

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

FISCAL YEAR 2022 ANNUAL REPORT
(October 1, 2021 through September 30, 2022)



Prepared by Bureau of Employment Relations Staff
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INTRODUCTION

MESSAGE FROM COMMISSION CHAIR PAPPAS

It is with great pride and pleasure that I introduce the Michigan Employment Relations Commission's 2022 annual report. Serving as Chair of the Commission is an honor and continues to be among the most fulfilling of my professional endeavors. Since my original appointment as Commissioner in August 2020, and subsequent advancement to Chairperson in April 2021, I have had the great fortune to experience first-hand the good works of MERC and the dedicated efforts of all Commission staff to enforce the Public Employment Relations Act.

Since its inception in 1965, PERA has been the cornerstone for the protection of Michigan's public sector employees' rights to organize, and bargain collectively with their employer through the representative of their choosing. The Commission, through its enforcement of PERA, provides an avenue of remedial relief for workers who have suffered discrimination as a result of the exercise of protected rights under PERA. The Commission also enforces the duty to bargain in good faith between public employers and public sector unions and assists in attaining the peaceful resolution of labor disputes between those entities.

The FY 2022 Report catalogues the significant work done by the Commission this past year. Despite the COVID-19 pandemic and the many challenges it brought to virtually all employers, employees, and citizens of our state, the Commission persevered in carrying out its designated mission. Our mediators successfully resolved dozens of contract disputes. Through remote hearings, many unfair labor practice charges and representation cases were heard and decided by administrative law judges, and the appeals of those matters were decided by our Commissioners. We have continued to expand the use of electronic filing, and through our voluntary mediation program initiated in October 2021, we have assisted parties in successfully and expeditiously resolving many unfair labor practice disputes short of formal litigation. Most recently, we began live-streaming our monthly Commission meetings to allow more convenient and ready access for attorneys, parties, and members of the public who wish to observe and/or participate in our process.

For all of these achievements, I extend my sincerest gratitude, respect, and congratulations to our dedicated Commission staff, without whom none of this would have been possible.

For the duration of my tenure, I am committed to ensuring that the Commission continues to enforce PERA efficiently, equitably, and effectively for the public employees, employers, and labor unions of our great State through our continued hard work and dedication to the mission that is our legacy.

MESSAGE FROM COMMISSIONER YOUNG

This past fiscal year was my first full year as Commissioner with MERC. I am grateful for the opportunity to serve the Michigan labor community and am most thankful to Governor Whitmer, who reappointed me for a full three-year term. I am proud of what has been accomplished by the Bureau of Employment Relations in the past year. Despite the numerous challenges faced by the

labor community as a continuing consequence of the pandemic, there has been progress at the Commission in the past year through the hard work of staff and its Director.

The Commission has jumpstarted the means to allow citizens to virtually attend Commission meetings, allowing more access to those meetings and a greater opportunity to participate and be heard. Further, the Commission has offered expanded opportunities for mediation for those parties who are willing to consider further avenues to resolve their disputes.

I continue to be truly impressed by the dedication and effort of the director and staff of the Bureau of Employment Relations. Their commitment to serve the goals of the agency and the labor community has been an inspiration. As it is my belief that a healthy labor relations environment is in the best interest of all residents of this great State, I commit to working to face the challenges confronting those who are constituents of the Bureau of Employment Relations.

MESSAGE FROM DIRECTOR MCBRIDE

I am elated with the successful outcomes achieved by this agency's staff and commission during this third year of COVID's worldwide impact.

Remarkably and in a short timeframe, we have transitioned to fully utilize remote and hybrid workstations that may have never occurred at this magnitude, or even at all in some areas.

Fortunately, these changes have not reduced service access and outcomes for MERC constituents who rely on this agency's involvement to resolve many of their workplace needs. Instead, the activities of FY 2022 have resulted in gains that include – more efficient processes, improved convenience for users and elevated staff morale.

This FY 2022 Annual Report will highlight many of the routine services and special projects we've provided during the 12-month period.

I truly appreciate the tremendous contributions rendered by this dedicated and talented MERC staff; the support, sacrifice and integrity of the MERC Commissioners; and of course, the continued confidence in this agency's services shown by the parties, representatives and others, past, present and future!

Sidney McBride, BER Director

BIOGRAPHICAL SUMMARIES:

MERC CHAIRPERSON TINAMARIE PAPPAS

Tinamarie Pappas (Ann Arbor, MI) was appointed as MERC Commissioner on August 24, 2020 by Governor Whitmer. In early 2021 following the departure of the former chair, Pappas was appointed as Commission Chairperson. Chair Pappas has nearly 35 years of experience in various aspects of labor law including legal proceedings before state and federal courts; unfair labor

practice and representation case proceedings before the NLRB and MERC; arbitration hearings; and the negotiation of collective bargaining agreements.

Pappas began her legal career as a trial attorney with Region 7 of the National Labor Relations Board where she worked from 1987 to 1995. She subsequently became a partner in the law firm of Rose, Weber, & Pappas. Since 1998, she has been the owner and principal of the Law Offices of Tinamarie Pappas.

Chair Pappas earned a Bachelor of Arts from the University of Michigan, and a Juris Doctor from Wayne State University Law School. Her 3-year Commission term expires on June 30, 2023.

MERC COMMISSIONER WILLIAM YOUNG

William F. Young (Spring Lake, MI) was appointed as MERC Commissioner on April 26, 2021 by Governor Whitmer. Commissioner Young is a retired attorney and former shareholder with White, Schneider, Young & Chiodini, P.C., where for nearly 28 years, he represented labor organizations, teachers' groups, and other workers in the public sector of state and federal courts and administrative agencies. Young holds a Bachelor of Science from Michigan State University and a Juris Doctorate from the University of Michigan Law School.

Commissioner Young was reappointed in FY 2022 with a new term that expires on June 30, 2025.

STAFF BIOGRAPHIES:

Sidney McBride, BER Director, joined the MERC staff in 2009 and currently serves in dual roles as Bureau Director and Mediation Division Administrator. He previously worked in the agency as a MERC Labor Mediator for several years. Before becoming a mediator, he worked as a MERC Administrative Law Specialist with responsibilities that included drafting Commission decisions, conducting election matters, and administering the Act 312 and Fact-Finding programs. Prior to MERC, Sidney worked at the state's largest circuit court in management and labor roles that included, in part, collective bargaining, grievance processing and arbitrations and MERC proceedings. He is an active member of the State Bar of Michigan and member of the Labor and Employment Law Section. He also serves on the Board of the Association of Labor Relations Agencies (ALRA). Sidney graduated from Wayne State Law School in the top third of his class.

Miles Cameron has been a MERC Labor Mediator since July of 2008. Prior to joining MERC, he had been an active member of the United Steelworkers since 1978 and held many positions in his local union including Safety Chair, Steward, Committee Man, Negotiations Chair, Grievance Chair, Educational Coordinator and President. In 1995, he began working as a staff representative for the United Steelworkers with duties that included representing members in arbitrations, settling grievances, negotiating contracts and other responsibilities.

Micki Czerniak has been a MERC Labor Mediator since 1998, and with state government since 1988. Prior to coming to the Bureau, she served as the state's Compensation Specialist with the Department of Civil Service where she managed the Employment Relations Board's Impasse Resolution and Coordinated Compensation Proceedings. Prior to joining state government, Ms. Czerniak was employed by Sachs, Waldman, et al., during which time, she testified as an expert

witness on subjects of compensation and benefits in more than 30 Act 312 and other arbitration proceedings. Ms. Czerniak has a B.A. from Michigan State University and an M.A. in Industrial Relations from Wayne State University.

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

Tracy Marr has been the Mediation Division Secretary in MERC's Lansing Office and provides secretarial support to the Elections functions since August 2015. In 2008, Tracy returned to State service as a Legal Secretary for the MOAHR Administrative Law Judges. In 2013, she became a shared service Legal Secretary with MERC. Before her return to State service, she worked as a Legal Secretary in private practice and as the Office Manager to a family-owned construction business; she still performs the latter responsibility on a part-time basis.

