

Guide to Public Sector Labor Relations Law in Michigan

**Law and Procedure before the Michigan
Employment Relations Commission**

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and the
Michigan Employment Relations Commission

Dedicated to the memory of Hyman Parker

FOREWORD TO 2011 EDITION

This publication, first prepared by former Bureau Director Hyman Parker, has been updated several times over the years—the last update was made in 2007. This 2011 version reflects: 1) recent amendments to PERA; 2) changes in our bureau’s practices and procedures; and 3) various clarifications and/or corrections to the information provided in earlier editions.

Our appreciation is extended to staffs at the Bureau of Employment Relations and the State Office of Administrative Hearings and Rules (SOAHR) for their suggestions, endless revisions, and continued input. Special thanks are extended to Administrative Law Specialist/Elections Officer Sidney McBride for ensuring the completion of this project.

We hope that this document assists you to better understand our State’s labor relations laws and processes.

Please regularly peruse our agency’s web-site at www.michigan.gov/merc where the most up-to-date version of this Guide, agency forms and other useful information will be posted.

Christine A. Derdarian, Chair
Michigan Employment Relations Commission

Ruthanne Okun, Director
Bureau of Employment Relations/MERC

January 2011

FOREWORD TO 2007 EDITION

This publication was originally the work of former Bureau Director, the late Hyman Parker, and has been updated several times over the years. The 2007 version reflects recent changes due to the Executive Order that transferred Administrative Law Judges of the Michigan Employment Relations Commission (MERC or the Commission) to the State Office of Administrative Hearings and Rules. It also contains minor revisions, including a clarification to the discussion on the certification bar to elections. Special appreciation is extended to former MERC Chairman Nora Lynch, Staff Attorney D. Lynn Morison, Elections Officer Robert Strassberg, and to Law Clerks Brendan Canfield, Christopher Bowman, and Sarah George for their comments and invaluable assistance in the drafting and editing of these revisions. It is our hope that the 2007 publication will continue to serve as a valuable introduction to MERC and its functions.

www.michigan.gov/merc

Christine A. Dardarian, Chair
Michigan Employment Relations Commission

Ruthanne Okun, Director
Bureau of Employment Relations

CHAIR AND DIRECTOR'S FOREWORD

From 2002 Edition

Our mission at the Michigan Employment Relations Commission (MERC) and the Bureau of Employment Relations (BER) includes: fostering peaceful and cooperative employer-employee relations through education and training. As a part of this mission, we have prepared this summary of the laws we administer and the practices and procedures of our agency and of the Employment Relations Commission. We hope that it assists you to understand what the laws mean to you and how MERC and our Bureau operate.

We have sought to involve persons from all facets of the labor relations community in this project. Former Bureau Director Hyman Parker prepared much of this text. We recognize Mr. Parker, and extend our sincere appreciation to him, as well as to the following volunteer authors who so generously contributed their time to this project:

John Adam	Scott Hill-Kennedy	James Moore
James Amar	Denise Hinneburg	Doyle O'Connor
Donald Burkholder	James Kurtz	Margaret Paquet
Jeff Donahue	Freda Mills	Benjamin Wolkinson
Kevin Harty		

We also recognize our editor, former Bureau Director, Shlomo Sperka for his guidance and wisdom, as well as assistant editor, ALJ David M. Peltz, for his authorship, countless edits and invaluable suggestions. In addition, we thank persons in the Department of Consumer & Industry Services, with special thanks to CIS Director Kathy Wilbur and Deputy Director Kalmin Smith. We also thank members of the Michigan Employment Relations Commission, Commissioner Harry Bishop and Commissioner C. Barry Ott, and our Bureau staff for their patient efforts in completing this project. We particularly appreciate the assistance of Legal Specialist D. Lynn Morison and Law Clerk Kalyn Redlowsk, as well as the invaluable support staff assistance of Irene Schnotala and Mary Stiehl. Finally, our appreciation is extended to Director Theodore Curry, Professor Richard Block and Professor Catherine Lundy of the MSU School of Labor & Industrial Relations, who have provided guidance throughout this project and assisted with the publishing of the final document.

We hope that this booklet contains helpful information about the labor relations system in Michigan. If it does, we will have completed our job and furthered our mission.

Maris Stella Swift, Chair
Michigan Employment Relations Commission

Ruthanne Okun, Director
Bureau of Employment Relations

EDITOR'S NOTE

From 2002 Edition

This publication is based upon a booklet written by the late Hyman Parker, the first director of the Michigan Labor Mediation Board, which is now known as the Bureau of Employment Relations. That booklet, entitled *Michigan Public Employment Relations Act and Procedures*, was originally published by Michigan State University in 1971. It was reprinted and updated in 1973, 1975 and 1982, and has been out of print for some years. Current Bureau Director Ruthanne Okun recognized the need for a new edition and participated extensively in this latest publication.

The original text has been reorganized and updated. Some historical material has been omitted, and new information has been added. We have tried to create a book, in format and content, accessible to the layperson and useful for the labor relations professional.

Having assisted in the last revision and, until recently, in administering these statutes, the editor is pleased to have the opportunity to bring this publication to Michigan's public sector labor-management community.

Shlomo Sperka

DISCLAIMER

The information contained in this booklet is intended as a public service. While every effort has been made to provide useful information, we do not claim the information to be authoritative, current, complete, final, or factual. We do not intend the information to be legal advice. Moreover, this material does not reflect the view of the Michigan Employment Relations Commission as the adjudicating agency that, in the end, will decide each case as it is presented for review or decision.

GUIDE TO PUBLIC SECTOR LABOR RELATIONS LAW IN MICHIGAN
Law and Procedure before the Michigan Employment Relations Commission

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*Please refer to our website for the most up to date forms and other important information:
www.michigan.gov/merc

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INTRODUCTION: THE COMMISSION AND THE LAWS IT ADMINISTERS

The Michigan Employment Relations Commission (MERC or the Commission) is an independent agency charged with administering various laws governing labor-management relations in the State of Michigan. The Commission is comprised of three members — one of whom is the designated chairperson — appointed for staggered terms of three years by the Governor with the advice and consent of the Senate. By statute, no more than two members may be of one political party.

MERC, formerly the Michigan Labor Mediation Board, was established in 1939 pursuant to the Labor Relations and Mediation Act (LMA). MERC is responsible for administering the LMA, which is the law governing labor relations for private sector employers and employees not within the exclusive jurisdiction of the National Labor Relations Act. The LMA provides for the mediation and arbitration of labor disputes and guarantees the right of employees to organize and bargain collectively with their employers through representatives of their own choosing.

The principal statute administered by MERC is the Public Employment Relations Act (PERA). This law, which was enacted in 1965, granted collective bargaining rights to public employees and defined public employer unfair labor practices. PERA was amended in 1973 to define unfair labor practices by labor organizations representing public employees. Under PERA, the jurisdiction of the Commission extends to all public employers and their employees within the State of Michigan, except state classified civil service and federal government employees. MERC also administers statutes providing for compulsory binding arbitration of labor-management disputes in municipal police and fire departments (Act 312 of 1969), and between the State of Michigan and the labor organization representing state police troopers and sergeants (Act 17 of 1980).

By statute, MERC's activities are conducted through two separate divisions of the Bureau of Employment Relations (BER), the Labor Relations and Mediation Divisions. BER is an administrative agency within the Michigan Department of Licensing and Regulatory Affairs (LARA). The Labor Relations Division of BER assists the Commission in resolving unfair labor practice charges and in determining appropriate bargaining units. The Division also holds pre-election conferences, and conducts and certifies the results of representation and decertification elections. Hearings on union representation matters and unfair labor practice charges are conducted by Administrative Law Judges (ALJs), who are employees of the State Office of Administrative Hearings and Rules (SOAHR). BER's Mediation Division assists in the settlement of contract disputes and grievances in both the public and private sectors. Other services provided by BER include fact finding, grievance arbitration, last offer elections, the establishment of labor management committees, and training in collaborative negotiations.

This booklet summarizes the core provisions of PERA and Act 312, and briefly describes the practices and procedures of MERC. The practices and procedures under the LMA are essentially identical to those under PERA and will not be discussed in detail.

