is the longest serving member of the Bureau of Employment Relation's staff. She functions as mediation division secretary in the Detroit Office. Before coming to MERC, she worked in the Wage and Hour Division of the then Department of Labor. Barbara has a degree from George C. Wallace State Junior College & Technical Institute in Selma, Alabama.

Ashley Olszewski joined the Bureau in 2014 as a paralegal. Prior to her employment with BER, Ms. Olszewski worked for five years as a Family Law Paralegal and concurrently, for two years as an HR Specialist with an IT staffing firm. In 2009, she earned her B.S. from Eastern Michigan University, majoring in Paralegal Studies, and in 2012, earned her Master's Degree in Public Administration with a concentration in Human Resources from Wayne State University.

Nancy Pitt performs secretarial and executive support activities for the Director of the Bureau of Employment Relations and members of the Michigan Employment Relations Commission. She began her employment with MERC in 1982 and with the State of Michigan in 1977 as a typist with the Department of Social Services. In 1979 she began a secretarial position with the Department of Civil Service as secretary to the Manager of the Detroit Regional Office of the Department of Civil Service. In 1982, she moved to the Department of Labor, Bureau of Employment Relations to provide administrative support services to the Executive Assistant and the Commission.

James Spalding has been the Mediation Supervisor for the Bureau of Employment Relations since September 2, 2012, and a Labor Mediator since October 9, 1992. Formerly, Assistant Director of Labor Relations for the Michigan Association of School Boards (1986-1992); Business Representative for the International Union of Operating Engineers, Local 547 (AFL-CIO) (1982-1986); Federal Aviation Administration, Air Traffic Controller (1977-1981) and

President of the Professional Air Traffic Controllers Organization (PATCO), Local 375 until fired by President Ronald Reagan during the 1981 PATCO air traffic controllers' strike. He was elected to the Delhi Township Park Commission in 1984, re-elected in 1988 and 1992 and served as Chairperson of the Park Commission from 1989 to 1996. Mr. Spalding went to Lansing Community College, earning an Associate Degree in Business, Personnel/Labor Relations, magna cum laude.

Deborah Stewart joined the Bureau of Employment Relations in 2011 with over 25 years of legal experience that included 16 years with the law firm of Kelley Casey, P.C. (f/k/a Kelly, Casey & Moyer P.C.) where she served as Legal Secretary/Paralegal/Assistant Operations Manager. In this multi-faceted role, she developed and implemented a training program, including a manual for incoming legal secretaries. She also assisted in managing all facets of the office support administration including IT and employee-related matters. At MERC, she provides support to a diverse set of functions in the labor relations division (commission docket) and mediation division (Act 312 and fact finding).

Robert Strassberg has been a Labor Mediator since January of 2009. He previously headed the Bureau's Election Department for 12 years. Prior to joining the Bureau of Employment Relations, Bob has been a Personnel Director, Management Consultant, and a Labor Representative. Bob has a B.A. from Wayne State University and also attended WSU's MAIR Program (Masters Industrial Relations Program).

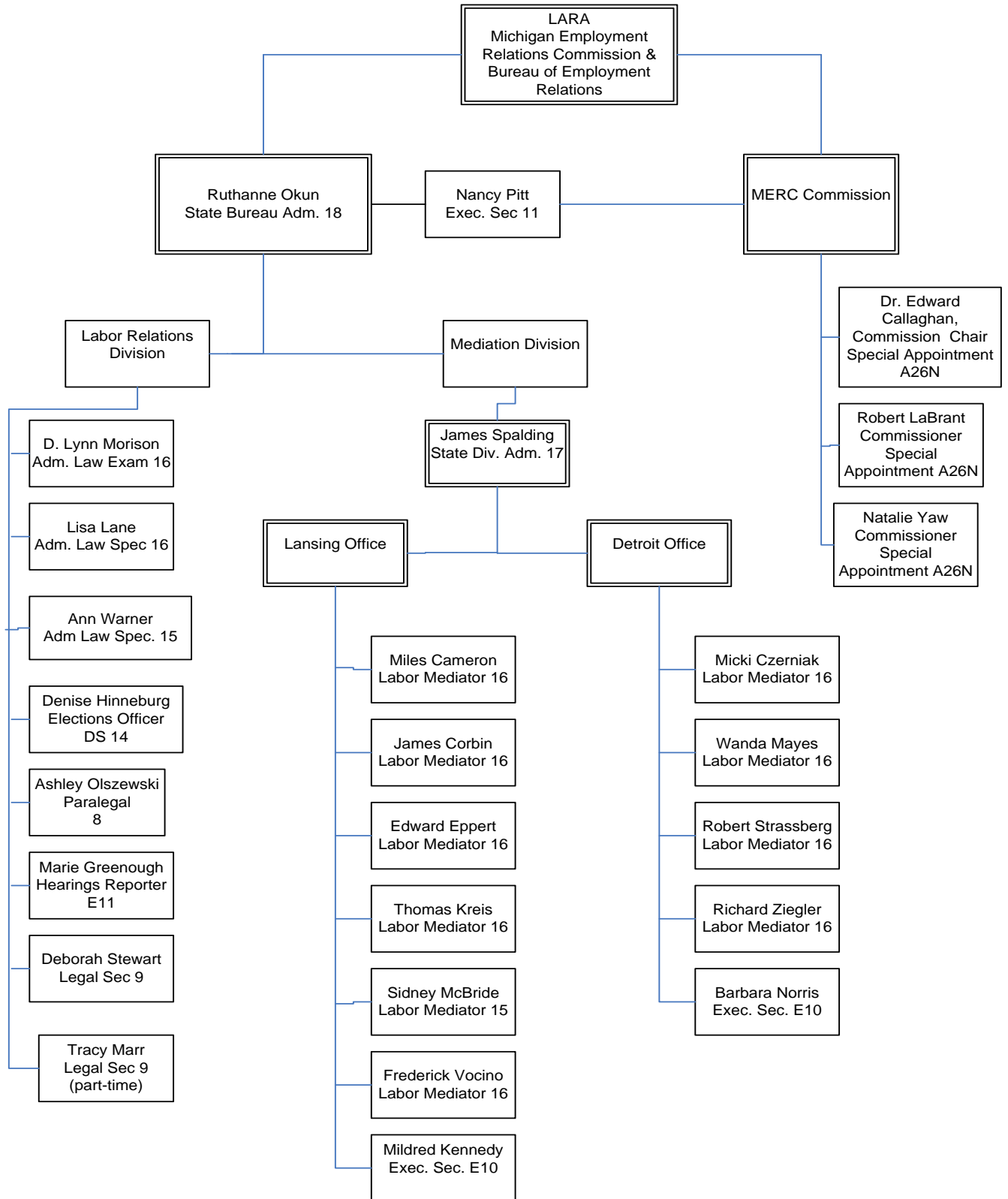
Fred Vocino has been a Labor Mediator with the Bureau of Employment Relations since October 2009. From 1991 to 2009, he held a staff position with the Michigan Nurses Association (MNA). There he conducted contract negotiations/ administration and rights arbitration, assisted with policy development and led the mediation and ULP proceedings. Before 1991, he was an elected UAW official at Wayne State University. In his academic studies at Wayne State (B.F.A.), he developed an appreciation for alternative dispute resolution principles, the application of which he regularly practiced while at the MNA. Fred serves the Grand Rapids area and covers southwest Michigan from Whitehall to Sturgis.

W. Ann Warner came to the Bureau of Employment Relations in October 2013 as an Administrative Law Specialist. Ann comes with a wealth of experience having served as a Law Clerk for the Honorable Anna Diggs Taylor of the U.S. District Court, as well as a staff attorney for the federal judges. She worked for 10 years as a Staff Attorney at the Michigan Department of Civil Rights and, most recently, as an Administrative Law Specialist for the Corporations, Securities & Commercial Licensing Bureau in LARA, handling Administrative Hearings and Settlement Conferences. Ann graduated from Wayne State University, receiving a B.A. with High Distinction and from Wayne State Law School, *cum laude* and with various academic honors. She has a plethora of organizational and civic activities on her resume and has authored an article for the Wayne State University Law Review and other publications. She is a member of the Administrative Law Section and the Employment and Labor Law Section of the State Bar of Michigan.