Wanda Mayes is a Labor Mediator working for the past 22 years in the State of Michigan's Department of Labor and Economic Opportunity, Bureau of Employment Relations, and is currently assigned to the Detroit Office. Wanda has over 34 years of experience negotiating labor contracts, grievance settlements, and investigating EEOC complaints. She has mediated hundreds of successful last chance work agreements, grievance settlements and collective bargaining agreements. Her educational background includes a B.S. in Business Administration (1985), an M.A. in Industrial Relations (1998), and a Juris Doctorate (2016), all from Wayne State University. Her labor relations career began in 1988 with the City of Detroit's labor relations division. There she was responsible for negotiating labor contracts, conducting grievance hearings and preparing written responses, advising department human resources officers concerning grievance and contract administration, preparing and presenting arbitration cases before arbitrators and umpires, and coordinating unfair labor practice and election petitions with the Michigan Employment Relations Commission.

D. Lynn Morison currently serves as an Administrative Law Examiner with the Bureau of Employment Relations. On August 1, 2022, Lynn elected to return to the Bureau, following the expiration of her 3 year term as a gubernatorial appointee to the Unemployment Insurance Appeals Commission (UIAC). Prior to her UIAC appointment in 2019, she had been a member of the Bureau's legal staff since 2001. Prior to MERC, Lynn served as a staff attorney for the Michigan Employment Security Board of Review—the predecessor entity to the UIAC). Before State employment, Lynn was a faculty member of Michigan State University where she taught business law and published two articles on labor law topics. She is a Fellow of the College of Labor and Employment Lawyers and a Fellow of the American Bar Foundation. She is a member of the Labor and Employment Law Section of the American Bar Association and formerly served as the Neutral Co-chair of the Section's State and Local Government Bargaining and Employment Law Committee. She is also a member of the Labor and Employment Law Section of the State Bar of Michigan, the Black Women Lawyers Association of Michigan, and the Wolverine Bar Association. Ms. Morison received a B.A. from Michigan State University, a J.D. from the University of Michigan, and an LL.M. in labor law from Wayne State University.

Barbara Norris joined the MERC team in 1981; she currently is the longest serving member of the agency's current staff. She functions as Mediation Division Secretary in the Detroit Office. Prior to MERC, she worked in the Wage and Hour Division of the then Department of Labor. Barbara has a degree from George C. Wallace State Junior College & Technical Institute in Selma, Alabama. Barbara has successfully worked alongside five (5) Bureau Directors and nine (9) MERC Chairs during her 40+ years of dedicated public service.

Sharon Peper joined the MERC staff in 2019 with over 25 years of legal experience. Prior to MERC, she worked as a Legal Secretary with the MI Attorney General's office. Before state service, she was a Legal Assistant in private practice. While employed in private practice, she developed a training manual for E-Filing and a training manual for new legal secretaries.

Elizabeth Peters joined MERC in January 2019 as a Labor Mediator after having 38 years prior experience negotiating private and public sector agreements. She began her career as a teacher serving as the President of her local association, President of the Saginaw County Co-ordinated Bargaining Council, Vice President of MEA's Region 11, and the local MEA/NEA representative. After law school, she joined U.S. Steel in Pittsburgh, PA as in-house labor and employment counsel until she was promoted to negotiations and arbitration staff attorney, then as the Employee Relations Manager for two coke works and a steel plant. During the recent 20 years, Elizabeth was in private practice representing employers in various aspects of labor and employment law including ULPs, negotiations, grievance arbitrations, and Act 312 hearings. Elizabeth has a B.S., M.A., and Specialist in Education from Michigan State University and a J.D. from Thomas M. Cooley Law School where she received the President's Award upon graduation. Elizabeth has been a frequent author and creator/presenter of labor and employment law articles and trainings. She is admitted to the Michigan and Pennsylvania Bars and several state, federal district, and federal Circuit Courts of Appeal throughout the U.S.

Ashley Rahrig joined MERC in 2014 and serves a dual role as the agency's Departmental Analyst and Paralegal. Prior to her employment with MERC, Ashley worked as an HR Specialist with Imetris Corporation and as the Lead Paralegal in a firm specializing in family law. In 2009, Ashley earned her B.S. from Eastern Michigan University, majoring in Paralegal Studies, and in 2012, earned her M.P.A. with a concentration in Human Resources from Wayne State University. Ashley is an active member of the Labor and Employment Law Section of the State Bar of Michigan.

Deborah Stewart joined MERC in 2011 with over 25 years of prior legal experience. She currently serves as Senior Executive Management Assistant to the Bureau Director and providing secretarial and executive support to the Commissioners. She has also held the position of Legal Secretary at MERC and supported a diverse set of functions in the Labor Relations Division and Mediation Division (namely, Act 312 and Fact Finding). Prior to MERC, Deborah worked as Legal Secretary/Paralegal/Assistant Operations Manager at the law firm of Kelley, Casey & Moyer, P.C. There in a multi-faceted role, she developed and implemented a training program, including a manual for incoming legal secretaries. She also assisted in managing various facets of the office administration including IT and employee-related matters.

Robert Strassberg has been a MERC Labor Mediator since January 2009. He previously headed MERC's Election's Unit for 12 years during which he conducted two of the largest elections in MERC history. Prior to MERC, Bob was a Personnel Director at Knopow Industries, Management

Labor Relations Consultant (primarily in the health care industry) and a labor representative. Bob has a B.A. from Wayne State University and also attended Wayne State University's Masters in Industrial Relations Program.

Carl Wexel works as MERC's Staff Attorney/Administrative Law Specialist and previously served as a Law Clerk with the agency beginning in 2013. Prior to law school, he was Director of Labor Relations for CSX Corporation, where he handled contract negotiations and administration. He also previously served as a Field Examiner for the National Labor Relations Board. He is an active member of the Labor and Employment Law Section of the State Bar of Michigan. Mr. Wexel has a B.A. with High Distinction from the University of Michigan, a Master of Industrial and Labor Relations from Cornell University and a J.D. from Wayne State University.

Richard Ziegler has been a MERC Labor Mediator since 1997. From 1982 to 1997, he worked as a Field Representative/ Business agent for the Fraternal Order of Police, Labor Council/Police Officers Labor Council. From 1968 to 1982, he served as a Police Officer in the cities of Detroit and then Wixom. While working as a police officer, he served in several union positions, including: Executive Board Member of the Detroit Police Officers Association and Secretary and Vice President of the AFSCME police local in Oakland County. Rich has a B.A. in Law Enforcement and Business Administration from Mercy College of Detroit and a M.A. in Industrial Relations from Wayne State University.

Tom Zulch joined the MERC as a Labor Mediator in 2017. Prior to joining MERC, he was Senior Staff Attorney for the Police Officers Labor Council from 2004 through 2017. At POLC he handled legal matters including critical incidents, contract and discipline arbitrations, Act 312, and Fact-Finding cases. Tom was appointed to serve as Commissioner on the Michigan Commission on Law Enforcement Standards. In addition, Tom served as an Attorney for the Detroit Police Officers Association from 1999 to 2004. He was a Public Safety Officer for the City of Berkley from 1987 to 1998, serving as the President of the Berkley Police Officer Association for 6 years. Tom was in the last graduating class from the Detroit College of Law in 1997 prior to it relocating to Michigan State University in Lansing.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES (MOAHR)

In 2005, Michigan became the State with the largest centralized hearings panel in the nation with the creation of the State Office of Administrative Hearings and Rules (SOAHR). Subsequently, SOAHR was renamed to the Michigan Administrative Hearing System (MAHS) in 2011, and to the Michigan Office of Administrative Hearings and Rules (MOAHR) in 2019.

The mission of MOAHR is to provide all parties in need of administrative hearings and rules with a timely, professional, sound, and respectful process. Two Administrative Law Judges from MOAHR are assigned to conduct hearings on MERC cases involving unfair labor practice charges and election matters (R and UC petitions).