SELECTION OF A REPRESENTATIVE: HOW EMPLOYEES CHOOSE A UNION

Section 15 of PERA mandates that a public employer must bargain collectively with representatives of its employees who have been selected by a majority of the employees in an appropriate unit. PERA also provides that MERC shall determine a bargaining unit that will best secure employees' right to collective bargaining. A bargaining unit is a group of employees who share a "community of interest" based on factors including: similarity of duties, supervision, work rules, compensation, benefits, skills, working conditions, classifications, physical location, and centralized labor relations. The "community of interest" standard provides a practical grouping for employees who will vote regarding representation and, ultimately, will bargain and reach a collective bargaining agreement between their bargaining agent and employer. The Commission, therefore, has the duty to determine and approve an *appropriate unit*, although it does not require that a union seek the *most* appropriate unit.

PERA does not make mandatory the selection of a bargaining representative solely by election, but does require that the collective bargaining representative be the choice of a majority of the employees in an appropriate unit. Therefore, a public employer may voluntarily recognize a bargaining agent representing a majority of the employees in an appropriate unit without an election conducted by MERC.

Voluntary Recognition

To secure voluntary recognition, a labor organization must have the support of a majority of employees in the bargaining unit. Generally, employees sign applications for membership stating that they wish a particular labor organization to represent them for the purpose of collective bargaining. The labor organization may then notify the public employer that it represents a majority of the employees and may request a meeting to establish its representative status. In this instance, the public employer may ask to examine the membership cards or the petition in order to check the signatures on these documents against its own records. To protect the confidentiality of the card signers, a neutral third party (someone outside of MERC) generally will be agreed upon by the parties to validate the signatures. If the employer is satisfied that a majority of the employees have designated the labor organization as their representative, it may grant voluntary recognition. The document granting voluntary recognition may be a resolution by the public employer, an exchange of letters, or any other formal document stating that recognition has been granted and identifying the bargaining unit involved. Once granted recognition, the union has the same status as one certified by an election conducted by the Commission.

Elections

If a public employer does not grant recognition voluntarily, Section 12 of PERA authorizes the selection of a representative by means of a Consent Election or a Commission-Directed Election (CDE). Under either procedure, a petition for an election may be filed by a group of public employees, an individual, or a labor organization acting on their behalf. (See Appendix, Petition for Representation Proceedings, Form 1.)

PERA requires that documentary evidence be presented to the Commission establishing that at least 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by the petitioner. This “showing of interest” must be submitted with the petition. Unless an original showing of interest is received within 48 hours of filing, the petition will be dismissed. Cards or petitions that merely request an election but do not designate the labor organization as the employees’ agent for the purpose of collective bargaining are not a valid showing of interest.

Where a showing of interest has been established and the parties agree on the appropriate bargaining unit, they then may agree to a Consent Election. In such case, the parties sign a Consent Agreement authorizing the Commission to conduct an election at an agreed upon time and place. (See Appendix, Agreement for Consent Election, Form 2.) In some cases, another labor organization will request to be included on the ballot. The Commission will permit this rival organization to participate in the election if it establishes by a showing of interest that 10 percent of the employees in the unit wish to be represented by it. This labor organization, referred to as an “intervenor,” merely has the right to be included on the ballot; it cannot contest the designation of the bargaining unit previously agreed upon by the petitioner and employer, or determined by the Commission.

Commission-Directed Elections

When the parties are in dispute about the composition of the bargaining unit, voter eligibility, or other issues, and are unable to agree to a Consent Election, the case is referred to an Administrative Law Judge (ALJ) who conducts a formal hearing. At the hearing, which will be public unless otherwise ordered by the ALJ, the parties have the right to appear in person or by a representative and give testimony and other evidence. They may, for example, present evidence concerning the proposed bargaining unit, challenging the community of interest standard, or the eligibility of specific positions to be included in, or excluded from, the bargaining unit. A party may assert that the bargaining unit improperly includes rank and file employees along with their “supervisors,” or that employees who are “confidentials” or “executives,” as those terms have been defined in labor relations cases, are improperly included in the bargaining unit. (See pages 6–8 of this booklet, for more discussion on bargaining unit determinations.) Following the hearing, the Commission will review the record, resolve all contested matters, and issue an order directing that an election be held in a defined bargaining unit (a Commission-Directed Election), or dismissing the petition. PERA provides for judicial review of a Commission order with respect to an election by the filing of an appropriate appeal to the Michigan Court of Appeals. Leave to appeal to the Michigan Supreme Court may later be requested.

Timing of Petitions & Elections: Contract and Election Bars

If another labor organization or a group of employees seeks to file a petition for an election in a unit where a collective bargaining agreement is already in effect, it must file the petition during a “window period” prior to the termination of the collective bargaining agreement or after the contract’s expiration. The window period varies with the type of employer involved. In most public sector cases, the petition must be filed

no earlier than 150 days and no later than 90 days prior to the termination date of the contract. In cases involving a public school district or a public educational institution in which the contract expiration date is between June 1 and September 30, the window period is between January 2 and March 31 of the year in which the contract expires. In private sector cases, the petition must be filed no earlier than 90 days and no later than 60 days prior to the contract termination. A petition filed outside of the window period will ordinarily be dismissed. If a contract renewal has not been agreed upon during the insulated period, however, a petition may be filed any time after the expiration date of the agreement.

PERA prohibits conducting an election within twelve months after a previous valid election has been held. Accordingly, when a labor organization wins the election and is certified as representative, no petition from a rival organization, or petition from employees to decertify their designated representative, will be accepted during the twelve-month period following the date of certification. This provides the parties with an opportunity to negotiate a collective bargaining agreement without interference. Alternatively, if no labor organization is certified as a result of the election, the Commission will not accept a petition for the same unit until 60 days prior to the end of the 12-month period following the election, and an election will not be conducted until the end of the 12-month period.

When a valid collective bargaining agreement is in effect, it bars an election for up to three years after execution of the agreement. To serve as a contract bar, the collective bargaining agreement generally must be in effect for a fixed duration of at least six months and must contain substantial terms for wages, hours, and working conditions.

Employer Petitions

A public employer may also file a petition for an election (See Appendix, Petition for Representation Proceedings, Form 1) when one or more individuals or labor organizations claim to be representatives of the public employees involved. When such a demand for recognition is presented, the public employer may prefer to resolve the matter as promptly as possible. When a petition for an election is filed by a public employer, the labor organization is not required to demonstrate a formal showing of interest as long as the organization has previously requested recognition.

Election Procedures

Upon receipt of a Petition for Representation Proceedings, a MERC Elections Officer will request that the employer furnish the names and addresses of other interested parties, copies of any presently existing or recently expired collective bargaining agreements, and an alphabetical list of employees. The parties, including any intervenor, will be required to participate in a teleconference call or appear for an informal conference, so that the Elections Officer may conduct a preliminary investigation.

Prior to the conference, the Elections Officer will confidentially check the alphabetical list of employees supplied by the employer against the cards or petition(s) presented to establish the required “showing of interest.” If the comparison establishes that the showing of interest is less than 30 percent, the petition will be dismissed.

The time, date, and place of the election will be determined by the Elections Officer after consultation with the parties. At least seven business days prior to the election, the employer must file with MERC and send to all labor organizations an alphabetical list of the names and addresses of all eligible voters. Notices of Election and sample ballots must be posted five business days prior to the election in prominent places in and about the employer’s establishment. The Notice of Election sets forth the time, date, place, and purpose of the election. (See Appendix, Notice of Election and Official Ballot, Forms 3 and 4.) The election may be held on the employer’s premises, by mail ballot, or at another location agreed to by the parties and the elections officer.

Absentee ballots may be used by eligible individuals who are unable to be present at the time of the election because of sickness or physical disability. A voter must request an absentee ballot from the Commission and must return the ballot on the date specified prior to the election. Absentee ballots may also be provided in other circumstances by agreement of the parties with the approval of the Commission or its agent.

The parties to the election may each designate a representative to observe that the ballots are properly cast and votes are properly counted. An observer, who cannot be a supervisor or full-time labor organization representative, may challenge the eligibility of voters. MERC’s Elections Officer will automatically challenge a voter whose name does not appear on the voter eligibility list. In such cases, the challenged voter will be permitted to vote, but the ballot will be set aside. If the challenged ballots are necessary to decide the results of the election, the Commission will determine the merits of those ballots after a formal hearing before an ALJ.