Carl Wexel has been a Law Clerk with the Bureau of Employment Relations since early 2013. Prior to coming to the bureau, he was employed as Director of Labor Relations for CSX Corporation, where he handled contract negotiations and interpretation under the National Labor Relations Act and Railway Labor Act. Mr. Wexel has a B.A. from the University of Michigan, a Masters of Industrial and Labor Relations from Cornell University, and is currently a third year law student at Wayne State University.

Richard Ziegler has been a mediator with the Bureau of Employment Relations since 1997. From 1982 to 1997, he worked as a field representative (business agent), for the Fraternal Order of Police, Labor Council/Police Officers Labor Council. From 1968 to 1982, he worked as a police officer in the cities of Detroit and Wixom. While working as a police officer he served in several union positions including executive board member of the Detroit Police Officers Association and Secretary and Vice President of the AFSCME police local in Oakland County. Rich has a B.A. in Law Enforcement and Business Administration from Mercy College of Detroit and an M.A. in Industrial Relations from Wayne State University.

ORGANIZATIONAL CHART



MICHIGAN ADMINISTRATIVE HEARING SYSTEM (MAHS)

With the creation of the State Office of Administrative Hearings and Rules (SOAHR) in 2005, Michigan became the state with the largest centralized hearings panel in the nation. Under Executive Order 2011-4, SOAHR was renamed as MAHS in early 2011. The mission of MAHS is to serve the citizens of the State of Michigan with fair, efficient, and unbiased decisions. Three Administrative Law Judges from MAHS are exclusively assigned to conduct MERC hearings related to union representation matters and unfair labor practice charges.

Administrative Law Judges (ALJ)

ALJ Julia C. Stern is assigned exclusively to cases arising under the State's collective bargaining statutes, the Public Employment Relations Act (PERA) and the Labor Mediation Act (LMA). She has been involved in the administration of these statutes for more than 30 years. She received her undergraduate and law degrees from the University of Michigan and University of Michigan Law School. She was employed as a field examiner in Region 7 of the National Labor Relation Board from 1973-1976, and in private practice as an attorney representing employers in the private sector before coming to work for MERC in 1981. She served as staff attorney for MERC from 1981 to 1997 and has been an ALJ with the State since 1997.

ALJ David M. Peltz has been hearing cases on behalf of MERC since 2001. Prior to that, he was employed by MERC in the capacity of Legal Specialist to the Commission. Mr. Peltz was previously on the faculty at Michigan State University Law School where he taught Legal Research, Writing, and Advocacy. From 1994 to 1997, Mr. Peltz worked as a Research Attorney with the Michigan Court of Appeals in Detroit. He received a B.A. from the University of Michigan and a J.D. from Wayne State University. Mr. Peltz was a contributor to, and assistant editor of the MERC publication-- *A Guide to Public Sector Labor Relations in Michigan*. He has often been a presenter on matters pertaining to public sector labor law to outside organizations including the State Bar of Michigan's Labor & Employment Law Section.

ALJ Travis Calderwood began hearing cases on behalf of MERC in May of FY 2014. He previously was employed at the Bureau of Employment Relations as an Administrative Law Specialist beginning in 2013, handling matters related to the "Freedom to Work" laws. Prior to joining the Bureau, Travis was employed at the law firm of Collins & Blaha, P.C. in Farmington Hills, where he represented numerous public school districts in all areas of employment and labor law, as well as in state and federal compliance and regulatory issues. Travis attended Hillsdale College where he earned numerous scholarships and awards and graduated with a B.A. in Political Economy. He received his law degree from Ava Maria School of Law in Ann Arbor, where he was awarded a full tuition scholarship. Travis is a member of the State Bar of Michigan.

STATUTORY OVERVIEW

JURISDICTION AND STATUTORY AUTHORITY

MERC Administers the Following Statutes:

- Public Act 176 of 1939, the Labor Relations and Mediation Act (LMA) – regulates collective bargaining relationships between private sector unions and small private sector employers not falling within the jurisdiction of the National Labor Relations Act.
- Public Act 336 of 1947 as amended, the Public Employment Relations Act (PERA) – grants all public employees within the state of Michigan, excluding classified civil service employees of the state and employees of the federal government the right to organize and be represented by labor organizations of their choice.
- Public Act 312 of 1969 as amended by PA 116 of 2011, the Compulsory Arbitration Act (Act 312) – provides for compulsory binding arbitration of Labor-Management disputes involving public police or fire department employees.
- Public Act 17 of 1980 – provides for compulsory binding arbitration of Labor-Management disputes involving the State of Michigan and the Michigan State Police Troopers and Sergeants.

RECENT LEGISLATIVE CHANGES AND ENACTMENTS

Since early 2011, collective bargaining in Michigan (primarily public sector) has been greatly impacted by (1) amendments to PERA, LMA and Act 312 and (2) other legislative changes that affect the Commission's administration of these three statutes. The scope of these legislative changes is broad and includes areas such as: expansion of the prohibited subjects of bargaining for employees subject to the teacher tenure act, including; discipline, evaluation, layoff and recall. (2011 PA 100-103); limits on employer contributions to employee health care costs (2011 PA 152); restrictions on giving pay and benefit increases to employees after contract expiration (2011 PA 54); changes in the compulsory arbitration process for Act 312-eligible police and fire department employees (2011 PA 116); ability for public employers to consolidate or transfer services (2011 PA 258-263); union audit filing requirements (2011 PA 53); enactment of Right to Work laws (2012 PA 348 and 349) and re-defining emergency manager laws (2012 PA 436).

As a result of these new laws, the Commission began to issue decisions during FY 2013 that interpreted the changes and continued to issue decisions during FY 2014. (See the ULP section on p. 20.) An updated chart of these legislative changes annotated with a brief description and reference to the MERC decisions issued on the new law(s) appears on the agency's website at www.michigan.gov/merc.

2012 PA 436 (The Local Financial Stability and Choice Act)

The Local Financial Stability and Choice Act (2012 PA 436) became effective on March 28, 2013. Upon the confirmation of a finding of a financial emergency in a local unit of government, as defined by 2012 PA 436, the local government may select from certain options, which include entering into a Consent Agreement negotiated with the State Treasurer or the appointment by the Governor of an Emergency Manager. A material uncured breach of the Consent Agreement may result in the Governor placing the local government in receivership.

A local government operating under the terms of a Consent Agreement is not subject to Section 15(1) of 1947 PA 336 (PERA) and, therefore, has no duty to bargain with the representatives of its employees for the term of the Consent Agreement.

The Governor also may appoint an Emergency Manager to address a financial emergency within a local unit of government. An appointed Emergency Manager has broad powers and acts for and in the place and stead of the governing body and the office of chief administrative officer of the local government. Among the powers of an Emergency Manager is the power to reject, modify, or terminate one or more terms and conditions of an existing collective bargaining agreement. In addition, a local government placed in receivership is not subject to Section 15(1) of 1947 PA 336 (PERA) and, therefore, has no duty to bargain with the representatives of its employees for a period of five years from the date on which the local government is placed in receivership or until the time the receivership is terminated, whichever occurs first.

City of Detroit, Michigan

As widely reported in the news media, on July 18, 2013, the City of Detroit filed a petition for Chapter 9 bankruptcy protection in the United States Bankruptcy Court for the Eastern District of Michigan. Judge Stephen W. Rhodes was assigned to the case. On December 3, 2013, Judge Rhodes ruled that the City of Detroit was eligible for bankruptcy protection. The City of Detroit bankruptcy trial began on September 2, 2014.

With the appointment of an Emergency Manager and during the bankruptcy process, a number of MERC cases between the City of Detroit and the unions representing City employees were placed on hold.

Emergency Manager Appointments¹

At the opening of FY 2014, five municipalities and three school districts were experiencing a financial emergency and were operated by an Emergency Manager. An additional two municipalities and one school district were operating under a consent agreement and three other municipalities were in receivership with a Transition Advisory Board. Two additional local units of government were under review to determine if a financial emergency existed.

At the close of FY 2014 for MERC (9/30/2014), eight municipalities and five public school districts within MERC's jurisdiction operated under the control of an Emergency Manager or

¹ State of Michigan, Department of Treasury, Emergency Manager Information Report

with a Consent Agreement. In addition, three municipalities were operating in receivership with a Transition Advisory Board at the helm.