MOAHR Administrative Law Judges (ALJ)

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

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

MERC FACTS

Agency Services

MERC’s activities are conducted through two separate divisions – the Labor Relations Division and the Mediation Division. The Labor Relations Division assists in resolving unfair labor practice charges (ULPs) and union representation matters (e.g., bargaining unit determinations). The Mediation Division assists with settling contract disputes involving negotiations and grievance violations. Other services provided through MERC include fact finding; compulsory arbitration; grievance arbitrator selection; last offer elections; labor-management committees; and several training modules involving labor management relations.

MERC Mission Statement

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

MERC History

The Michigan Employment Relations Commission (MERC or the Commission) is an independent agency charged with administering various laws governing labor-management relations throughout the State of Michigan. The Commission is comprised of three members, one of whom is the designated chairperson, appointed for staggered 3-year terms by the Governor with the advice and consent of the Senate. No more than two members may be of one political party.

MERC, formerly known as the Michigan Labor Mediation Board, was established in 1939 pursuant to the Labor Relations and Mediation Act (LMA).

MERC administers two principal statutes: the Public Employment Relations Act, Act 336 of 1947 (PERA), and the Labor Mediation Act, Act 179 of 1939 (LMA). These statutes grant collective bargaining rights to public (PERA) and private (LMA) sector employees within the State of Michigan, except for employees in state classified civil service, the federal government, and those within the exclusive jurisdiction of the National Labor Relations Board (NLRB). MERC also administers the compulsory arbitration process available to municipal police and fire department employees (Act 312 of 1969) as well as to state police troopers and sergeants (Act 17 of 1980).

Commission Chairs from 1960 through 2022:

- Allen D. Chisholm 1960-1962
- Malcolm R. Lovell, Jr. 1963-1964
- Robert Howlett 1965-1975
- Charles Rehmus 1976-1980
- Morris Milmet 1980-1983
- William M. Ellmann 1983-1986
- David S. Tanzman 1986-1991
- Joseph B. Bixler 1991-1993
- Maris Stella Swift 1994-2003
- Honora J. Lynch 2003-2006
- Christine A. Derdarian 2006-2011
- Edward D. Callaghan 2011-2019
- Samuel Bagenstos 2019-2021
- Tinamarie Pappas 2021-present

Bureau Directors from 1971 through 2022:

- Hyman Parker 1971-1975
- Robert Pisarski 1975-1980
- Barry Hawthorne, Acting Director 1980-1983
- Shlomo Sperka 1983-1998
- Ruthanne Okun 1998-2020
- Sidney McBride 2020-present

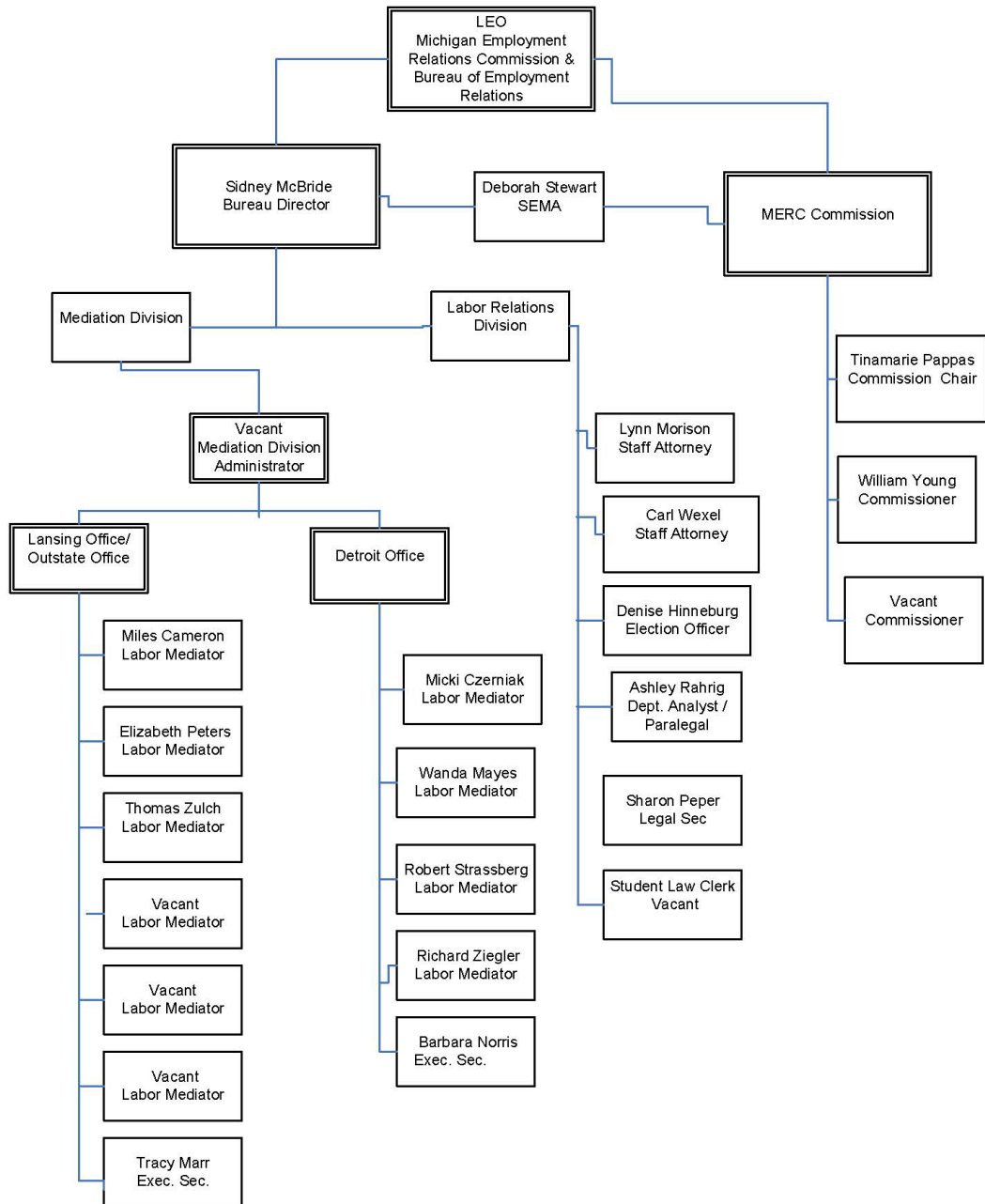
BUREAU OF EMPLOYMENT RELATIONS¹

The Bureau of Employment Relations (Bureau or BER) comprises two separate and distinct agencies—MERC (Employment Relations) and the Wage Hour Division. The Bureau was transferred to the Department of Labor and Economic Opportunity (LEO) on August 11, 2019 under Governor Whitmer’s Executive Order 2019-13. The Employment Relations side of the Bureau serves as the administrative arm of the Commission (MERC).

¹ The Wage and Hour Division (WHD) merged into BER in FY 2016. The two agencies always have operated separate and independent. Each agency maintains separate budgets, personnel, and supervision aside from the oversight of the BER Director. The Commission has no authority or involvement with the operations of the Wage and Hour Division.

MERC Organizational Chart

As of September 30, 2022



STATUTORY OVERVIEW

JURISDICTION AND STATUTORY AUTHORITY

MERC administers the following statutes:

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

KEY LEGISLATIVE CHANGES AND ENACTMENTS

Since 2011, collective bargaining in Michigan (primarily public sector) was impacted by several amendments to PERA, the LMA and Act 312, as well as other legislative changes affecting the administration of these statutes. A chart of these key legislative changes is available from the MERC website which includes:

- Expansion of the prohibited subjects of bargaining for employees subject to the Revised School Code and the Teachers' Tenure Act, including discipline, discharge, evaluation, layoff, and recall (2011 PA 100 through 103);
- Limits on employer contributions to employee health care costs (2011 PA 152);
- Restrictions on pay/benefit increases to employees after contract expiration (2011 PA 54);
- Changes in Act 312 for eligible police and fire department employees (2011 PA 116);
- Public employers' ability to consolidate or transfer services (2011 PA 258-263);
- Union audit filing requirements (2011 PA 53); (2014 PA 414);
- Enactment of Right-to-Work laws (2012 PA 348 and 349);
- Re-definition of emergency manager laws (2012 PA 436);
- Exclusion of Act 312 eligible employees from the provisions of Act 54 (2014 PA 322);
- Expedited procedures on cases involving work stoppages in public schools (2016 PA 194);
- Limited exemption from the Open Meetings Act to discuss the merits of a case (2016 PA 504).