Voting in the election is by secret ballot. In most cases, the ballots are counted by the Commission agent or agents as soon as the polls are closed, and anyone who wishes to do so may observe the count. The Commission agent will announce the results of the election as soon as the tabulation of the ballots is completed. The labor organization receiving a majority of the valid ballots cast is certified by the Commission as the exclusive collective bargaining representative of the bargaining unit. (See Appendix, Certification of Representative, Form 5.) If a majority of the valid ballots has not been cast for any labor organization appearing on the ballot, a Certification of Results is issued. (See Appendix, Certification of Results of Election, Form 6.)

Run-off elections are held when there are more than two choices on the ballot, and none of the choices receive a majority of the votes cast. In such case, the run-off election will be conducted between the two choices receiving the largest number of valid votes.

Within five business days after the election results have been tabulated and furnished to the parties, objections to the conduct of the election may be filed with the Commission by any interested party. Objections must be in writing and contain a statement of facts upon which the objections are based and the specific reasons for the objections. Objections must be served upon the other party or parties. The most frequent types of objections involve employer or union conduct or speeches that allegedly coerce employees, promises by the employer or union of special benefits, conduct that creates fear of reprisals, or conduct that interferes with the employees' free choice of a representative. Another type of objection pertains to campaigning by a party within the sight or sound of the polling place while the election is being conducted, which is prohibited by MERC.

Objection cases are heard by an ALJ, and a decision is rendered by the Commission. If the objections to the election are sustained, a new or re-run election will be ordered.

Decertification

PERA contains a provision allowing public employees, or anyone acting on their behalf, to file a petition asserting that their certified or recognized representative is no longer their representative. The petition must be signed by at least 30 percent of the employees in the unit, stating that they no longer wish to be represented for the purpose of collective bargaining by their current bargaining representative. (See Appendix, Petition for Representation Proceedings, Form 1.) The Commission will conduct a decertification election according to the election procedures described on pages 4–6 of this booklet. A rival organization may intervene so that the employees may choose to vote for either the current labor organization, the intervening labor organization, or neither.

Unit Clarification

An employer or currently-recognized labor organization may file a unit clarification (UC) petition (See Appendix, Form 1) to resolve disputes regarding the placement of one or more positions or classifications without an election. Individual employees, however, cannot file a UC petition. The unit clarification procedure is only appropriate to resolve ambiguities in the unit placement of newly created positions, or positions that have undergone recent and substantial changes in job duties or responsibilities so as to raise doubt about their inclusion or exclusion from the bargaining unit. The fact that a contract may be in effect generally will not bar the filing of a UC petition. Unit clarification is not appropriate for adding historically excluded positions to a bargaining unit. The Commission will not entertain a UC petition to alter a bargaining unit agreed upon by the parties for one year following a Consent Election. The conference and hearing procedures described on pages 4–5 of this booklet also apply to unit clarification proceedings.

Bargaining Units

As noted previously, by statute, the Commission has the sole and exclusive authority to determine an appropriate bargaining unit. Through its decisions, the

Commission has established a number of principles regarding the proper composition of bargaining units, some of which are set forth below:

Establish the largest bargaining unit that is consistent with the purpose of joining together employees with common interests for representation and bargaining. The Commission favors larger units over multiple smaller units and seeks to avoid undue fragmentation.

Bargaining history is respected. The Commission typically leaves existing units undisturbed, unless they violate statutory prohibitions. Thus, units established along departmental lines or multiple bargaining units, which the Commission might not have initially found to be appropriate, may be permitted to exist in light of a lengthy bargaining history.

Regular, part-time employees will be included in a unit of full-time employees to avoid fragmented or multiple units. Regular, part-time employees are those who perform sufficient work on a regular basis to demonstrate a substantial and continuing interest in wages, hours, and working conditions of the unit so as to maintain a community of interest with full-time employees. Casual or temporary employees (as opposed to “regular, part-time employees”) are individuals with greatly fluctuating work hours or who lack a continuing expectation of employment.

A unit of professional and non-professional employees may be appropriate; however, such a unit usually will not be appropriate in a public school district. Public school district bargaining units frequently include separate units of administrators, professionals, and support staff personnel. The latter unit may include clerical, paraprofessional, custodial, transportation, and food service workers.

Residual units of unrepresented employees are appropriate. Employees who have been historically excluded from existing bargaining units may form a residual unit. This is a means of providing all employees with an opportunity to seek representation.

A unit that includes non-supervisory employees, along with their supervisors, is inappropriate. A supervisor is an employee who has an effective role in carrying out or making recommendations regarding discipline, evaluation, or other personnel matters. Employees who make recommendations to their supervisors on these topics are supervisors for purposes of PERA if their recommendations are generally accepted without independent investigation. An employee who possesses only routine responsibility to direct or assign work, but has no other characteristics of supervisory authority, is not a supervisor under MERC’s definition. Typically, the Commission will place all supervisors in a single unit unless the supervisors perform such a wide range of functions that their interests are too diverse to permit effective representation and bargaining.

Executive employees are excluded from a bargaining unit and from the right to bargain collectively. Executive employees are individuals who are high level policy-makers, exercise substantial authority pursuant to statute or charter, or determine or

effectuate management policy on an employer-wide basis. Public school superintendents, college and university presidents, elected officials, police and fire chiefs, and heads of major city or county departments are examples of employees found to be executive employees.

Confidential employees are excluded from a bargaining unit. Confidential employees are individuals who formulate management policies regarding labor relations or provide assistance to these individuals. Employees who fall within this category are typically clerical employees, but the exclusion may also apply to employees at varying levels of the organization. The Commission does not favor widespread exclusion of employees from a bargaining unit based on the confidential designation and expects that confidential labor relations duties will be assigned to a limited number of employees.

A *severance election* occurs when a group of employees currently included in a bargaining unit is permitted to vote to bargain as a separate unit. The Commission will permit a severance only in very rare circumstances, where an “extreme” divergence of “community of interest” is shown.

UNFAIR LABOR PRACTICES

Unfair Labor Practices by Public Employers

To protect the right of public employees to form a union, PERA sets forth various employer and union unfair labor practices. Section 10(1)(a) of PERA declares it unlawful for a public employer to interfere with, restrain, or coerce public employees in the exercise of their right to organize together or to form, join, or assist in labor organizations, to engage in lawful concerted activities, and/or to negotiate or collectively bargain. Under this prohibition, for example, employers may not threaten employees with loss of jobs or benefits if they join or vote for a union, nor may they interrogate employees about their union activities or membership under circumstances that tend to restrain or coerce them. Public employers are also prohibited from unilaterally granting salary increases that are deliberately timed to discourage employees from forming or joining a union.

Section 10(1)(b) of PERA declares it an unfair labor practice for a public employer to initiate, create, dominate, contribute to, or interfere with the formation or administration of any labor organization. This provision outlaws so-called “company unions,” which are unions dominated by employers. It also prohibits an employer from contributing money to a labor organization or giving one union advantages that the employer denies to rival organizations. Public employers may not take an active part in organizing a labor organization, bring pressure on employees to join a union, or solicit applications for membership in a labor organization.

Section 10(1)(c) of the Act declares it unlawful for a public employer to discriminate with regard to the hiring of employees or in their terms or conditions of employment in order to encourage or discourage membership in a labor organization. The types of discrimination prohibited under this section include: an employer’s refusal to hire an employee; the discharge, demotion, or reassignment of an employee to a less desirable job; or the withholding of benefits from an employee in order to discourage or encourage membership in a union. However, PERA does not prohibit a public employer from taking disciplinary action or from transferring, discharging or laying off a public employee for valid economic reasons or for good cause.

Section 10(1)(d) of PERA declares it an unfair labor practice for a public employer to discriminate against a public employee who has given testimony or instituted proceedings under this Act. This section protects public employees who attempt to exercise their PERA rights. Thus, public employers are prohibited from discharging, laying off, or engaging in any discriminatory conduct against employees because they have filed unfair labor practice charges, participated in filing a petition for an election, or testified in proceedings against the public employer.