Deficit School Districts²

The Michigan Department of Education is required to report to the legislature on school districts incurring year-end deficits and the districts' progress in reducing those deficits. The Michigan Department of Education reported 52 school districts and public school academies in deficit at the close of FY 2013 for Michigan public schools. Two school districts consolidated and two districts were dissolved subsequent to June 30, 2013. One public school academy was closed.

The Department of Education, in its final quarterly report covering FY 2014, reflected the following status of deficit districts at the close of the fiscal year:

- 10 deficit districts projected to have eliminated their deficit by June 30, 2014, subject to final audit;
- 12 districts that began FY 2014 with a positive fund balance project ending the fiscal year in deficit;
- 26 districts project a reduced deficit;
- 10 districts project an increased deficit, with one district nearly doubling its deficit to over \$20 million.

Collective bargaining in deficit school districts continued to be especially difficult. In many cases, economic distress has led to continuous years of need for economic concessions from employees or wage freezes, while 2011 PA 152 required employees to pay an increased amount of their income toward the cost of health insurance benefits. This circumstance has led to hardened positions taxing the ability of the parties to reach amicable resolution of their negotiations and has caused a greater dependence upon Bureau mediation staff to facilitate settlement in an increasingly difficult environment.

² State of Michigan, Department of Education Quarterly Report to the Legislature on Deficit Districts, September 12, 2013, and September 11, 2014.

MERC PROCESSES

ELECTIONS

MERC Representation Proceedings

The Public Employment Relations Act (PERA) provides to all public employees in Michigan, the right to organize and be represented by a labor organization of their choice. Section 15 of PERA provides that a public employer shall bargain collectively with a representative of its employees. The Commission is authorized to conduct representation proceedings to determine an exclusive collective bargaining representative.

Representation Petitions

A petition for representation proceedings (R petition) is used to determine a collective bargaining representative, to decertify an existing bargaining representative, or to clarify position(s) when an employer and labor organization disagree on the placement of a newly-created or substantially changed classification(s). Aside from voluntary recognition by an employer, the determination of a bargaining representative can occur by one of 3 means: Consent Election, Commission Directed Election or Unit Clarification. The R petition has five distinct sub-types to choose from: **Certification of Representative (RC)**, used when a group of employees wish to be represented by a union or association or change to a new representative. It is also used to accrete historically excluded position(s) into the bargaining unit; **Decertification (RD)**, used when a group of employees in a bargaining unit assert that their current representative no longer maintains majority support and they no longer want to be represented by it; **Self Determination (SD)**, when a union representing multiple bargaining units under the same employer wants to merge the separate units into a single bargaining unit; **Representation (Employer) (RM)**, filed by an employer when multiple labor organizations claim to be the collective bargaining representative of the same unit of employees; and **Unit Clarification (UC)**, used to determine placement of a new or substantially changed classification established after a unit has been certified.

Consent Elections or Commission Directed Elections

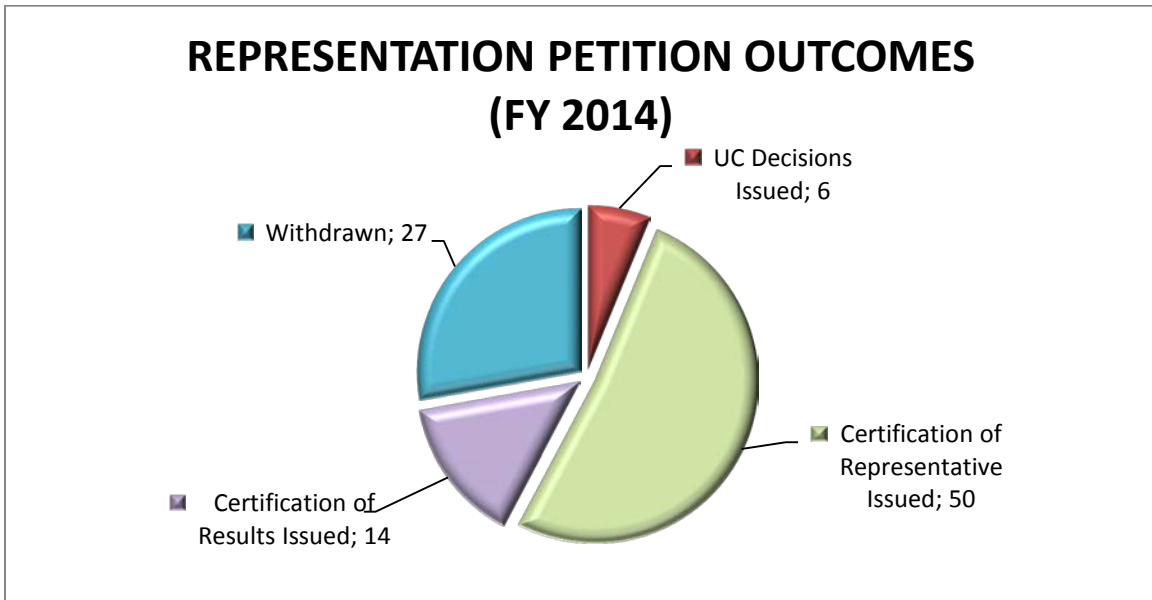
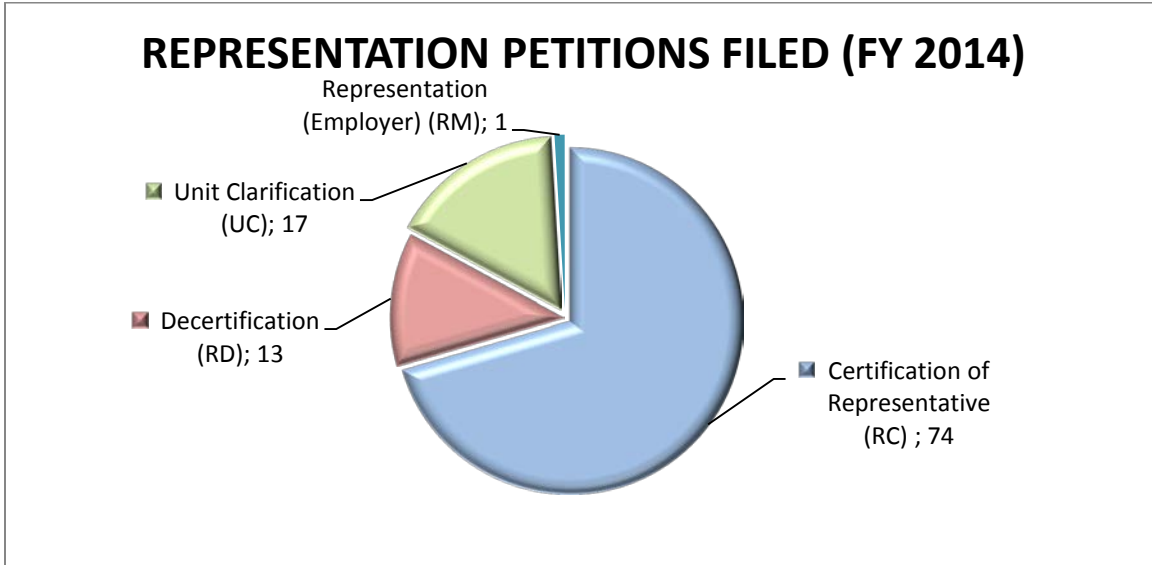
There are two different types of elections conducted by MERC. A Consent Election is one where no disputed issues exist and the parties authorize MERC to conduct an election. Conversely, a Commission Directed Election occurs when disputes remain and the parties are unable to agree to a Consent Election. The dispute is referred to an ALJ for a factual and legal determination. Based on the ALJ's findings, the Commission reviews the record and either directs an election or dismisses the petition.

Election Outcomes

When a labor organization receives a majority of the valid ballots cast in a representation election the Commission issues a **Certification of Representation** declaring that entity as the exclusive bargaining representative of the unit. If no labor organization receives a majority of the valid ballots cast or the election results in a tie, MERC issues a **Certification of**

Results indicating that no bargaining representative was certified. With a UC petition, the Commission reviews the record and issues an order resolving the dispute over the placement of the contested classification. No balloting or election occurs with a UC petition.