An updated chart of these legislative changes, annotated with a brief description and references to related MERC decisions, appears on the agency's website at www.michigan.gov/merc.

MERC PROCESSES

ELECTION PROCEEDINGS

The Public Employment Relations Act (PERA) provides most public employees in Michigan with the right to organize and be represented by a labor organization of their choice. Section 15 requires a public employer to participate in the collective bargaining process with the employees' chosen representative. The Commission is authorized to conduct the proceedings that determine an exclusive bargaining representative through an election (R petition) or decision (UC petition).

Representation and Unit Clarification Petitions

A petition for election proceedings (R or UC petition) is used to determine a collective bargaining representative, to decertify an existing bargaining representative, or to clarify a position(s) when an employer and labor organization disagree on the placement of a newly-created or substantially changed position. Aside from voluntary recognition by an employer, the determination of a bargaining representative can occur by one of three procedures: Consent Election, Commission Directed Election or Unit Clarification. The election petition form has five distinct sub-types to choose from:

- **Certification of Representative (RC)**, used when a group of employees wish to be represented by a union or association or change to a new representative or to accrete historically excluded position(s) into the bargaining unit;
- **Decertification (RD)**, used when a group of employees in a bargaining unit assert that their current representative no longer maintains majority support and they no longer want to be represented by it;
- **Self Determination (SD)**, when a union representing multiple bargaining units under the same employer wants to merge the separate units into a single bargaining unit;
- **Representation (Employer) (RM)**, filed by an employer when multiple labor organizations claim to be the collective bargaining representative of the same unit of employees;
- **Unit Clarification (UC)** used to determine placement of a new or substantially changed position established after a unit has been certified. With a UC petition, the Commission reviews the record and issues an order resolving the dispute over the placement of the contested position or positions. No balloting or election occurs with a UC petition.

Consent Election or Commission Directed Election

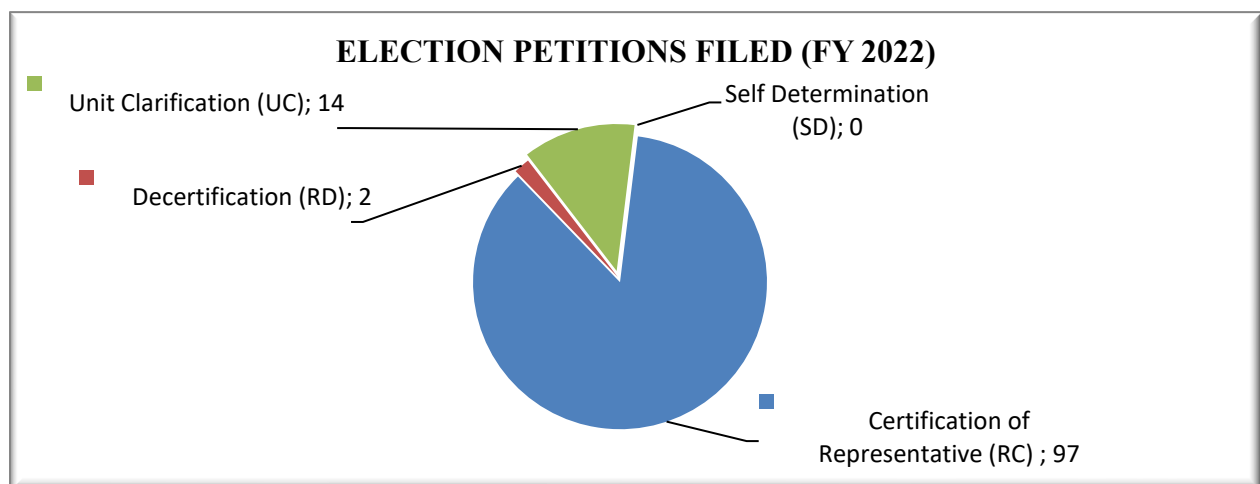
MERC elections (other than UC petitions) are conducted one of two ways—consent of the parties, or Commission order. A Consent Election occurs when the parties mutually authorize MERC to conduct an election. A Commission Directed Election occurs when the parties are unable to consent to an election, and the dispute is referred to an ALJ for a factual and legal determination. Based on those findings, the Commission will order (directs) an election or dismiss the petition.

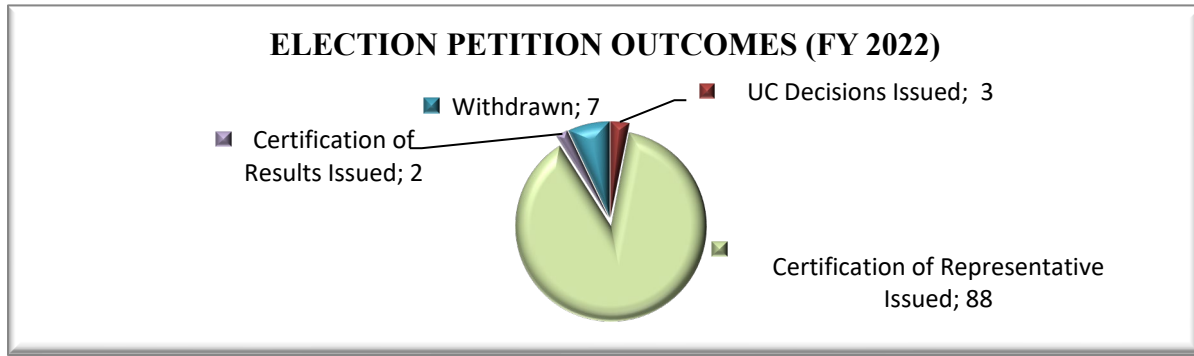
Election Petition Outcomes

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

ELECTIONS CASE ACTIVITY — FY 2022

| Month | R Petitions Filed | UC Petitions Filed | Elections Held | Certification Issued | MERC Directed Elections | UC Decisions Issued |
|-----------|-------------------|--------------------|----------------|----------------------|-------------------------|---------------------|
| October | 5 | 2 | 8 | 11 | 0 | 0 |
| November | 10 | 0 | 9 | 10 | 0 | 0 |
| December | 3 | 2 | 1 | 3 | 0 | 2 |
| January | 3 | 1 | 4 | 2 | 0 | 0 |
| February | 26 | 1 | 3 | 4 | 0 | 0 |
| March | 7 | 1 | 11 | 6 | 0 | 0 |
| April | 6 | 0 | 17 | 21 | 0 | 0 |
| May | 6 | 0 | 4 | 8 | 0 | 0 |
| June | 3 | 1 | 6 | 5 | 1 | 0 |
| July | 5 | 2 | 6 | 3 | 0 | 1 |
| August | 17 | 1 | 3 | 7 | 0 | 0 |
| September | 5 | 3 | 12 | 10 | 0 | 0 |
| Total | 96 | 14 | 84 | 90 | 1 | 3 |





During FY 2022, highlights of 6 noteworthy election cases include:

- ***Severance of Unit Positions:*** *Independence Township & International Association of Fire Fighters & Michigan Association of Fire Fighters, Case No. 21-A-0108-RC, issued December 17, 2021.* Relying on PERA Section 13 and the extensive bargaining history of the existing bargaining unit, the Commission refused to order a representation election finding no basis to sever the job classification of Captain from the existing bargaining unit where the evidence presented did not reveal that an “extreme divergence of interest” existed between the Captains’ positions and the remaining fire fighter positions in the bargaining unit.
- ***Accretion of Unit Positions:*** *Alpena County -and- Technical Professional and Officeworkers Association of Michigan, Case No. 20-J-1586-UC, issued December 17, 2021.* Petition dismissed which sought to accrete the job classification of Network Technician into the bargaining unit where the Petitioner failed to present adequate grounds for altering the historical exclusion of the position from the existing bargaining unit.
- ***Accretion of Unit Positions:*** *Charter Township of Meridian -and- Technical Professional and Officeworkers Association of Michigan, Case No. 20-L-1782-UC, issued December 17, 2021.* Petition granted to accrete the newly created full-time Accountant position into an existing bargaining unit where the record established a community of interest existed with the other positions in the unit based on similar duties and responsibilities, supervision, skills, work location and wages, and where the record disclosed similarities between the new position and a former part-time accountant classification which had previously been included from the unit.
- ***Community of Interest:*** *Richmond Community Schools & Michigan Education Association, 21-D-0875-RC, issued June 15, 2022.* Representation petition granted and election directed where the disputed positions possessed sufficient community of interest to be placed in a distinct bargaining unit from the existing bargaining units. MERC concluded the Employer failed to establish that any position qualified to be a supervisor, and any concern regarding potential fragmentation of units was overcome by the two existing bargaining units’ lack of interest in representing the disputed positions.
- ***Confidential Exclusion:*** *Detroit Public Schools Community District -and- Detroit Association of Educational Office Employees, 21-D-0915-UC-02, issued July 15, 2022.* Commission dismissed a unit clarification petition as untimely and inappropriate that

sought to accrete a position in a bargaining unit where the Union President testified to knowing of the position since 2018 but could not explain why the Union did not seek to clarify at that time. Commission also noted that the record did not indicate that the position had undergone any substantial change in duties or responsibilities since 2018.

- **Administrative Decision on Spoiled Election Ballot:** *City of Richmond -and- Michigan Fraternal Order of Police Labor Council -and- Police Officers Association of Michigan, Case No. 22-C-0518-RC, issued on August 9, 2022.* Commission rejected the Incumbent Union’s challenge to tabulation of election results and upheld decision of Elections Officer to spoil one ballot because the return envelope was unsigned as contrary to the warning in the agency’s mail ballot instructions that accompanied each issued mail ballot. The Commission ordered the disputed ballot return envelope remain unopened and subsequently certified the Petitioner as the exclusive bargaining agent.

UNFAIR LABOR PRACTICES

MERC authority derived from PERA (and the LMA) provides the basis for an aggrieved party to file an unfair labor practice charge (ULP or charge) against an employer (CE case) and/or labor organization (CU case). After a charge is filed and case initiated at MERC, the case is referred to a MOAHR ALJ. The ALJ reviews the filed materials and may request additional information and/ or conduct a formal hearing to make a factual and legal determination on whether the allegations establish a violation of the applicable Act (PERA or LMA). Based on the case record, the ALJ issues a summary order or a written decision and recommended order (DRO). The DRO contains the findings of fact, conclusions of law, reasons for those conclusions, and the ALJ’s recommended order for case disposition.

Either party may “appeal” the ALJ’s recommended order to the full Commission. The appeal or “exceptions” are reviewed by the Commission. The Commission issues a final written decision and order that—(i) affirms the ALJ, (ii) reverses the ALJ in whole or in part, or (iii) remands the matter for further factual findings by the ALJ. If no exceptions are filed, the Commission issues a final order that adopts the ALJ’s recommended order.

UNFAIR LABOR PRACTICE CHARGE ACTIVITY — FY 2022

| MONTH | ULP's FILED | VOLUNTARY MEDIATION | REFERRED TO ALJ | RECEIVED FROM ALJ | DRO's ISSUED | MERC DECISIONS ISSUED | 20 DAY ORDERS ISSUED | CLAIM OF APPEAL FILED | ADM. CLOSED | VOL MED DISP |
|---------------|-------------|---------------------|-----------------|-------------------|--------------|-----------------------|----------------------|-----------------------|-------------|--------------|
| October | 11 | 2 | 7 | 5 | 2 | 3 | 3 | 0 | 0 | 0 |
| November | 10 | 0 | 11 | 10 | 0 | 3 | 2 | 1 | 0 | 2 |
| December | 10 | 5 | 8 | 3 | 1 | 4 | 1 | 0 | 1 | 0 |
| January | 15 | 3 | 5 | 11 | 3 | 1 | 2 | 0 | 4 | 0 |
| February | 16 | 2 | (18) 15 | (18) 21 | 3 | 1 | 0 | 0 | 0 | 2 |
| March | 12 | 6 | 11 | 16 | 0 | 1 | 1 | 0 | 0 | 1 |
| April | 5 | 3 | (7) 3 | (10) 11 | 3 | 0 | 1 | 0 | 0 | 1 |
| May | 12 | 3 | 9 | (5) 6 | (2) 3 | 1 | 0 | 1 | 0 | 0 |
| June | 13 | 3 | 11 | 3 | 2 | 2 | 2 | 0 | 1 | 1 |
| July | 6 | 1 | 6 | 4 | 3 | 1 | 2 | 1 | 1 | 1 |
| August | 5 | 4 | (4) 5 | (7) 5 | 3 | 1 | 1 | 0 | 0 | 0 |
| September | 4 | 1 | 3 | (3) 4 | 1 | 0 | 0 | 0 | 0 | 2 |
| TOTALS | 119 | 33 | 94 | 99 | 24 | 18 | 15 | 3 | 7 | 10 |

MOAHR Numbers in red

HIGHLIGHTS OF MERC DECISIONS ISSUED IN FY 2022

During FY 2022, highlights of 6 noteworthy cases include:

- ***Duty of Fair Representation & Freedom To Work:*** *Zeeland Education Association -and- Jason Jaloszynski, Case No. 21-C-0534-CU, issued November 12, 2021 (amended).* Summary dismissal of the charge reversed and the matter remanded to the ALJ for evidentiary review. MERC reasoned the record before the ALJ (including pleadings) raised genuine issues of material fact to question whether the Union’s refusal to arbitrate Charging Party’s grievances was due to his status as a non-union member. Matter is pending subsequent findings by the ALJ.
- ***Changes Due to COVID-19 and Covered by Doctrine:*** *Wayne County Community College District -and- Wayne County Community College Professional and Administrative Association, AFT, Local 4467, Case No. 20-I-1436-CE, issued December 17, 2021.* No bargaining violation found where the Employer refused the Union’s request to negotiate over several health and safety concerns related to COVID-19. MERC concluded bargaining was not required since the matter was already “covered by” the collective bargain agreement based on language that addressed the Employer’s obligations regarding employee health and safety concerns.
- ***Statute of Limitations & COVID Based Filing Extension:*** *Allen Park Public Schools -and- Allen Park Education Association of Michigan, Case No. 20-I-1406-CE, issued January 14, 2022.* Charge dismissed as untimely where Commission rejected Charging Party’s argument that the filing timeline had been extended by the Governor’s COVID-19 Executive Order, Executive Order 2020-58, that applied to certain matters which fell outside of this agency’s jurisdiction.
- ***Duty to Bargain — Court Appeal mid Act 312 Proceedings:*** *Wayne Professional Fire Fighters Union, Local 1620, International Association of Fire Fighters -and- City of Wayne, 20-L-1801-CE, issued May 10, 2022.* Employer violated its duty to bargain by frustrating the bargaining process when it initiated legal action in Circuit Court and halted the Act 312 process. MERC reasoned that the court action sought to improperly circumvent the statutorily prescribed process under MERC to resolve contract disputes for certain public sector safety groups.
- ***Prohibited Subjects of Bargaining:*** *Van Buren Education Association MEA/NEA & Van Buren Public Schools, 21-E-1225-CU, issued June 17, 2022.* No ULP found where the Union sought to arbitrate a grievance involving the “overage” pay provision in the contract. MERC found the grievance challenged the underpayment of wages rather than implicating a prohibited subject of bargaining under Section 15(3)(h) and that the Union, therefore, did not violate its duty to bargain. MERC reasoned that the record failed to show that the increased virtual student attendees stemmed directly from the pilot virtual program and not some other factor such as teacher attrition or mere changes in enrollment.