Section 10(1)(e) of PERA makes it unlawful for a public employer to refuse to bargain collectively with the representatives of its employees. The duty of a public employer to bargain includes the obligation to meet with the union at reasonable times and to confer in good faith with respect to wages, hours, and other terms and conditions of employment. Such subjects are referred to as “mandatory subjects of bargaining.” An employer may not take unilateral action on a mandatory subject of bargaining without negotiating such changes to impasse. An impasse occurs when the parties have exhausted all means of reaching an agreement on a particular subject. However, the duty to bargain does not require either party to agree to a proposal or make a concession.

If a violation of this section is alleged, the employer’s entire course of conduct will be examined to determine whether it is negotiating in good faith and with the intention of reaching an agreement.

Matters not considered mandatory subjects of bargaining are classified as permissive, illegal, or prohibited subjects. The parties may bargain by mutual agreement, but neither the union nor the employer may insist on bargaining a permissive subject to the point of impasse. Examples of permissive subjects of bargaining include a proposal to provide benefits to current retirees or to include the union insignia on employer products.

An illegal subject of bargaining is one that is unlawful under a collective bargaining statute or other law. While the parties are not forbidden from discussing an illegal subject during bargaining, any contract provision containing such a subject is unenforceable. With respect specifically to public school employers and their bargaining representatives, PERA sets forth nine categories that are referred to as “prohibited” subjects of bargaining. These include such matters as: the policyholder of an employee group insurance benefit; contracting out of noninstructional support services if the bargaining unit providing the services is given an opportunity to bid on the contract on an equal basis as other bidders; the establishment of the starting day for the school year; and the use of volunteers to provide services at schools. The statute states that collective bargaining shall not include these subjects and that they are “within the sole authority of the public school employer to decide.”

The duty to bargain in good faith also requires an employer to provide the bargaining agent with information that the agent needs to fulfill its responsibilities to negotiate and administer the collective bargaining agreement. This may include information about the employer’s financial situation.

Unfair Labor Practices by Labor Organizations

Section 10(3)(a) of PERA provides that it is unlawful for a labor organization or its agents to restrain or coerce public employees in the exercise of their rights under the Act. However, labor organizations have the right to prescribe their own rules concerning membership. Illegal restraint or coercion by a union includes threats to harm employees who will not join or are not dues-paying members of the union, or threats to employees if they refuse to support union activities.

Under Section 10(3)(a), a union also has a duty to fairly represent its bargaining unit members. This duty of fair representation extends to both the negotiation and administration of the contract. To satisfy its obligations, the union must serve the interests of all members of the bargaining unit that it represents without hostility or discrimination, exercise its discretion in complete good faith and honesty, and avoid arbitrary conduct. With respect to grievance processing, a union has considerable discretion and is permitted to consider various factors in deciding how far to carry a grievance and which cases should proceed to arbitration. The union may consider the burden on the grievance procedure, the significance of the grievance, the likelihood of success, and the cost involved.

Section 10(3)(b) of PERA declares it to be an unfair labor practice for a labor organization “to cause or attempt to cause a public employer to discriminate against a public employee.” For example, it is unlawful for a union to cause an employer to discharge an employee for speaking against a tentative agreement reached by the union, or to enter into a contract requiring that an employer hire only union members or employees satisfactory to the union.

Section 10(3)(c) of PERA states that it is unlawful for a labor organization “to refuse to bargain collectively with a public employer.” This requires good faith in bargaining. Examples of violations of this section include refusing to sign a written contract after an agreement is reached or refusing to meet with the representative selected by the employer.

Union Security Agreements

A union security agreement is a provision in a collective bargaining agreement requiring all members of the bargaining unit to either join or financially support the union. Such agreements are believed to fairly distribute the cost of union representation and to counteract the incentive for employees to become “free riders” — that is, to obtain the benefits of representation without contributing to the payment of the costs of representation.

PERA permits only one form of a union security agreement — the agency shop. Section 10(2) of the Act authorizes the union and a public employer to enter into an agreement under which each employee must either become a member of the union and pay full union dues, or pay to the union a “service fee.”

Employees who decide to forgo union membership and become agency or service fee payers are generally entitled to the same contract benefits as full union members. The union must represent service fee payers fairly and without discrimination or reprisal. Thus, service fee payers will receive the benefit of all contract provisions, as well as union representation during grievance proceedings. The union may, however, limit some rights to members, including the right to vote to ratify a collective bargaining agreement, the right to serve as a union official, and the right to vote for union officers.

Membership dues and service fees are usually collected in the form of a dues check-off. A dues check-off authorizes the employer to automatically deduct dues or service fees from the employee’s paycheck. Once a collective bargaining agreement has expired, an employer has no obligation to continue dues check-off. The employer and the union, however, may mutually agree to continue to deduct union dues during negotiations for a new contract. Nonpayment of union dues or service fees may result in an employee’s discharge, in loss of membership in the union, or in a civil collection action. MERC has recognized that enforcement of an agency shop provision is an internal union matter that the Commission will not regulate unless there is some direct impact on representation or employment rights.

Although agency shop provisions are permissible under PERA, constitutional free speech and free association guarantees require that non-members who object pay only for expenses incurred by the union in fulfilling its role as exclusive representative. Activities chargeable to non-members are those directly related to collective bargaining, contract administration, and grievance processing. A non-member who objects to expenditures unrelated to these activities may assert his or her right to dissent from payment of the full service fee through appropriate procedures that are established by the union. The employee cannot be forced to identify the union expenditures to which the employee objects, nor is the employee required to prove the validity of the objection. Once such an objection is made, the union must prove the amount of chargeable expenses for the period in question. If the employee disagrees with the union's determination, he or she is entitled to a hearing before an impartial decision-maker (outside of MERC) who will determine whether the expenses are legitimate.

Unfair Labor Practice Procedures

Charges of unfair labor practices under PERA may be filed (1) by a labor organization or public employee against a public employer or, (2) by a public employer, public employee, or labor organization against a labor organization. An original and four copies of the charge must be filed with the Commission on an official form furnished by the Commission (See Appendix, Charge, Form 7), and the person or party filing ("charging party") must serve a copy on the charged party ("respondent") at the same time. There is a strict six-month statute of limitations for the filing of charges, and a charge alleging an unfair labor practice occurring more than six months prior to the filing and service of the charge will be dismissed.

The charge must contain a clear and complete statement of the alleged violation and the facts supporting the charge, such as the dates, times, places of occurrence, names of persons involved, and the sections of PERA allegedly violated. The charge will be assigned to an ALJ, who will forward a copy to all parties, along with a notice that a formal hearing has been scheduled. The Commission does not investigate charges before conducting a hearing. If the facts described in the charge do not allege a violation of PERA, the Commission may dismiss the charge without taking evidence but, if requested, must allow the charging party the opportunity to present oral argument against the dismissal.

The respondent may file an original and four copies of an answer to the charge with the Commission and, if it does so, must serve a copy on the charging party or parties. If the charge is vague, the respondent may file a motion requesting that the Commission order the charging party to provide more specific information.

Charges may be withdrawn or amended with the approval of the Commission or the ALJ assigned to the case. The Commission encourages settlements by the parties and, at any point prior to the issuance of a final order, the parties may negotiate a settlement of the unfair labor practice charge. If the matter is not settled, however, a formal hearing before an ALJ will be held. These formal hearings are usually held in Detroit or Lansing

and are open to the public, unless otherwise ordered by the ALJ. At the hearing, the parties have the right to appear in person and to be represented by counsel, to examine and cross-examine witnesses, and to introduce documentary evidence. The charging party ordinarily presents its case first. It has the right to call witnesses, who may be examined and cross-examined by an attorney or other representative of each party. The respondent has the same opportunity to present witnesses and submit documentary evidence in its own defense. The ALJ has the authority to issue subpoenas, administer oaths, take testimony, hold pretrial conferences, examine witnesses, and regulate the entire course of the hearing. Closing arguments may be presented at the conclusion of the hearing, and post-hearing briefs are typically filed.

Based on the evidence and arguments presented at the hearing, the ALJ issues a “Decision and Recommended Order” containing findings of fact and conclusions of law, reasons for the conclusions, and a recommended order that the Commission may adopt. If the allegations are not supported by the evidence, the ALJ may recommend dismissal of the charges. If the ALJ finds a violation, he or she may issue a recommended order that a party cease and desist from the unlawful activity and take affirmative action, such as reinstatement of the discharged employee and/or the payment of back pay.