During FY 2014, the following election activity occurred:



UNFAIR LABOR PRACTICES

PERA and the LMA establish grounds for a party to file an unfair labor practice charge (ULP or charge) against an employer (C case) and/or labor organization (CU case). After a charge is filed with MERC, if it states a claim under MERC's jurisdiction, it is transferred to an ALJ at the Michigan Administrative Hearing System (MAHS) to make a factual and legal determination on whether the allegations establish a violation of the applicable Act. The ALJ may conduct a formal hearing as part of this process. Based on the evidence and arguments presented in the record, the ALJ issues a written "Decision and Recommended Order" to the parties that contains findings of fact, conclusions of law, reasons for those conclusions, and the ALJ's recommended order for disposition of the case.

If a party files an appeal (referred to as "exceptions") of the ALJ's decision, those exceptions are reviewed by the Commission. The Commission will issue its own Decision and Order that affirms the ALJ, reverses the ALJ in whole or in part, or remands the matter for further factual findings. If exceptions are not filed, the Commission issues a final order adopting the ALJ's decision as its own.

During FY 2014, case activity routinely involved charges filed by employers, labor organizations, and individuals that dealt with alleged violations of the duty to bargain, the duty of fair representation, and the right to engage in protected concerted activity. As in FY 2013, the Commission received several charges regarding the impact of various legislative amendments enacted since 2011. In FY 2014, the Commission resolved several unfair labor practice charges that involved the impact of 2011 PA 54 (restrictions on pay and benefit increases to employees after contract expiration); 2011 PA 103 (expansion of the prohibited subjects of bargaining for public school employers and the labor organizations representing school employees); and 2011 PA 152 (limits on employer contributions to employee health care costs).

2011 PA 54 expressly precludes public employers subject to PERA from paying wages and benefits (including step increases) at higher levels than those in effect at contract expiration until a successor agreement is in place. Act 54 also requires public employers to pass on increases in the costs of insurance benefits to employees during the period between contract expiration and the effective date of a successor agreement. In FY 2014, the Michigan Court of Appeals upheld the Commission's decisions in *Waverly Cmty Sch*, 26 MPER 34 (2012) and *Bedford Pub Sch*, 26 MPER 35 (2012), which held that the prohibition against increasing wages and benefits after contract expiration applies to pay increases based on educational achievements by employees.

2011 PA 152 was enacted to limit public employers' expenditures on employee medical benefit plans and provides public school employers with two choices in determining the manner in which health care costs will be shared between the employer and the employees – a "hard cap" which limits the employer to paying a fixed dollar amount per employee based on the type of plan the employee selects, or the eighty percent employer share. In *Decatur Pub Sch*, 27 MPER 41 (2014), the Commission indicated that a public employer's choice between the "hard cap" and the eighty percent employer share is a permissive subject of bargaining. The Commission further held that even if the employer and the employees' union have not reached agreement or

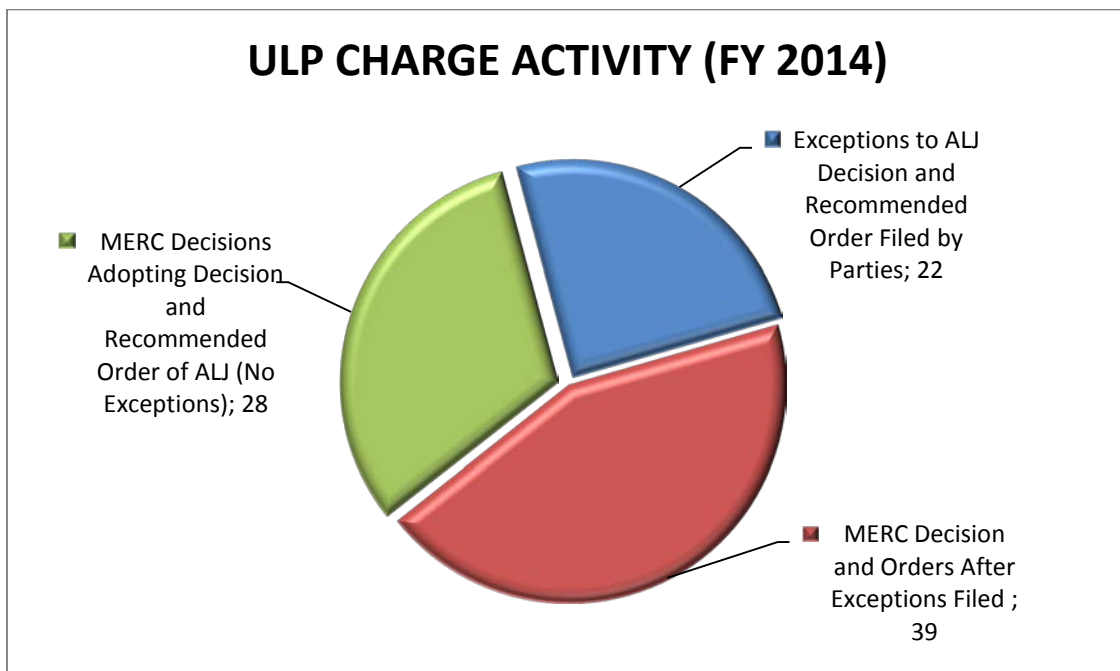
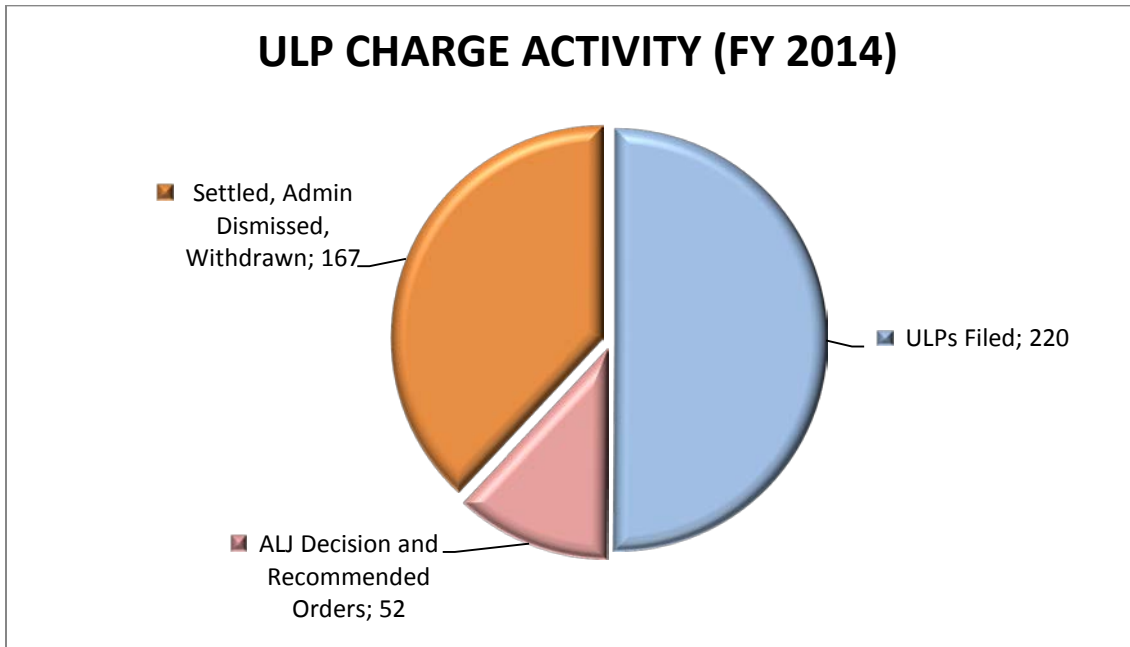
impasse, a public employer may implement its choice of options under Act 152 at the deadline set by Act 152 without violating its duty to bargain.

In *Shelby Twp*, 28 MPER 21 (2014), the Commission reiterated that the choice of cost sharing options under Act 152 is a permissive subject of bargaining. A public employer may, but is not required to bargain over whether it will apply the hard caps under § 3, the 80% employer share under § 4, or (other than a public school employer) exempt itself under § 8. Where the employer chooses to implement the 80% employer share under § 4 of Act 152, the employer has a duty to bargain over the amount of the employees' share of health care costs subject to the parameters of Act 152. The employer may implement its choice of options under Act 152 as of the beginning of the medical benefit plan coverage year. However, if the parties have not bargained to impasse or agreement, the employer may not set the employee share at more than twenty percent of the total annual costs of all of the medical benefit plans provided by the employer for employees and elected officials. The Commission further found that the employer was required by Act 54 to pass on the increased cost for employee medical benefit plans to the employees and doing so was not a breach of the duty to bargain. However, the Commission held that the cost of retiree health care benefits cannot be included in calculating the employees' share of the total annual cost of medical benefit plans under Act 152, and the cost of retiree health care benefits cannot be passed on to employees under Act 54.