- Prohibited Subjects of Bargaining:** *Kalamazoo Education Association, MEA/NEA -and- Kalamazoo Public Schools, Case No. 21-G-1465-CU, issued October 11, 2022.* The Commissioner rejected the contention that the Union committed a bargaining violation by seeking to arbitrate a grievance challenging a member’s Guidance Counselor’s return from leave and transfer to a teaching position. MERC determined that Counselor’s transfer to a classroom teaching position did not involve a “teacher placement” decision under Section 15(3)(j) because and transfer under Section 15(3)(j) relates to a certificated individual employed by the involved school district as a teacher and the grievant was employed for the entirety of her employment as a guidance counselor and not as a teacher. Consequently, the Union did not violate its duty to bargain when it sought to arbitrate the grievance.

MERC decisions, including case summaries, are assessable from the agency’s website located at www.michigan.gov/merc.

APPELLATE CASE REVIEW

If a party contends the Commission erred in its decision, the matter may be appealed to the state’s appellate courts. During FY 2022, some MERC case decisions were on appeal with the following outcomes as of the end of the fiscal year on September 30, 2022:

| | MERC Case | COA Case | MI Supreme Ct. Case | OUTCOME |
|---|---------------------------------------|-----------------------------------|---------------------|--|
| <i>The Professional Personnel of Van Dyke -and- Van Dyke Public Schools</i> | 20-C-0554-CU, Issued October 12, 2021 | 359115, issued September 15, 2022 | | Affirmed MERC’s finding Union did not violate 10(2)(d) |
| <i>Regents of the University of Michigan -and- University of Michigan Professional Nurse Council, Independent Union -and- Michigan Nurses Association and its University of Michigan Professional Nurse Council</i> | 21-C-0630-RC, issued July 13, 2021 | 358147, issued July 21, 2022 | | Case dismissed as moot |

| | | | | |
|---|---|--|--------|--|
| <i>City of Detroit (Fire Department) -and- Detroit Fire Fighters Association, Local 344</i> | 19-C-0479-CE, issued October 22, 2020 | 355412, issued February 1, 2022 | | Reversed and remanded in favor of the Employer |
| <i>Wayne Professional Fire Fighters Union, Local 1620 & City of Wayne</i> | 20-L-1801-CE, issued May 10, 2022 | 361449 | | Appellate Decision Pending at FY close |
| <i>Van Buren Education Association MEA/NEA & Van Buren Public Schools</i> | 21-E-1225-CU, issued June 17, 2022 | 362076 | | Appellate Decision Pending at FY close |
| <i>Technical Professional Officeworkers Association of Michigan -and- Daniel Lee Renner</i> | CU18 J-034, Issued December 10, 2019 | 351991, Issued January 7, 2021, affirmed MERC | 162601 | MI Supreme Court Decision Pending at FY close |

“FREEDOM” (RIGHT) TO WORK (FTW)

In December 2012, Michigan enacted “Freedom (Right) to Work” laws PA 348 and 349 of 2012. Public Act 348 amended the Labor Relations and Mediation Act (LMA) that applies to most private sector employees, while Public Act 349 amended the Public Employment Relations Act (PERA) and applies to most public sector employees. Both laws became effective on March 28, 2013 making it unlawful to require an employee to join a union or pay union dues or agency fees as a condition of obtaining or continuing employment.

Later in 2018, in *Janus v. Am. Fed’n of State, Cty., & Mun. Employees, Council 31*, 138 S. Ct. 2448 (2018), the United States Supreme Court held that public-sector agency-shop arrangements violate the First Amendment of the United States Constitution. Consequently, all public-sector employers and unions, including those initially exempt from FTW under 2012 Act 349, could no longer enter into any agreement that requires employees to join or financially support a union as a condition of obtaining or continuing employment.

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

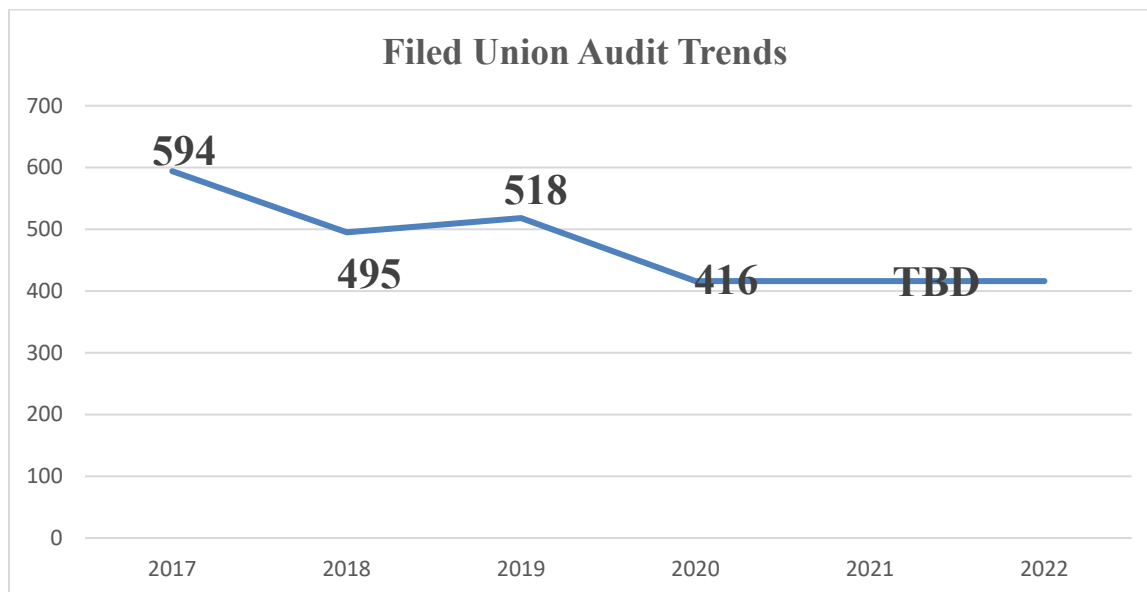
- Organize together or form, join, or assist in labor organizations;
- Engage in lawful concerted activities for the purpose of collective negotiation, bargaining or other mutual aid and protection; and
- Negotiate or bargain collectively with their employers through representatives of their own free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

UNION AUDITS

PERA was amended in 2014 to require that labor organizations representing public sector employees in the state to file an independent audit with MERC. Section 423.210(9) provides:

Sec. 10 (9) By July 1 of each year, each exclusive bargaining representative that represents public employees in this state shall have an independent examiner verify the exclusive bargaining representative's calculation of all expenditures attributed to the costs of collective bargaining, contract administration, and grievance adjustment during the prior calendar year and shall file that verification with the commission. The commission shall make the exclusive bargaining representative's calculations available to the public on the commission's website. The exclusive bargaining representative shall also file a declaration identifying the local bargaining units that are represented. Local bargaining units identified in the declaration filed by the exclusive bargaining representative are not required to file a separate calculation of all expenditures attributed to the costs of collective bargaining, contract administration, and grievance adjustment.

Independent audits must be submitted in pdf format using the MERC e-File system which is accessible from the MERC website home page at www.michigan.gov/merc. The posted audits and information for registering to file an audit are available on the MERC website.



MEDIATION – CONTRACT AND GRIEVANCE

Mediation Overview

MERC encourages labor and management representatives to use the agency’s experienced Labor Mediators. The staff’s services are available at no cost to the parties. The Labor Mediator’s role as a highly skilled, confidential “neutral party” is to assist parties in settling their outstanding dispute(s) by offering suggestions and recommendations.