Within 20 days after a recommended order has been issued by the ALJ, either party may appeal that decision by filing with the Commission an original and four copies of exceptions to the ALJ’s decision and recommended order. The exceptions must be accompanied by two copies of all exhibits submitted at the hearing and a statement that the exceptions and brief have been served on the opposing party. The exceptions must identify and explain in detail the questions of procedure, fact, or law in the ALJ’s decision and recommended order that are alleged to be erroneous. Briefs are usually filed with the exceptions, and the opposing party may file a brief in response and/or cross exceptions. When exceptions are filed, the Commission reviews the entire case and issues an appropriate order either adopting, modifying, or reversing the ALJ’s decision and recommended order. If no exceptions are filed within 20 days, the ALJ’s recommended order becomes the order of the Commission. Disputes over the application or interpretation of the remedy in the Commission’s order may be resolved by a compliance hearing before an ALJ. If the respondent refuses to comply with a Commission order, the charging party may seek enforcement in the Court of Appeals. A party who disagrees with the Commission’s final order may file an appeal with the Court of Appeals. Ultimately, review by the Michigan Supreme Court may be available.

MEDIATION PROCESS AND PROCEDURE

Contract Mediation

Section 7 of PERA authorizes the bargaining representative or the public employer to request that the Commission intervene and mediate matters, including disputes concerning new contracts, contract renewals, and grievances. 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 by themselves; 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, 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.” To notify the Commission, public sector entities file the Notice of Status of Negotiations — Public Employment form. (See Appendix, Form 8.) Private sector entities also must file with the Commission, utilizing a form furnished by the Federal Mediation & Conciliation Service. Thereafter, a mediator will be assigned to the case, who will remain in contact with the parties to monitor the progress in negotiations.

When a request for mediation assistance is received, the mediator will arrange a conference at which he or she will provide the parties with an opportunity to completely discuss the issues in dispute. The mediator may meet separately with each party to discuss the issues and explore areas of compromise. The mediator has no authority to impose a settlement or issue a directive on disputed issues. However, by virtue of his or her objectivity, neutrality, and experience, the mediator frequently is in a better position than the parties to probe and explore areas of compromise and to offer suggestions as to how the dispute may be resolved. The mediator can restore or improve the lines of communication that are sometimes disrupted or destroyed during contentious negotiations. He or she is able to control the mechanics of negotiations so that neither party may seek or avoid a meeting as a bargaining tactic. A mediator also may present new approaches and create an atmosphere that is more conducive to resolving the dispute. In separate sessions, the mediator can point out weaknesses, encourage a change in positions, and recommend alternatives. In essence, mediation is an extension of the collective bargaining process with the addition of a neutral third party.

The Commission has consistently required that all mediation conferences be private. Otherwise, instead of trying to resolve the dispute, the parties might speak for the record, seeking to obtain favorable publicity, or might be restricted in their statements when the public and the press are present.

To make effective use of the services of a mediator, parties must be willing to share all information with him or her. Information disclosed to a mediator in the performance of his or her duties is strictly confidential and may not be divulged. This rule protects the parties in their disclosures to the mediator and assures the strict confidence necessary to the mediation process.

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. The Commission offers grievance mediation at no charge to the parties. A mediator generally is 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.

Collaborative Bargaining

Many employers and labor organizations believe that a cooperative approach to collective bargaining is more effective than the traditional adversarial approach. Cooperative bargaining is identified under several terms, including “principled bargaining,” “mutual gains,” “best practice,” “integrative,” “win-win,” “collaborative,” and “interest-based” bargaining. 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. The collaborative bargaining process utilizes a facilitator during the course of bargaining. In some cases, the parties will contract with a facilitator who is familiar with the collaborative bargaining process to perform that role. Typically, however, facilitation of the bargaining process is done internally by the parties themselves. Following training by a MERC mediator, the mediator who provided the training 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. A request for training well before contract expiration is recommended.

FACT FINDING

If bargaining and mediation have failed to result in a final agreement, either or both parties may petition for fact finding. The neutral fact finder, following the process described below, will issue a non-binding recommendation for settlement of the contractual dispute. Since strikes are prohibited in the public sector, fact finding is the final impasse resolution procedure available to public sector employees, except for public safety personnel who are subject to Act 312 arbitration. (See discussion on pages 17–18 of this booklet.)

Under Section 25 of the Labor Mediation Act, either party may initiate the fact finding process, or the Commission, on its own motion, may do so. The petition for fact finding should be on a Commission-approved form. (See Appendix, Petition for Fact Finding, Form 9.) Commission rules require that an answer to the petition be filed and served on the other party.

After a petition is filed and docketed, the Commission will appoint a fact finder from its panel of neutrals, who will conduct a hearing relating to all of the facts in dispute. The hearing will be conducted in public, unless otherwise directed by the fact finder. The purpose of the hearing is to permit the parties to present facts and witnesses in support of their positions. No formal record is made of the proceedings; however, post-hearing briefs are often filed. Ultimately, the fact finder will issue written recommendations on those contract provisions in dispute. The value of fact finding is that after a formal hearing, the parties receive an objective and professional evaluation of their bargaining positions. While the fact finder's report is not binding, the parties may accept his or her recommendations in whole or in part. Parties often return to negotiations or mediation after fact finding and are frequently able to resolve their differences.

ACT 312—COMPULSORY ARBITRATION FOR POLICE AND FIRE DEPARTMENTS

In 1969, the Michigan Legislature enacted Act 312 to provide employees of municipal police and fire departments “an alternate expeditious, effective and binding procedure for the resolution of disputes . . .” To that end, Act 312 provides for compulsory arbitration of unresolved contract disputes in police and fire departments operated by a city, county, village, or township. Employees covered by Act 312 include municipal police officers and firefighters, as well as emergency medical personnel and emergency telephone operators employed by a municipal police or fire department. Act 17 of 1980 provides for similar arbitration between the State of Michigan and the labor organization representing state police troopers and sergeants.

Act 312 is not intended to supplant the collective bargaining that takes place between the parties; instead, it is the final step in that process, and the parties bring to the Act 312 forum only those issues that were previously considered during bargaining and mediation. The resolution of grievances is expressly excluded from the Act 312 process.

Thirty days after submission of a dispute to mediation, either the employer or the labor organization may initiate binding Act 312 arbitration by filing with the Commission a Petition for Act 312 Arbitration (See Appendix, Petition for Act 312 Arbitration, Form 10) and serving a copy on the opposing party. The petition must include a copy of the last offer of settlement made by each party and a copy of the most recent labor agreement.

Within 10 days of the filing of the petition, each party must select one person to be its delegate to serve on the three-member arbitration panel called for by the statute. The Commission selects three persons from its arbitration panel and provides the names of the nominees to the parties, who each have five days to strike one name. The Commission will designate the remaining nominee as the impartial member, who will serve as the panel chairperson. At any time before this appointment by the Commission, the parties may mutually agree to select an individual from the Commission’s panel of arbitrators or someone eligible for membership on the panel to act as chairperson and, if so, must notify the Commission of their selection. Significantly, while arbitration proceedings are pending, neither party may change existing wages, hours or other conditions of employment without the consent of the other side.

Following his or her appointment, the chairperson will conduct a prehearing conference with the parties to discuss matters such as the means to identify resolved and unresolved issues, the time and manner of exhibit exchange, and the dates, times, and location of the hearing. The parties have the opportunity to present oral and documentary evidence at the hearing. At any time prior to the issuance of an award, the chairperson may remand the dispute to mediation for a period not to exceed three weeks if he or she believes that further negotiations might facilitate a settlement of all or part of the unresolved issues. The arbitration panel’s award must be based on the criteria set forth in the statute, which include the financial ability of the employer, the wages, hours, and

conditions of employment of employees in communities determined to be “comparable” and of employees within that same jurisdiction and the cost of living.