The Commission also issued several decisions interpreting 2011 PA 103, which prohibits public school employers and the unions representing employees subject to the Teacher Tenure Act from bargaining over decisions regarding teacher placement, layoffs, recalls and certain other matters. In *Pontiac Sch Dist*, 27 MPER 52 (2014), the Commission held that after the enactment of 2011 PA 103, provisions of the parties' expired collective bargaining agreement that applied to teacher placement and performance evaluations are no longer mandatory subjects of bargaining. Those matters are now prohibited subjects of bargaining, and provisions of the expired contract regarding those matters are no longer binding on the parties. In *Ionia Pub Sch*, 27 MPER 55 (2014), the Commission held that the language prohibiting bargaining over "[a]ny decision...regarding teacher placement" contained in § 15(3)(j) of 2011 PA 103 necessarily includes decisions about the development, content, standards, procedures, adoption, and implementation of a public school employer's policy for the placement of teachers, as well as any decision made by the public school employer pursuant to that policy. In *Pontiac Sch Dist*, 27 MPER 60 (2014), the Commission found that the employer lawfully repudiated a grievance settlement regarding teacher placement, because teacher placement is now a prohibited subject of bargaining. In *Pontiac Sch Dist*, 28 MPER 1 (2014), the Commission found no breach of the duty to bargain when the employer promulgated and implemented a new layoff and recall policy without bargaining over its terms, since procedures relating to the layoff or recall of teachers are prohibited subjects of bargaining under 2011 PA 103.

MERC decisions including case summaries are posted on the agency's website located at www.michigan.gov/merc.

ULP activity at MERC during FY 2014 was:



MEDIATION – CONTRACT AND GRIEVANCE

Mediation Overview

Michigan’s Labor Relations and Mediation Act of 1939 (LMA) authorizes employees in the private sector to organize and engage in collective bargaining. The LMA sets forth a public policy statement supporting the use of mediation services through a governmental agency to aid parties in the voluntary resolution of workplace disputes and to avoid labor strikes and lockouts in private sector employment. With the enactment of the Public Employment Relations Act (PERA) in 1965, public employees were afforded the right to organize and the mediation services established under the LMA were extended to public sector employment in Michigan.

The Mediation Division of the Bureau of Employment Relations (BER) assists employers and unions in the settlement of disputes involving contract negotiations and grievances, in both the public and private sectors. Other services provided by the mediation division include: fact finding, compulsory arbitration, grievance arbitration, last offer elections, creating and participating in Labor-Management committees, and training in collaborative negotiations.

Contract Mediation

Section 7 of PERA authorizes the labor organization or the public employer to request that the Commission intervene and mediate matters, including disputes concerning negotiation of labor agreements and the alleged violation of a labor agreement. Mediation is a non-binding process in which a neutral third person assists the parties to resolve their dispute. In collective bargaining, the parties should seek to resolve as many issues as possible on their own; however, when it becomes apparent to one or both parties that they are unable to reconcile their differences or are not making adequate progress towards doing so, labor mediation may be appropriate. PERA discusses the mediation process and provides: “At least 60 days before the expiration date of a collective bargaining agreement, the parties shall notify the Commission of the status of negotiations.” Private sector entities also must file with the Commission, as the National Labor Relations Act requires a 60-day notice to both federal and state mediation agencies. Thereafter, a mediator will be assigned to the case, and the parties are provided the contact information for the assigned mediator.

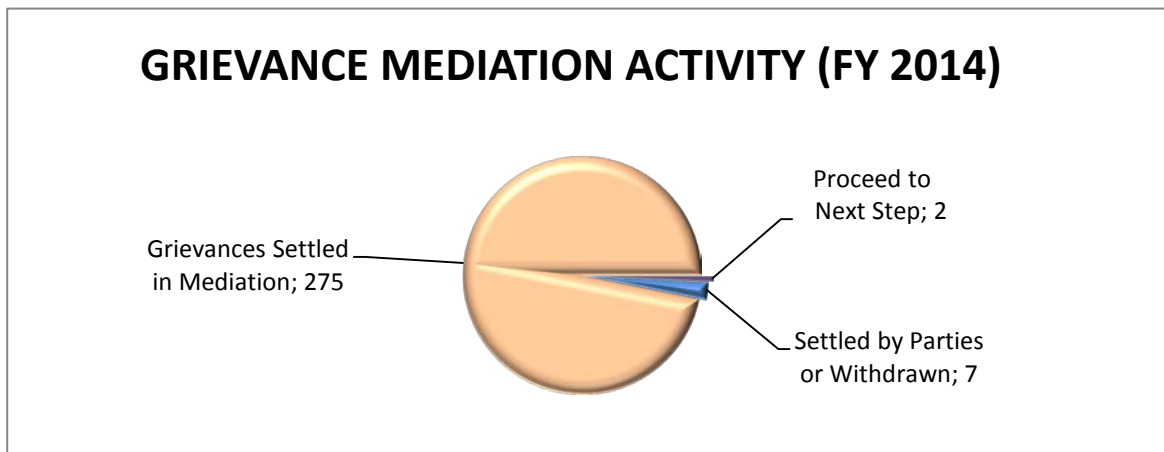
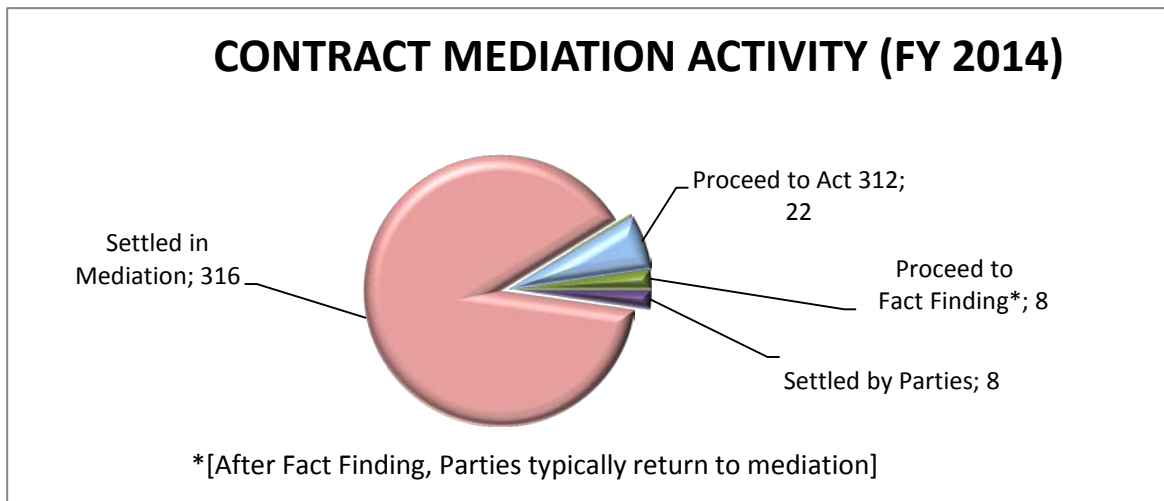
Grievance Mediation

Mediation is often used to resolve grievances arising under a collective bargaining agreement, either as the final step in the grievance procedure or as a step prior to arbitration. A mediator is generally available within a few weeks of the request for mediation assistance. The process is flexible, since the parties may develop a remedy without being bound by the contract language as an arbitrator would be. If the contract language is ambiguous, a mediator may assist in developing a mutually agreeable resolution to the dispute. A mediator has no authority to render a binding decision. Parties are able to avoid the expense and rigidity of the grievance arbitration process by mutually resolving contract grievances with the aid of MERC labor mediators.