- ***Contract Bargaining*** cases (CB) are initiated with MERC near the expiration of an existing bargaining agreement. After case initiation, at any point during negotiations either party may request the assistance of a MERC Labor Mediator. Once assigned, the MERC Labor Mediator will work with the parties toward resolution. In certain circumstances (especially when there is a threat of a work stoppage), the Commission will initiate a CB case and invoke the mediation process to help expedite resolution of a critical time sensitive workplace dispute.
- ***Grievance Mediation*** cases (GM) utilize a skilled MERC Labor Mediator to assist the parties in reaching an acceptable resolution to a pending grievance dispute and avoid grievance arbitration (if available). Either party may initiate a grievance mediation case (GM) in the MERC e-file system. Unlike CB cases, GM cases require consent from the Union and Employer representatives in the form of an existing contractual provision and other written consent. Once a GM case is initiated, a MERC Labor Mediator is assigned and will contact the parties. The process is designed for expedited resolution, often with a meeting being held within 14 days of case initiation. Settlement of the grievance is solely within the control of the parties. The Labor Mediator is present to actively “engage” the discussion process using joint and separate caucuses. The process is non-binding and confidential. If resolution is reached, it becomes binding and settles the dispute.

Mediation cases (CB and GM) are initiated by party representatives from the agency’s website using the MERC e-File system. (Traditional filing methods of mail, fax and email can also be used for now but is subject to change in future years. Refer to the electronic Filing Policy on the website to ensure the necessary steps are followed.) Requests for a Labor Mediator can be made via email to merc-mediation@michigan.gov or by contacting any MERC Labor Mediator. A more detailed description of the agency’s mediation processes is found in the “Guide to Public Sector Labor Relations” located on the MERC website under the “Publications” tab.

MEDIATION ACTIVITY — FY 2022

| MONTH | NEGOTIATIONS NOTICES RECEIVED | CONTRACT MEDIATION REQUESTED | CONTRACT MEDIATION CONFERENCES | CONTRACTS SETTLED IN MEDIATION | GRIEVANCE MEDIATION REQUESTED | GRIEVANCE MEDIATION CONFERENCES | GRIEVANCES SETTLED IN MEDIATION | WORK STOPPAGE |
|---------------|-------------------------------|------------------------------|--------------------------------|--------------------------------|-------------------------------|---------------------------------|---------------------------------|---------------|
| October | 136 | 19 | 28 | 13 | 9 | 15 | 12 | 0 |
| November | 69 | 15 | 21 | 10 | 10 | 10 | 9 | 0 |
| December | 87 | 40 | 47 | 27 | 27 | 24 | 13 | 0 |
| January | 133 | 35 | 57 | 11 | 20 | 13 | 11 | 0 |
| February | 205 | 33 | 45 | 14 | 32 | 34 | 35 | 0 |
| March | 353 | 25 | 36 | 11 | 42 | 33 | 23 | 1 |
| April | 129 | 17 | 28 | 3 | 15 | 29 | 26 | 0 |
| May | 96 | 28 | 44 | 6 | 28 | 21 | 17 | 0 |
| June | 119 | 36 | 61 | 13 | 19 | 18 | 13 | 1 |
| July | 106 | 39 | 43 | 11 | 3 | 9 | 9 | 2 |
| August | 120 | 41 | 59 | 13 | 5 | 9 | 6 | 0 |
| September | 78 | 18 | 52 | 16 | 17 | 6 | 12 | 1 |
| TOTALS | 1631 | 346 | 521 | 148 | 227 | 221 | 186 | 5 |

CONTRACT BARGAINING (CB) CASES—HEARING STAGE (Fact Finding & Act 312 Arbitration)

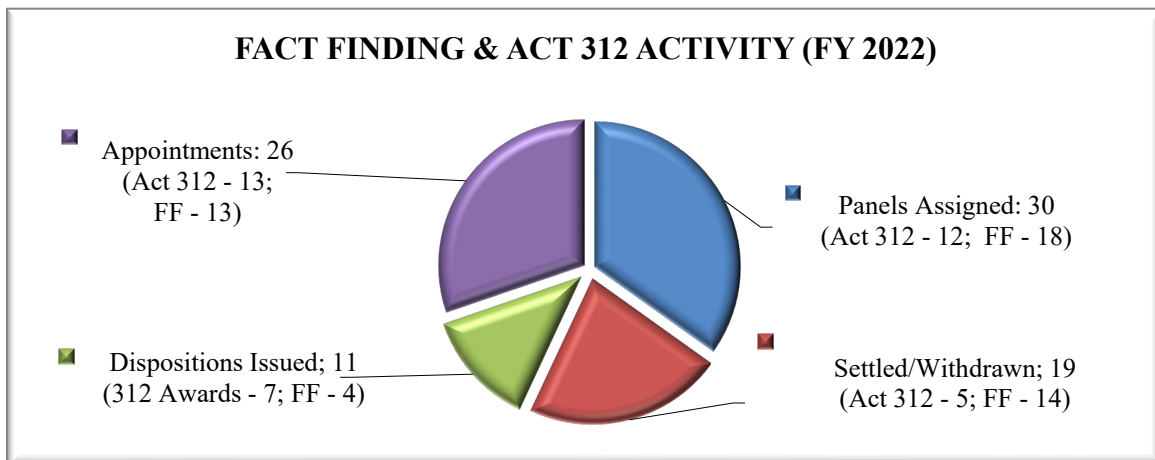
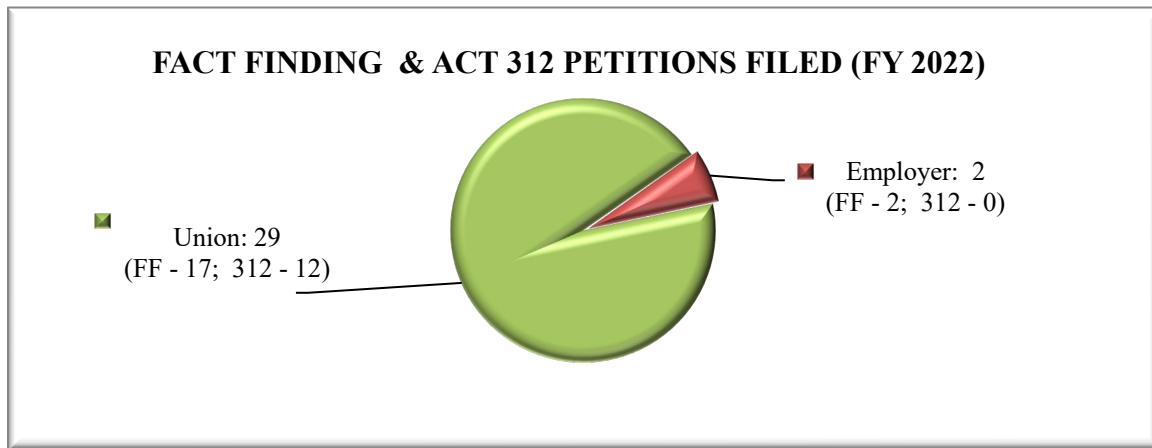
In public sector collective bargaining, the parties are prohibited from undertaking self-help remedies such as strikes or lockouts (work stoppages). Instead, a special type hearing can be requested where a 3rd party neutral (not the mediator) hears and reviews information related to the outstanding disputed issues. Generally, if a ratified bargaining agreement has not resulted following the mediation process, either party may initiate the hearing stage of an existing CB case by filing a fact-finding petition, or, if eligible, an Act 312 petition. A neutral person (fact finder or Act 312 arbitrator) is appointed by the Commission to conduct hearings and issue a written ruling that seeks to resolve the disputed issues and complete the labor contract. The written ruling is a non-binding recommendation in the Fact-Finding process or a binding award in the Act 312 Arbitration process.