After the hearing, the parties submit their last offers of settlement on each disputed economic and non-economic issue. Regarding economic issues, the panel must adopt the last offer of settlement that, in its opinion, most nearly complies with the criteria set forth in the statute. The panel is not authorized to reject both of the final offers and craft its own award on economic issues, or to order each party to compromise on its positions. Non-economic issues, however, are not subject to the last offer requirement, and the arbitration panel is free to impose any award it deems appropriate based on the statutory criteria.

The panel’s award must include written findings of fact, as well as an opinion and order concerning each of the issues presented by the parties. If supported by competent, material, and substantial evidence on the record as a whole, the majority decision of the arbitration panel is binding upon the parties and enforceable in circuit court. The panel must issue an award within 30 days of the conclusion of the hearing, or any additional period to which the parties may agree. The award must include a resolution on all of the disputed issues.

STRIKES AND LOCKOUTS IN THE PUBLIC SECTOR

Strikes by public employees in Michigan are illegal. The Hutchinson Act, which was passed in 1947, prohibited strikes by one or more public employees and required automatic discharge whenever any public employee engaged in a strike. PERA, enacted in 1965, continued the prohibition against strikes by public employees, but eliminated automatic discharge penalties. In 1994, the legislature amended PERA by enactment of Public Act 112. This amendment, which applies only to public school employees, strengthened enforcement of the strike prohibition and made lockouts by public school employers unlawful as well. Act 112 imposes a fine on the employee of one day's pay for every day that a public school employee is on strike.

Act 112 Procedures

The enforcement provisions of Act 112 are initiated by the filing of a petition. (See Appendix, Notice of Public School Employee Strike, Form 11 and Notice of Public School Employer Lockout, Form 12.) Upon receipt of a notice of an illegal strike or lockout filed in accordance with Commission rules, together with required affidavits, the Commission will serve notice of a hearing on the parties within five days and schedule a hearing in not less than 15 days from the date of service by mail. Any answer to the petition must be filed within 10 days of service of the notice of hearing. A hearing will be held, and the Commission must issue its decision within 60 days of the filing of the petition.



Authority: PA 380 of 1965,
as amended

PETITION FOR REPRESENTATION PROCEEDINGS
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
EMPLOYMENT RELATIONS COMMISSION (MERC) LABOR RELATIONS DIVISION

Completion: Mandatory
Penalty: Case will not be opened
if this form is not used.

INSTRUCTIONS: Submit an original and 4 copies of this Petition to: Employment Relations Commission, Cadillac Place, 3026 W Grand Boulevard, Suite 2-750, PO Box 02988 Detroit MI 48202-2988. (Use additional sheets if necessary)	DO NOT WRITE IN THIS SPACE	
	Case Number:	Date Filed:

1. Purpose of this Petition: (Check only the one box which is appropriate.)

- A. **RC — CERTIFICATION OF REPRESENTATIVE** — A majority of the employees in the unit wish to be represented for purposes of collective bargaining by Petitioner, and Petitioner desires to be certified as representative of the employees for purposes of collective bargaining. (An original showing of interest by 30% or more of the employees in the unit must accompany this form or be submitted within 48 hours of filing.)
- B. **RM — REPRESENTATION (EMPLOYER)** — One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
- C. **RD — DECERTIFICATION** — A majority of the employees in the unit claim that the certified or currently recognized bargaining representative is no longer their representative. (An original showing of interest by 30% or more of the employees in the unit must accompany this form or be submitted within 48 hours of filing.)
- D. **SD — SELF-DETERMINATION** — Multiple units represented by the same labor organization and same employer seek to be represented in one unit. (No showing of interest required.)
- E. **UC — UNIT CLARIFICATION** — A labor organization is currently recognized by the employer, but Petitioner seeks clarification of placement of certain positions. (A petition for unit clarification does not raise a question concerning representation and cannot be used where an RC or RM petition is appropriate.)

2. Name and Address of Employer:

3. Type of Employer: (Check appropriate box) Governmental Private Telephone No. ()

4. Description of Claimed Bargaining Unit Involved: (Attach additional sheets if necessary.) For UC petition, describe current bargaining unit and attach specific description of proposed clarification. INCLUDED: EXCLUDED:	5. Approximate Number of Employees in Unit:
	6. Date of Demand for Recognition: Date Employer Declined Recognition:

7. Name and Address of any Other Labor Organizations or Parties that May Claim an Interest in Representing the Employees Described in Item 4 Above (If NONE, so state):	Date of Recognition or Certification: Date of Claim: (Required only if RM Petition)
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8. Date of Expiration of Current Contract, if any: Month: Day: Year:

I HAVE READ THE ABOVE PETITION AND IT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Petitioner and Affiliation:	Title:
Name of Representative or Person Filing Petition	Email:
Signature: Printed:	Telephone No.: ()
Address:	Fax No.: ()

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.



AGREEMENT FOR CONSENT ELECTION
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
Employment Relations Commission

AUTHORITY: P. A. 380 OF 1965
 As Amended

1. ELECTION BY SECRET BALLOT – An election by secret ballot shall be conducted under the direction and supervision of an agent of the Employment Relations Commission among all employees in the Unit defined below at the indicated time and place, to determine the representative, if any, desired by them for the purpose of collective bargaining. Said election shall be held in accordance with the Commission's General Rules and Regulations and the policies and customary procedures of the Commission. The results of the election shall be binding on all parties to the election. The parties hereto certify that, to the best of their knowledge, no other labor organization claims a representative interest.

2. ELIGIBLE VOTERS – The eligible voters shall be those employees included within the unit described below who were employed during the payroll period indicated below, including employees who did not work during said payroll period because they were ill, or on vacation, or temporarily laid off, and employees in the military service of the United States who appear in person at the polls, but excluding any employees who have, since the payroll period eligibility date, quit or been discharged for cause and have not been rehired or re-instated prior to the date of the election, or who, because of other changes of work status, are no longer a part of the bargaining unit. The Employer shall furnish to the Commission and the labor organizations involved an accurate list of the names and addresses of all eligible voters in alphabetical order in accordance with Rule 45 of the Commission's General Rules and Regulations.

3. NOTICES OF ELECTION – The Commission shall prepare a Notice of Election together with a sample ballot and supply copies to the parties. The Employer shall post such documents in a prominent place or places easily accessible to the eligible voters in accordance with Rule 45 of the Commission's General Rules and Regulations.

4. OBSERVERS, CHALLENGES, BALLOTS, OBJECTIONS, ELECTION RESULTS, RERUN, AND RUNOFF ELECTIONS – Designation of observers, challenges of voters, ballots, objections to elections, election results, rerun and runoff elections and all related matters shall be governed by the provisions of Rules 45, 46, 47, 48 and 49 of the Commission's General Rules and Regulations.

5. VOIDING OF CONSENT ELECTION AGREEMENTS – If the Commission concludes, at any time prior to the election, that, in its opinion, a fair election cannot be held, the Commission may terminate this Agreement by notice to the parties.



NOTICE OF ELECTION

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS Employment Relations Commission

AUTHORITY: P. A. 380 OF 1965
As Amended

PURPOSE OF ELECTION

An election by secret ballot will be conducted under the direction and supervision of the Michigan Employment Relations Commission among the eligible voters described herein to determine the representative, if any, desired by them for the purposes of collective bargaining with their employer.

SECRET BALLOT

The election will be by secret ballot. Electioneering will not be permitted at, or near the polling place. Any violation should be reported immediately to the Commission Agent in charge of the election. An agent of the Commission will hand a ballot to each eligible voter at the voting place. The voter will then mark the ballot in secret and fold it so that no part of the face thereof shall be exposed, and then deposit the ballot in the ballot box.

ELIGIBLE VOTERS

EMPLOYER:

Those eligible to vote are:

who were employed during the payroll period ending , including employees who did not work during said payroll period because they were ill, or on vacation, or temporarily laid off, and employees in the military service of the United States who appear in person at the polls, but excluding any employees who have, since the payroll period eligibility date, quit or been discharged for cause and have not been rehired or re-instated prior to the date of the election, or who, because of other changes of work status, are no longer a part of the bargaining unit.

INFORMATION CONCERNING ELECTION

Any person who wants further information concerning the election should contact the Employment Relations Commission.

PLACE AND TIME OF ELECTION

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, handicap, or political beliefs.