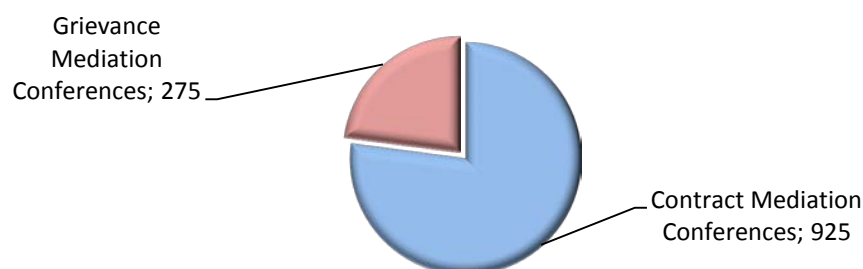
Mediation Activity FY 2014

During FY 2014, the Mediation Division received and processed 1,842 Status of Negotiations notices indicating a contract open for negotiations. Mediation assistance was initiated in 615 new cases; 331 cases involved contract negotiations and 284 cases dealt with contract grievances. This resulted in 1,200 mediation conferences. Mediator involvement resulted in the settlement of 316 collective bargaining agreements and 275 contract grievances. (See charts that follow). These numbers reflect a significant increase (52%) in grievance mediation activity compared to the FY 2013 period. It is notable that 96% of grievances mediated during FY 2014 were settled in mediation, avoiding the substantial costs of arbitration in dollars and the time required to prepare and present a case in arbitration.

In addition to increased grievance mediation activity, the mediation staff continued to face a high degree of complexity in the issues underlying many of the contract mediation cases during FY 2014. This was due largely to the impact of the legislative changes of 2011 and 2012 on the attitudes of bargaining teams. Those recent legislative changes to various statutes affecting labor relations and contract negotiations, as well as a number of jurisdictions continuing to face financial distress, made it particularly challenging for mediators to bring parties closer to resolution of contract negotiation disputes.



MEDIATION CONFERENCE ACTIVITY (FY 2014)



LABOR-MANAGEMENT COOPERATIVE ACTIVITIES

Collaborative Bargaining

Many employers and labor organizations believe that a cooperative approach to collective bargaining is more effective than the traditional, adversarial approach. In addition to traditional mediation, the Commission has adopted a collaborative approach to collective bargaining, referred to as the “Collaborate to Contract” process. The collaborative approach is intended to avoid a situation in which one party wins only if the other loses. The process focuses on open and frank discussions, free exchange of information, an examination of issues, interests, and mutual concerns, and the use of agreed-upon standards to judge options. The ultimate goal is to improve the overall bargaining relationship, while the more immediate goal is to resolve the particular contract dispute at issue. In most cases, bargaining teams are jointly trained in the process. Following training by a MERC mediator, the mediator may be scheduled to assist during the initial collaborative bargaining sessions as a resource person while parties become comfortable with utilization and facilitation of the collaborative bargaining process.

Labor- Management Committees

The Mediation Division participated in the following Labor-Management committees comprised of Labor and Management representatives whose aim is to help facilitate good relations between labor and management groups:

The **Michigan Labor-Management Association (MLMA)** provides periodic half-day seminars and an annual labor relations conference. Bureau staff actively participates in these programs, providing logistical support in addition to serving as expert presenters on topics of interest to the labor relations community.

The **Kalamazoo Area Labor-Management Committee (KALM)** sponsors a regular luncheon meeting with presenters on current labor relations topics. In addition, the KALM hosts an annual dinner program to recognize labor and management negotiation teams that have successfully reached settlement of a collective bargaining agreement in the prior year without a job action.

The **Muskegon Area Labor-Management Committee (MALMC)** sponsors an annual Labor-Management conference in addition to a student collective bargaining program where professionals work as advisors to students and guide them through mock bargaining exercises. BER mediators attended the program and provided mediation expertise to the participants.

The **Upper Peninsula Labor-Management Council (UPLMC)** provides a yearly conference to several hundred attendees across the Upper Peninsula with topics relevant to the time. The Council also sponsors student collective bargaining exercises for high school seniors.

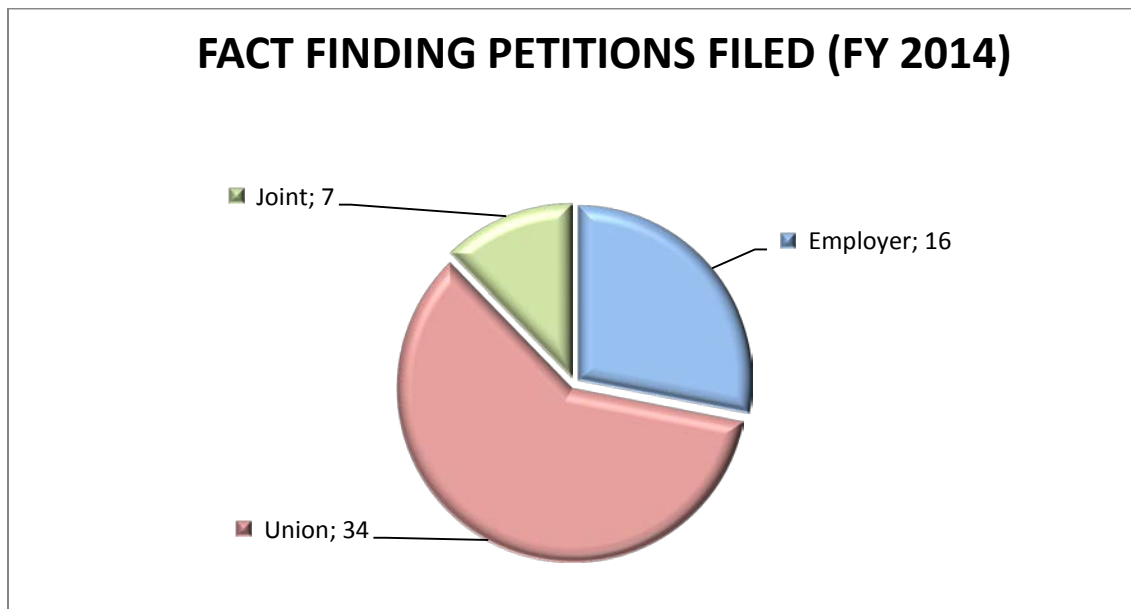
FACT FINDING & ACT 312 COMPULSORY ARBITRATION

When collective bargaining and mediation assistance do not result in a complete final labor agreement, a party may file a petition for fact finding, or, if eligible, compulsory arbitration (Act 312). A “neutral” fact finder or Act 312 arbitrator is appointed by the Commission to conduct hearings and issue a written, non-binding recommendation (fact finding) or a binding award (Act 312).

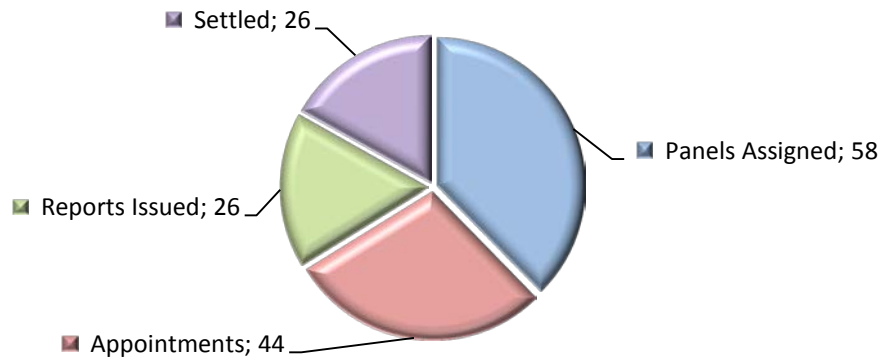
Fact Finding

The MERC fact finding process is an available avenue to employees subject to PERA who are not eligible for compulsory arbitration under Act 312. Although the recommendation of a fact finder is not binding, it is helpful as the parties return to negotiations to resolve their differences and, hopefully, reach contract resolution. Since labor strikes in the public sector are prohibited under PERA, fact finding is the final impasse resolution procedure available to eligible public sector employees.

