

MERC POLICY

Application to and Removal from MERC's Act 312 Arbitrator and Fact Finder Panels

The Employment Relations Commission shall establish and appoint a panel of Arbitrators and Fact Finders who shall be known as the Michigan Employment Relations Commission panel of Arbitrators and Fact Finders. The Commission shall appoint members for indefinite terms. Members shall be impartial, competent, and reputable citizens of the United States and residents of the state, and shall qualify by taking and subscribing the constitutional oath or affirmation of office. The Commission may at any time appoint additional members to its panel of Arbitrators and Fact Finders and may remove existing members without cause.

(1) Application Requirements for Act 312 Arbitrator and Fact Finder Panels

- a. Minimum of 10 years of senior-level business or professional experience or legal practice.
- b. Educational degree(s) and/or professional license(s) in Labor Relations or in a closely-related and relevant field. Significant relevant experience – beyond the minimum of 10 years' experience requirement set forth above – may be a substitute for education.
- c. Significant knowledge and hands-on training or experience in labor relations, including in Act 312, Fact Finding and/or grievance arbitration. The latter experience may be supplemented by participation in MERC's training and/or "shadowing" program.
- d. Ability to write clearly and concisely as evidenced by 2 or more writing samples, preferably of recent origin.
- e. Legal residency in Michigan.
- f. Acknowledgement of a willingness to support the efforts, statutes, rules and processes at MERC, including adhering to and submitting awards/reports within statutory or other established time frames.
- g. Held in the highest regard by peers and colleagues in the labor relations field as reflected by recommendations from 3 individuals prominent in the labor relations arena, including one person from management, one from labor, and a neutral.

- h. Agreement to participate in MERC-related training programs for 312 Arbitrators and Fact Finders and in “shadowing” unless waived by the Commission.

(2) Additional requirements for placement on the Act 312 Arbitrator panel:

- a. An applicant must have (i) conducted hearings in 2 or more Fact Finding matters and (ii) issued 2 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.

- b. Before serving as chair on a 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.
- c. 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.

(3) Criteria for Removal from MERC Panels

An individual appointed to MERC’s panel of Arbitrators and/or Fact Finders may be removed from the panel by the Commission without cause.

Some considerations in removal:

- a. Failure to participate in mandatory training programs, including shadowing unless excused due to extenuating circumstances as determined by the Bureau Director.
- b. Repeated failure to adhere to Commission rules, procedures, directives and/or the Code of Professional Responsibility.
- c. Repeatedly or flagrantly delinquent in submitting awards/reports.
- d. Has been the subject of a number of complaints by the parties (both labor and management) who utilize MERC services.
- e. Is determined to be unacceptable to the parties based on the last 5 years:
 - a. Name goes out at least 10 times
 - b. Not selected by the parties

NOTE: In determining unacceptability, MERC’s Fact Finding and Act 312 panel will be considered separately.

A panel member who is removed for non-selection may re-apply to the panel by completing the required Arbitrator/Fact Finder Application procedure; and by attending a comprehensive MERC-sponsored and approved training program; and successfully completing MERC's "shadowing" program – all at expense of the removed panel member.

Approved by Commission at its meeting on 6/10/14