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

OFFICIAL BALLOT

TO DETERMINE THE EXCLUSIVE REPRESENTATIVE FOR THE PURPOSES
OF COLLECTIVE BARGAINING FOR CERTAIN EMPLOYEES OF THE

1. This is a SECRET BALLOT. DO NOT SIGN your name.
2. MARK an "X" in ONE SQUARE ONLY.
3. If you spoil your ballot, return it to the Commission Agent and obtain a new one.
4. Fold your ballot so that no part of the face thereof is exposed, and deposit it in the ballot box.

Do you desire to be represented by the following as your exclusive representative for the purpose of collective bargaining?

YES

NO

MARK an "X" in ONE SQUARE ONLY.

This is a secret ballot and MUST NOT be signed.



CERTIFICATION OF REPRESENTATIVE
Michigan Department of Licensing and Regulatory Affairs
Employment Relations Commission (MERC)
Labor Relations Division

AUTHORITY: P. A. 380 OF 1965
As Amended

Case No.

An election having been conducted in the above matter by an Agent of the Michigan Employment Relations Commission in accordance with the Rules and Regulations of the Commission, and it appearing from the tabulation of election results that a collective bargaining representative has been selected.

Pursuant to authority vested in the Michigan Employment Relations Commission, **IT IS HEREBY CERTIFIED** that

Has been designated and selected by a majority of the employees of the above-named employer, in the unit described below, as their representative for the purposes of collective bargaining, and that pursuant to Sections 26 and 27 of Act No. 176 of the Public Acts of 1939, as amended, or Sections 11 and 12 of Act 336 of the Public Acts of 1947, as amended, the said organization is the exclusive representative of all the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

Unit:

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

COPY TO:



CERTIFICATION OF RESULTS OF ELECTION
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
Employment Relations Commission (MERC)
Labor Relations Division

AUTHORITY: P. A. 380 OF 1965
As Amended

Case No.

An election having been conducted in the above matter by an Agent of the Michigan Employment Relations Commission in accordance with the Rules and Regulations of the Commission, and it appearing from the tabulation of election results that no collective bargaining representative has been selected.

Pursuant to authority vested in the Michigan Employment Relations Commission,

IT IS HERE BY CERTIFIED that a majority of the valid ballots has not been cast for any labor organization appearing on the ballot, and that no such organization is the exclusive representative of all the employees, in the unit herein involved, within the meaning of Sections 26 and 27 of Act No. 176 of the Public Acts of 1939, as amended, or Sections 11 and 12 of Act 336 of the Public Acts of 1947, as amended.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

COPY TO:



CHARGE

Michigan Department of Licensing and Regulatory Affairs
Employment Relations Commission (MERC)
Labor Relations Division
313-456-3510

Authority: P.A. 380 of 1965, as amended.

INSTRUCTIONS: File an **original** and **4 copies** of this charge (including attachments) with the Employment Relations Commission at: Cadillac Place, 3026 W. Grand Boulevard, Suite 2-750, PO Box 02988, Detroit MI 48202-2988 or 1375 S. Washington St., Lansing MI 48910. **The Charging Party must serve the Charge on the opposing side within the applicable statute of limitations, and must file a statement of service with MERC.** (Refer to the "How to File a Charge" document under the "Forms" link at www.michigan.gov/merc.)

Complete Section 1 if you are filing charges against an employer and/or its agents and representatives. — or —

Complete Section 2 if you are filing charges against a labor organization and/or its agents and representatives.

1. EMPLOYER AGAINST WHICH THE CHARGE IS BROUGHT

Check appropriate box: Private Governmental

Name and Address:

2. LABOR ORGANIZATION AGAINST WHICH THE CHARGE IS BROUGHT

Name and Address:

3. CHARGE

Pursuant to the Labor Mediation Act (LMA) or Public Employment Relations Act (PERA) (*cross out one*), the undersigned charges that the above-named party has engaged in or is engaging in unfair labor practices within the meaning of the Act.

On an attached sheet you must provide a clear and concise statement of the facts which allege a violation of the LMA or PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged in the complained of conduct. The charge should describe who did what and when they did it, and **briefly** explain why such actions constitute a violation of the LMA or PERA.

The Commission may reject a charge for failure to include the required information. However, it is not necessary to present your case in full at this time. Documentary material and exhibits ordinarily **should not** be submitted with this charge form.

4. Name and Address of Party Filing Charge (Charging Party)
(if labor organization, give full name, including local name and number)

Telephone Number:

()

5. List ALL related MERC case(s) (if any): _____

(Name of parties)

Case No.: _____ Judge: _____

Case No.: _____ Judge: _____

I have read this charge and it is true to the best of my knowledge and belief.

Email:

Signature of Representative/Person Filing Charge

Telephone/Cell No.:

Print Name and Title:

Fax No.:

Street Address:

City:

State:

Zip Code:

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

NOTICE OF STATUS OF NEGOTIATIONS—PUBLIC EMPLOYMENT
 MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
 EMPLOYMENT RELATIONS COMMISSION
 Mediation Division

INSTRUCTIONS: Submit this form at least 60 days before the expiration date of a collective bargaining agreement involving public employees to the Employment Relations Commission. This notice is required by Sec. 7(2) of Act 336 Public Acts of 1947, as amended by Act 25 Public Acts of 1973; and/or Federal Law.

1. Name and Address of Public Employer: _____ Phone No. _____

Name and Title of Official to communicate with: _____ Phone No. _____

Address (If different from above) _____

2. Name and Address of Labor Organizations _____ Phone No. _____

Name and Title of Official to communicate with: _____ Phone No. _____

Address (If different from above) _____

3. Number of Employees covered by the agreement: _____

Description of bargaining unit: _____

4. Expiration or reopening date of agreement: _____

5. Status of negotiations (Use separate sheet if necessary): _____

6. Name, Title and Address of Official filing this notice: _____ Phone No. _____

 Signature of Official

 Date

INTERNET



PETITION FOR FACT FINDING
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
 Employment Relations Commission (MERC)

MEDIATION CASE NO.
MEDIATOR

AUTHORITY: P.A. 380 OF 1965 AS AMENDED COMPLETION: MANDATORY PENALTY: CASE WILL NOT BE OPENED WITHOUT USE OF THIS FORM	
--	--

(A) INSTRUCTIONS: PETITIONER SHALL CAUSE THE ORIGINAL TO BE SERVED ON THE OTHER PARTY TO THIS CASE, AND (4) COPIES WITH A PROOF OF SERVICE TO BE FILED WITH MERC. USE EXTRA SHEETS, IF NECESSARY.	(B) IF THE PARTIES HAVE MUTUALLY SELECTED A FACT FINDER, PLEASE PROVIDE THE NAME AND TELEPHONE NO./FAX NO.
---	--

(C) THIS PETITION IS FILED BY: EMPLOYER UNION

1. PUBLIC EMPLOYER NAME	1a. PRINCIPAL REPRESENTATIVE:	
ADDRESS (STREET NO. AND NAME)		
CITY	STATE	ZIP CODE
TELEPHONE NO. (INCLUDE AREA CODE)	FAX NO.	

2. NAME OF LABOR ORGANIZATION	2a. PRINCIPAL REPRESENTATIVE:	
ADDRESS (STREET NO. AND NAME)		
CITY	STATE	ZIP CODE
TELEPHONE NO. (INCLUDE AREA CODE)	FAX NO.	

3. UNIT DESCRIPTION	3a. NO. OF EMPLOYEES IN UNIT	3b. CONTRACT EXPIRATION DATE

4. UNRESOLVED ISSUES IN DISPUTE AND FACTS RELATING THERETO THAT THE PETITIONER HAS ENGAGED IN GOOD FAITH BARGAINING AND MEDIATION, AND THE PARTIES HAVE NOT SUCCEEDED IN RESOLVING THE DISPUTED MATTERS.