Fact finding activity during FY 2014 included:



FACT FINDING ACTIVITY (FY 2014)

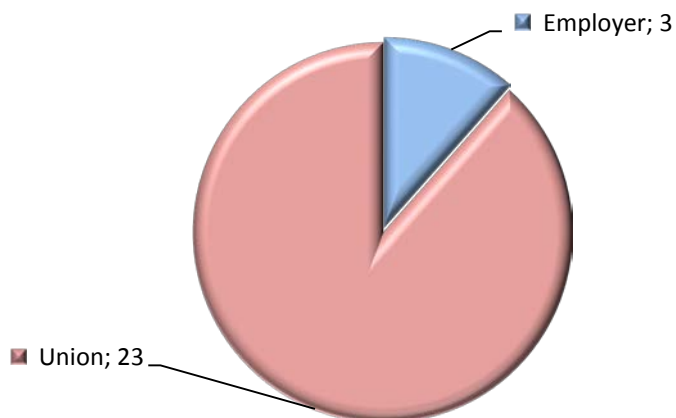


Act 312- Compulsory Arbitration for Municipal Police and Fire Departments

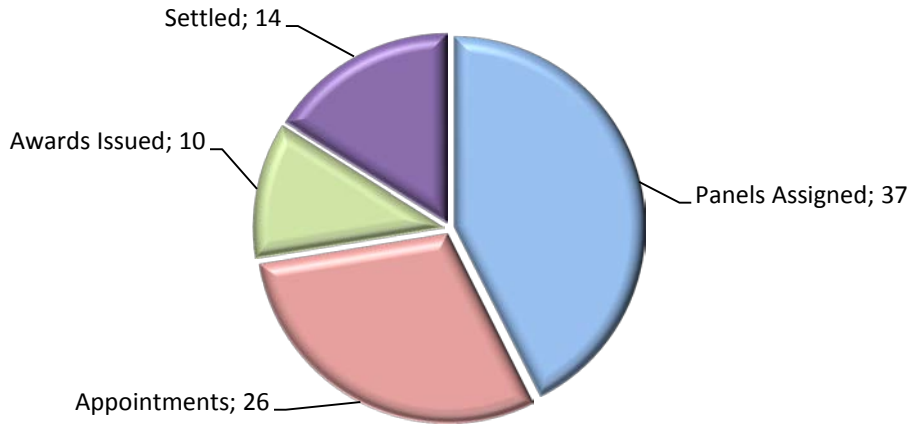
In 1969, the Michigan Legislature enacted Act 312 to provide certain employees of municipal police and fire departments a binding procedure for resolving negotiations over a labor contract. In 2011, the Act was amended to expedite the process. Employees generally covered by Act 312 include: police officers, firefighters, emergency medical personnel and emergency telephone operators employed by a municipal police or fire department. Act 17 of 1980 provides similar binding arbitration for state police troopers and sergeants.

Act 312 activity during FY 2014 included:

ACT 312 PETITIONS FILED (FY 2014)



ACT 312 ACTIVITY (FY 2014)

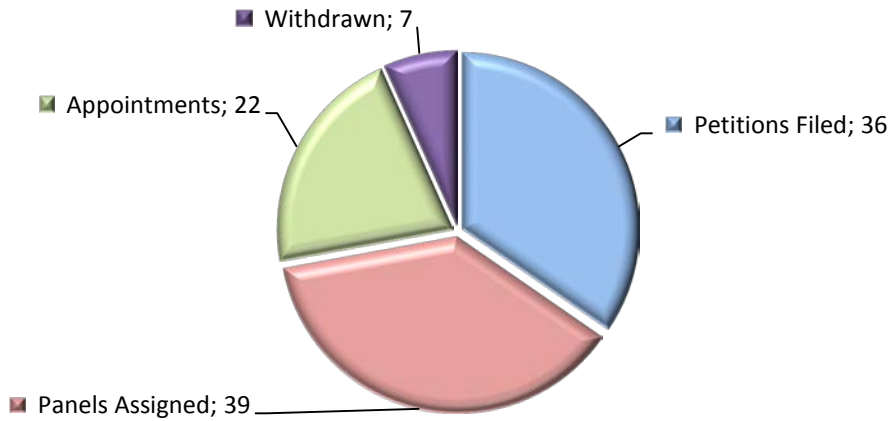


GRIEVANCE ARBITRATION

Pursuant to its authority to aid parties in resolving labor disputes, MERC assists parties in selecting a skilled arbitrator to perform grievance arbitration in the field of labor relations. Parties may utilize this service subject to the terms of their labor contract or by mutual written agreement. MERC’s involvement is limited to assisting in the appointment of a grievance arbitrator. While there is no charge to the parties for MERC’s role in the process, the daily rate set by each arbitrator is paid by the parties, along with any other costs associated with the arbitration process. MERC does not enforce or vacate awards, and will not collect fees.

Grievance Arbitration activity utilizing MERC services during FY 2014 was:

GRIEVANCE ARBITRATION ACTIVITY (FY-2014)



UNION AUDITS

In 2011, the Michigan Legislature amended PERA to require that labor organizations representing public sector employees in the state provide an independent audit to MERC. PERA Section 423.210 (4) specifically provides:

Sec. 10 (4) By March 1 of each year, each exclusive bargaining representative that represents public employees in this state shall file with the commission an independent audit of all expenditures attributed to the costs of collective bargaining, contract administration, and grievance adjustment during the prior calendar year. The commission shall make the audits available to the public on the commission's website.

Registration forms and Independent Audits must be submitted to MERC in pdf format via email to www.unionaudits@michigan.gov using an agency coversheet and assigned identifying number.

During FY 2014, the Commission received 559 union audits. The posted audits and information for registering to file an audit are available on the Commission's website.

OTHER FY 2014 HIGHLIGHTS

BUDGET

The authorized and available appropriation for the Bureau of Employment Relations during the 2014 fiscal year was \$4,125,800. The Bureau is funded exclusively from State Restricted funds.

DASHBOARD (SCORECARD PERFORMANCE SUMMARY)

In 2011, Gov. Rick Snyder established the Michigan Dashboard to measure progress in meeting key objectives and to serve as a catalyst for positive change in State government. The three key metrics identified by BER were: Issuance of Orders within 12 Months of Record Close; Conduct Consent Elections within 65 Days of Filing Petition; and Mediated Labor Contract Disputes Closed without an Act 312 Award or Fact Finding Report. The following chart represents the overall average of BER's Dashboard performance during the 12 months in FY 2014.

MiScorecard Performance Summary

Agency: Employment Relations				Legend:				Green	90% or greater of target
Director Ruthanne Okun								Yellow	>=75% to <90% of target
Period: FY 2014								Red	less than 75% of target
SCORECARD								White	not applicable
Metric	Status	Trend	Target	Current	Previous	Frequency	Metric Definition		
Employment Relations									
Issuance of Orders	Yellow	↓	90%	86.5%	95.2%	Annual	% Issued within 12 Months of Record Close		
				64 of 74	59 of 62				
Conduct Consent Elections	Green	↓	80%	82.6%	83.6%	Annual	% Held within 65 Days of Filing Petition		
				57 of 69	61 of 73				
Mediate Labor Contract Disputes	Green	↑	80%	90.7%	84.1%	Annual	% Contract Negotiations Closed w/o 312 Award or Fact Finding Report		
				262 of 289	254 of 302				

ACCOMPLISHMENTS DURING FY 2014

REINVENTING PERFORMANCE IN MICHIGAN (RPM)

For Calendar Year 2014, the Michigan Department of Licensing and Regulatory Affairs (LARA) initiated certain Executive Goals. Included in those goals was a requirement that each agency initiate and complete three RPM projects impacting major customer facing processes. Bureau staff participated in the following RPM projects:

- Advocates and Panel Member Advisory Committees
- Rule Amendments (Act 312 and General Administrative)
- Training and Education

ADVISORY COMMITTEES

As noted in the FY 2013 Annual Report, MERC began seeking outside input on ideas to improve services by establishing two separate advisory committees. The mission and charge for each committee was:

Act 312/Fact Finding Panel Member Advisory Committee (Panel Member Committee)

Mission and Charge: Improve avenues for administering and streamlining the Act 312 and Fact Finding procedures and to improve the quality of both the panel composition and the decisions/recommendations of panel members.

Advocates General Advisory Committee (Advocates' Committee)

Mission and Charge: Provide input and advice to the Commission and Bureau of Employment Relations on changes in procedures that will expedite case processing and improve services to the public.

The Panel Member Committee began meeting in late FY 2013 (September 10, 2013) and the Advocates' Committee held its first meeting on November 19, 2013. The Commission received and implemented final recommendations from both advisory committees during FY 2014.

