



LARA / MI ADMINISTRATIVE HEARING SYSTEM

## **How does an Employment Relations matter come to MAHS?**

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The Michigan Employment Relations Commission (MERC) is vested with the authority to protect the rights of employees to organize and to determine whether to have a labor organization as their bargaining representative. MERC is also responsible for preventing and remedying unfair labor practices committed by employers and unions. Although MERC has jurisdiction over a small number of private sector employers and employees not within the exclusive jurisdiction of the National Labor Relations Board, the vast majority cases heard by MERC involve public sector employers and employees.

Cases assigned to MAHS originate from the filing with MERC of an Unfair Labor Practice (ULP) charge, a Notice of Public Employee Strike or a Notice of Public School Employer Lockout. MERC may also refer cases to MAHS for hearing on a Petition for Representation Election where there is a dispute about the composition of a bargaining unit, voter eligibility or other issues and the parties are unable to agree to a consent election.

## **What types of Employment Relations hearings are conducted by MAHS?**

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ALJs preside primarily over two case types: ULP cases and representation matters. A ULP is a proceeding in which an employer or union has been charged with violating the Public Employment Relations Act (PERA) or the Labor Mediation Act (LMA). The most common ULP issues are bargaining disputes in which one party contends that the other is failing or refusing to negotiate in good faith; allegations that an employer is discriminating against an employee or group of employees because of their union activity; and claims brought by individual employees against their union alleging a breach of the duty of fair representation.

In a representation proceeding, common issues include whether a bargaining representative will represent, or continue to represent, a unit of employees; whether a particular position or positions should be included within a bargaining unit; or which of several bargaining units is the proper place for the position. A written decision in a representation matter is issued by the Commission based upon the record made by the ALJ.

## **What authority does MAHS have in this process?**

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Acting on behalf of MERC, ALJs have the authority to hold prehearing conferences, resolve motions, conduct evidentiary hearings, and issue recommended decisions in ULP and teacher strike/lockout cases.

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## Contact Information

For information on any MERC case assigned to an ALJ, please call 313-456-2713. For cases which have not yet been assigned to an ALJ, or for any matter in which a recommended order has already been issued, please contact the Bureau of Employment Relations at 313-456-3510.

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## FAQs

### **Q. What should I expect once a case has been assigned to an ALJ for hearing?**

*A. Parties appearing before an ALJ in a MERC case may receive a notice of hearing or some other type of order asking them to explain the basis for their charge or to provide more detail concerning the allegations. Parties should also expect to participate in a prehearing conference at which evidentiary, procedural and substantive issues will be discussed and settlement possibilities explored.*

### **Q. What occurs during the hearing?**

*A. The hearings are typically complex matters involving multiple witnesses and numerous exhibits, and the ALJs are generally required to apply the same rules of evidence and procedure that are applied in state civil courts. In addition, the parties often file written motions or briefs prior to the hearing. For these reasons, it is recommended that anyone appearing before an ALJ consult with a licensed attorney who is experienced in labor and employment law. Hearings are held in public unless otherwise ordered by the ALJ.*

### **Q. What happens after the hearing?**

*A. Following a ULP hearing, the ALJ will issue a written recommended order which may be appealed to the full Commission by any party. If no appeal is filed, the ALJ's order becomes the order of the Commission and is binding on the parties. A written decision in a representation matter is issued by the Commission based upon the record made by the ALJ.*

### **Commonly Used Documents:**

Copies of the statutes administered by MERC, the General Rules and Regulations of the Employment Relations Commission, MERC policies and forms and a Guide to Public Sector Labor Relations in Michigan are available for download at <http://www.michigan.gov/merc>.

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