4a. THE FOLLOWING IS A STATEMENT OF REASONS WHY PUBLICIZING THE FACTS AND RECOMMENDATIONS WOULD ASSIST IN RESOLVING THE ISSUES IN DISPUTE:

5. NUMBER OF MEDIATION MEETINGS HELD	5a. DATES AND DURATION OF MEETINGS
---	---

6. I DECLARE THAT I HAVE READ THE ABOVE PETITION AND THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME: _____ ADDRESS: _____

SIGNATURE _____ DATE: _____

TELEPHONE & FAX NOS. INCLUDE AREA CODE: _____ c:\data\forms\petition.flm\myb rev01/11/2010

THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS WILL NOT DISCRIMINATE AGAINST ANY INDIVIDUAL OR GROUP BECAUSE OF RACE, SEX, RELIGION, AGE, NATIONAL ORGIN, COLOR, MARITAL STATUS, DISABILITY OR POLITICAL BELIEFS. IF YOU NEED ASSISTANCE WITH READING, WRITING, HEARING, ETC. UNDER THE AMERICANS WITH DISABILITIES ACT, YOU MAY MAKE YOUR NEEDS KNOWN TO THIS AGENCY.



PETITION FOR ACT 312 ARBITRATION
EMPLOYMENT RELATIONS COMMISSION (MERC)
 Michigan Department of Licensing and Regulatory Affairs

MEDIATION CASE NO.
MEDIATOR

AUTHORITY: P.A. 312 OF 1969, AS AMENDED COMPLETION: MANDATORY PENALTY: CASE WILL NOT BE OPENED WITHOUT USE OF THIS FORM	T HE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS WILL NOT DISCRIMINATE AGAINST ANY INDIVIDUAL OR GROUP BECAUSE OF RACE, SEX, RELIGION, AGE, NATIONAL ORIGIN, COLOR, MARITAL STATUS, DISABILITY, OR POLITICAL BELIEFS. IF YOU NEED ASSISTANCE WITH READING, WRITING, HEARING, ETC. UNDER THE ADA, YOU MAY MAKE YOUR NEEDS KNOWN TO THIS AGENCY.
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(A) INSTRUCTIONS: SERVE ORIGINAL PETITION ON THE OTHER PARTY OR ITS REPRESENTATIVE, AND FILE THREE COPIES AND A PROOF OF SERVICE WITH THE COMMISSION. ALSO ATTACH A COPY OF THE DOCUMENTS DESCRIBED IN (B) BELOW.	(B) IF THE PARTIES HAVE MUTUALLY SELECTED AN ARBITRATOR, PLEASE PROVIDE THE NAME AND TELEPHONE NO. / FAX NO
---	---

(C) <input type="checkbox"/> A COPY OF THE MOST RECENT LABOR AGREEMENT BETWEEN THE PARTIES IS ATTACHED.	<input type="checkbox"/> A COPY OF THE LAST OFFER MADE BY EACH PARTY TO SETTLE THE AGREEMENT IS ATTACHED
(D) THIS PETITION IS FILED BY: <input type="checkbox"/> EMPLOYER <input type="checkbox"/> UNION	

1. PUBLIC EMPLOYER NAME			PRINCIPAL REPRESENTATIVE NAME		
ADDRESS (STREET NO. AND NAME)			ATTN:	TELEPHONE NO.	
				FAX NO.	
CITY	STATE	ZIP CODE	ADDRESS (STREET NO. AND NAME)		
TELEPHONE NO. (INCLUDE AREA CODE)	FAX NO.		CITY	STATE	ZIP CODE

2. LABOR ORGANIZATION NAME			PRINCIPAL REPRESENTATIVE NAME		
ADDRESS (STREET NO. AND NAME)			ATTN:	TELEPHONE NO.	
				FAX NO.	
CITY	STATE	ZIP CODE	ADDRESS (STREET NO. AND NAME)		
TELEPHONE NO. (INCLUDE AREA CODE)	FAX NO.		CITY	STATE	ZIP CODE

3. UNIT DESCRIPTION	NO. OF EMPLOYEES IN UNIT	CONTRACT EXPIRATION DATE
	CERTIFICATION OF REPRESENTATIVE ISSUED BY THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION (IF KNOWN): CASE NO. _____ DATE _____	

4. THE PETITIONER HAS ENGAGED IN GOOD FAITH BARGAINING AND MEDIATION AND THE PARTIES HAVE NOT SUCCEEDED IN RESOLVING THE DISPUTED MATTERS. THE FOLLOWING IS A LIST OF ANY ISSUES IN DISPUTE AND THE RELATED FACTS THERETO. (ATTACH ADDITIONAL SHEETS IF NEEDED):

5. NO. OF MEDIATION MEETINGS HELD	DATES AND DURATION OF MEETINGS
--	---------------------------------------

6. I HAVE READ THE ABOVE PETITION AND THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

PRINT NAME/TITLE: _____ DATE: _____
 SIGNATURE: _____

AUTHORITY: PA. 112 OF 1994
 COMPLETION :
 PENALTY :

NOTICE OF PUBLIC SCHOOL EMPLOYEE STRIKE
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
 Employment Relations Commission (MERC)

INSTRUCTIONS: File an **original** and **4 copies** of this notice (including 2 sets of mailing labels, an affidavit and other attachments pursuant to Rule 423.191) with the Employment Relations Commission at the Cadillac Place — 3026 W. Grand Boulevard, Suite 2-750 PO BOX 02988, Detroit, Michigan, 48202-2988, along with proof of service. Serve a copy on the employee named in item 1 and the bargaining agent named in item 7.

DO NOT WRITE IN THIS SPACE	
Case No.	Date Filled

EMPLOYEE ALLEGED TO BE ON STRIKE

Area Code and Telephone Number:

1. Name and Home Address of Employee:

2. Assigned work location (Name and Address):

3. Daily pay rate of public school employee alleged to be on strike:

4. Date(s) public school employee was allegedly engaged in a strike:

5. Total number of full or partial days public school employee was allegedly engaged in the strike as of filing:

6. Is strike still in progress? Yes No

7. Name of Bargaining Agent of employee named in Part 1:

Type of Bargaining Unit (Check One)

Teachers Transportation Maintenance Food Service Other _____

8. Name and Address of public school employer filing this notice:

Area Code and Telephone Number:

Area Code and FAX Number:

I have read the above notice and it is true to the best of my knowledge and belief.

Print Name _____

Signature of representative or person filing notice _____ Title, if any _____

Address _____ Area Code & Phone No. _____

THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS WILL NOT DISCRIMINATE AGAINST ANY INDIVIDUAL OR GROUP BECAUSE OF RACE, SEX, RELIGION, AGE, NATIONAL ORIGIN, COLOR, MARITAL STATUS, DISABILITY, OR POLITICAL BELIEFS. IF YOU NEED ASSISTANCE WITH READING, WRITING, HEARING, ETC., UNDER THE AMERICANS WITH DISABILITIES ACT, YOU MAY MAKE YOUR NEEDS KNOWN TO THIS AGENCY.

MICHIGAN DEPARTMENT OF LICENSING,
AND REGULATORY AFFAIRS

AUTHORITY: P.A. 112 OF 1994

COMPLETION :

PENALTY :

NOTICE OF PUBLIC SCHOOL EMPLOYER LOCKOUT
MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
Employment Relations Commission

INSTRUCTIONS: File an **original** and **4 copies** of this notice (including an affidavit and other attachments pursuant to Rule 423.191-194) with the Employment Relations Commission at the Cadillac Place - 3026 W. Grand Boulevard, Suite 2-750, P.O. BOX 02988, Detroit, Michigan, 48202-2988, along with proof of service. Serve a copy on the employer named in item 1 by first class mail.

DO NOT WRITE IN THIS SPACE	
Case No.	Date Filed

EMPLOYER ALLEGED TO BE ENGAGED IN LOCKOUT

Area Code & Telephone Number:

1. Name and Address of Employer:

2. Names and Home Addresses of Members of Employer's Governing Board (Attach list):

3. Date(s) public school employer was allegedly engaged in the lockout:

4. Total number of full or partial days public school employer was allegedly engaged in the lockout as of filing:

5. Is the lockout still in progress? Yes No

6. Name and Address of bargaining representative filing this notice:

Area Code & Telephone Number:
Area Code & Fax Number:

Type of Bargaining Unit (Check all that apply)

- Teachers Transportation Maintenance Food Service Other _____

I have read the above notice and it is true to the best of my knowledge and belief:

Print Name _____ Title, if any _____

Signature of bargaining representative filing notice _____ Area Code & Phone No. _____

Address _____ Area Code & Fax No. _____

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