Recommendations Adopted and Implemented by the Commission

- Maintain a current list on the public website of MERC Panel members for Act 312, Fact Finding and Grievance Arbitration services.
- Maintain an updated chart of recent legislation impacting collective bargaining with references to MERC cases interpreting those new laws.
- Expansion of the “shadowing program” for new and incumbent panel members.
- Modification of the Policy for Application & Removal to MERC’s Act 312 and Fact Finder Panels by adding eligibility requirements for placement as a member of the Act 312 Arbitrator Panel that “an applicant must have (i) conducted hearings in two or more Fact Finding matters and (ii) issued two or more written Fact Finding Reports. The Commission may waive this requirement for reasons stated on the record based on the applicant’s extensive experience and/or background; the applicant’s ineligibility to be placed on the Fact Finding panel because of prior State employment, or other extraordinary reasons. Before serving as chair on an Act 312 panel, an applicant must attend a comprehensive MERC training program and/or participate in a MERC “shadowing” program, unless specifically waived by the Commission. Failure to meet the above requirements does not preclude the parties from stipulating to the appointment of an individual to act as their Act 312 Chairperson.”
- Development and promotion of a new MERC *Back to Basics* training program geared to novice labor and management professionals. A very successful kick-off session was held on August 20, 2014 in Troy, MI with others being scheduled for FY 2015.
- Promotion of MERC/BER’s Grievance Mediation and Grievance Arbitration services as no cost alternatives to assist parties with dispute resolution on matters involving labor relations. As a result, there has been increased utilization of these services with

benefits to both employers and labor organizations through reduced costs, faster resolution of disputes, and preservation of working relationships.

- Timely posting of Commission Decisions on the website. MERC Decisions issued between 1969 and 1987 have been scanned by the State of Michigan Library and are now available on the MERC website.

RULE AMENDMENTS

The processes for approving the proposed amendments to MERC's General Administrative Rules and the Act 312 Rules continued from the prior fiscal year. Changes listed in each rule set reflect necessary updates due to legislative amendments, MERC/BER practices and to enhance overall clarity. In accordance with the State's rulemaking process, public hearings were conducted on the proposed amendments on December 10, 2013 (Act 312 Rules) and on April 8, 2014 (General Administrative Rules). It is anticipated that each rule set will be approved and promulgated in FY 2015.

TRAINING PRESENTATIONS AND OUTREACH

Training Presentations

Education and training are important components of the mission of MERC/BER. The following training programs were conducted during FY 2014:

- December 2013; a presentation to the Southeast Arbitrators and Fact Finders meeting.
- January 15, 2014; a presentation to the Wayne County Sheriff Deputies Union on the status and substance of proposed amendments to the Act 312 Rules.
- March 7, 2014; a presentation to the POLC Southeast Steward Seminar, involving legislative changes, MERC decisions and trends.
- April 10, 2014; a presentation on Update of MERC Cases at the Institute for Continuing Legal Education's Labor & Employment Law Institute.
- April 11, 2014; a presentation on Michigan Public Sector Bargaining after Recent Statutory Changes, MERC Cases and Procedures, at the Michigan Labor Management Association's Annual "Partners in Progress" Conference.
- August 20, 2014; MERC *Back to Basics* training program presented in Troy, Michigan, hosted by the Metropolitan Bureau of School Studies.
- August 22, 2014; a mediation and settlement trends presentation to Police Officers Labor Council, Annual State Conference.

- Effective Labor-Management Relations training sessions were presented on four occasions, with the UAW, UNITE-HERE, and Teamsters Unions in attendance.
- Effective Labor-Management Relations training sessions at 36th District Court were presented on four occasions for the guards represented by SPFPA.

Outreach and Collective Bargaining presentations were provided to a number of organizations including:

- Grand Valley State University labor law class.
- Michigan Labor Management Association.
- Muskegon Area Labor/Management Committee, student collective bargaining program.

Act 312 Arbitrator and Fact Finder Training

BER staff formed a committee to develop a training program for Act 312 Arbitrators and Fact Finders. A convenient facility has been secured for the Act 312 Arbitrator and Fact Finder Training Program, as well as a Constituent Training Program, to be held during FY 2015 on March 26 and 27, 2015. The agenda is being finalized and Save the Date notices being distributed.

Michigan Public Employer Labor Relations Association (MPELRA)

MPELRA is a nonprofit organization that represents employers. It provides education, communication and networking opportunities to promote the development of public sector professionals with labor relations responsibilities in Michigan. During FY 2013, the following BER and MAHS staff members drafted articles for the MPELRA Manual, to be released by that organization in the near future:

Authors

Articles

Denise Hinneburg

Representation Proceedings in Public Sector Employment in Michigan

Sidney McBride

Labor Mediation in Michigan

Lynn Morison & Carl Wexel

Recent Developments at MERC

James Spalding

Introduction to Public Sector Labor Relations; Overview and History

Julia Stern, ALJ (MAHS)

Practice & Procedure in ULP Proceedings Under PERA; Unit Determinations Under PERA

EMPLOYEE ENGAGEMENT

- BER staff actively participated in LARA and BER inclusion teams.
- Through the BER inclusion team, employee engagement committees developed and completed action plans to satisfy the three BER RPM projects.
- BER regularly conducts general staff meetings and labor mediator staff meetings at which updates are provided on current and anticipated activities within BER. During these meetings, staff is routinely invited and encouraged to participate and/or provide input in the planning and executing of MERC/BER activities. We also request and consider the Good Government ideas submitted by staff.

FREEDOM TO WORK (FTW)

In December, 2012, Michigan became the 24th state to enact “Freedom to Work” laws with the passage of Public Acts 348 and 349 of 2012. Public Act 348 amended the Labor Relations and Mediation Act (LMA) and applies to most private sector employees, while Public Act 349 amended the Public Employment Relations Act (PERA) and applies to most public sector employees. Both laws became effective on March 28, 2013, and make it unlawful to require any employee to join a union or pay union dues or agency fees as a condition of obtaining or continuing employment.

Under FTW laws, employees within the State have the right to voluntarily choose to do, or not to do, any of the following:

- Organize together or form, join, or assist in labor organizations;
- Engage in lawful concerted activities for the purpose of collective negotiation, bargaining or other mutual aid and protection; and
- Negotiate or bargain collectively with their employers through representatives of their own free choice.

Detailed information regarding Michigan’s FTW laws and the impact on MERC’s processes can be found on the agency’s website located at www.michigan.gov/merc.

MERC WEBSITE & RESOURCE MATERIALS

MERC's website located at www.michigan.gov/merc has been upgraded to provide two methods for conducting searches of MERC case decisions: by keyword using the MERC case number, name of a party, or a key word contained within the Decision and Order, or by year/month of issue date. This enhancement is significant and very popular as it provides constituents with a convenient and no cost avenue to obtain MERC case law. The Bureau's website homepage was also significantly redesigned this year. The redesigned version includes carousels and drop down menus making navigation within the site easier and more users friendly. Additionally, and through inter-agency cooperation MERC Decisions issued from 1969 to 1987 have been scanned and are now available via a link on the MERC website to the State of Michigan Library or directly at www.governingmichigan.org.

The following materials and information are available from the MERC website including a "What's New" link that provides newly released information including recent MERC rulings on significant cases:

- MERC Homepage
- MERC and Court Decisions Affecting Act 312 and Fact Finding
- MERC Case Decisions
- MERC Decisions Pending before the Michigan Court of Appeals
- MERC Decisions Pending before the Michigan Supreme Court
- MERC Elections Certifications
- MERC Forms
- MERC Guide, Rules, Policies and Statutes
- Chart of Recent Legislative Changes Impacting Collective Bargaining
- MERC Panel Members (Act 312 Arbitrators, Fact Finders and Grievance Arbitrators)
- Union Audit Filings
- BER Offices
- What's New at MERC

Should you need additional information regarding the Commission or Bureau, contact:

Cadillac Place (Detroit) 3026 West Grand Blvd, Ste. 2-750 P.O. Box 02988 Detroit MI 48202-2988 313-456-3510 313-456-3511 (fax)	Ottawa Bldg. (Lansing) 611 W. Ottawa, 4th Floor P.O. Box 30015 Lansing MI 48909 517-373-3580 517-335-9181 (fax)
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