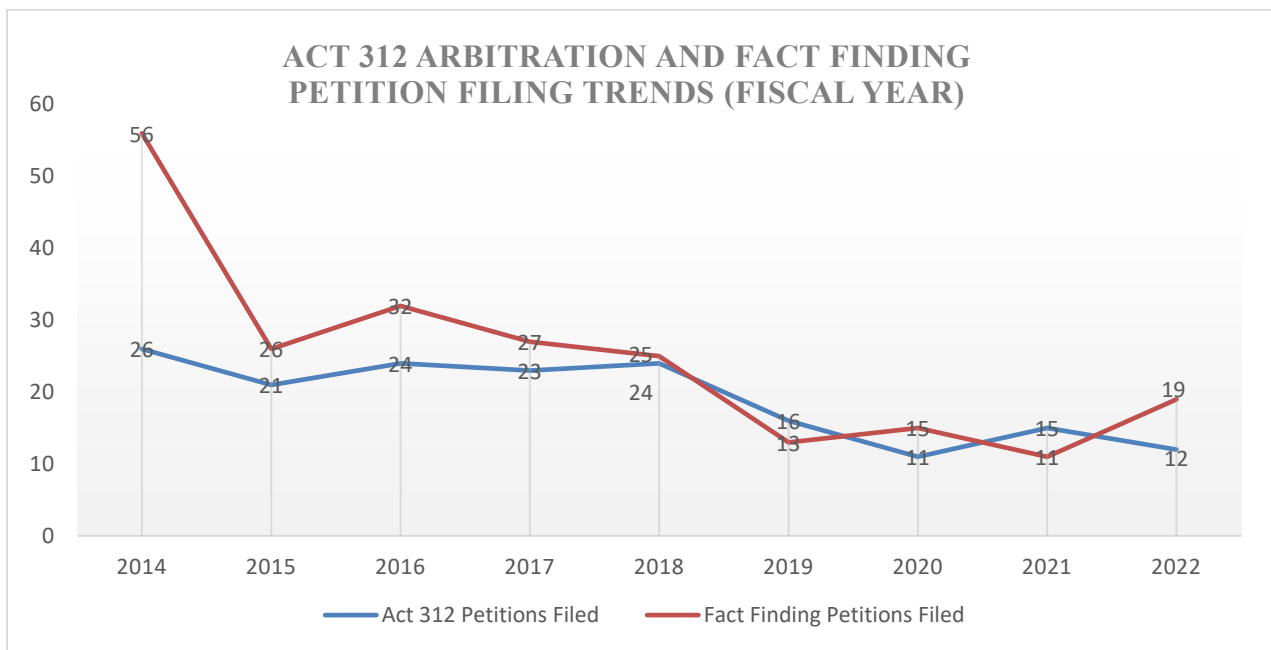
Fact-Finding

MERC fact-finding process is available to public sector employers and employees subject to PERA who are not eligible for compulsory arbitration under Act 312. Although the recommendation of a fact finder is not binding, it is helpful as the parties return to negotiations to resolve their differences and, hopefully, reach contract resolution. Since labor strikes in the public sector are prohibited under PERA, fact-finding is a dispute resolution procedure available to eligible public sector employees during the course of mediation, with the parties typically returning to mediation following receipt of the fact-finding recommendation for settlement. The fact finder's recommendation serves as a basis to help resolve the issues with further assistance of a mediator.

Compulsory Arbitration

In 1969, the Michigan Legislature enacted Act 312 to provide certain employees of municipal police and fire departments a binding procedure for resolving negotiations over a labor contract. In 2011, the Act was further amended to expedite the process. Employees covered by Act 312 include: police officers, firefighters, emergency medical personnel as well as emergency telephone operators employed by a municipal police or fire department or certain authorities, districts or boards created by these local units of government. Act 17 of 1980 provides similar binding arbitration for state police troopers and sergeants. The ruling of the 312 Arbitrator is binding on the parties and resolves the labor contract dispute without further bargaining or mediation assistance.





TRENDS IN FACT FINDING & ACT 312 ARBITRATION ACTIVITY (Fiscal Year)

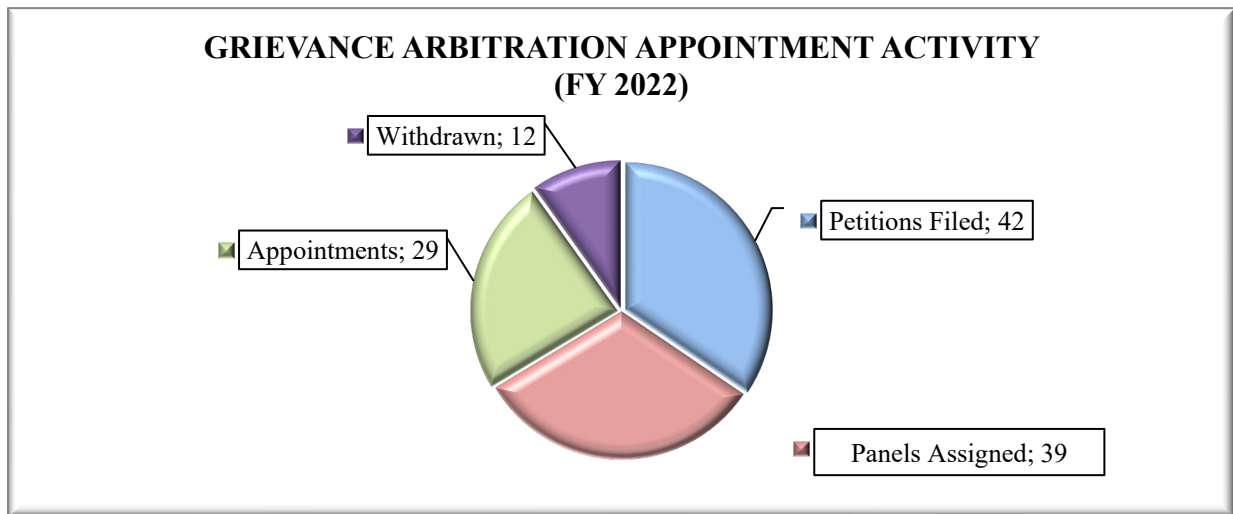
| | ACT 312 PETITIONS FILED | ASSIGNED 312 PANELS | ACT 312 ARBITRATORS APPOINTED | ACT 312 AWARDS ISSUED |
|-------------|-------------------------|---------------------|-------------------------------|-----------------------|
| 2015 | 21 | 22 | 18 | 12 |
| 2016 | 24 | 26 | 22 | 10 |
| 2017 | 23 | 31 | 21 | 7 |
| 2018 | 24 | 27 | 25 | 14 |
| 2019 | 16 | 13 | 12 | 11 |
| 2020 | 11 | 12 | 11 | 6 |
| 2021 | 15 | 12 | 13 | 6 |
| 2022 | 12 | 12 | 13 | 7 |

| | FACT FINDING PETITIONS FILED | ASSIGNED FACT FINDER PANELS | FACT FINDERS APPOINTED | FACT FINDER REPORTS ISSUED |
|-------------|------------------------------|-----------------------------|------------------------|----------------------------|
| 2014 | 56 | 58 | 43 | 25 |
| 2015 | 36 | 29 | 17 | 10 |
| 2016 | 32 | 28 | 22 | 4 |
| 2017 | 27 | 30 | 23 | 10 |
| 2018 | 25 | 27 | 16 | 15 |
| 2019 | 13 | 13 | 14 | 4 |
| 2020 | 15 | 13 | 10 | 4 |
| 2021 | 11 | 14 | 11 | 4 |
| 2022 | 19 | 18 | 13 | 4 |

GRIEVANCE ARBITRATION

Pursuant to the authority under the LMA to aid in the resolution of labor disputes in the public and private employer sectors, MERC can appoint a skilled arbitrator to help resolve an ongoing grievance involving an alleged contract violation. Parties can use this service based a provision in their existing labor agreement or by collateral written consent. MERC's role is solely limited to the appointment of the grievance arbitrator and there is no charge for MERC's service. The cost of the arbitration (arbitrator costs, etc.) are paid by the parties. MERC does not enforce, vacate, or maintain grievance arbitration awards and will not collect or enforce payment of fees.

Grievance Arbitration Appointment activity during FY 2022 was:



MERC CONSTITUENT TRAINING PROGRAMS

The Mediation Division offers the following training programs at no charge to union and employer groups using separate or joint training sessions:

- MERC Basics and MERC Beyond the Basics: Provides a summary review of MERC's authority and processes under PERA, LMA, Act 312 and other statutes administered by the agency. The training is tailored to the specific groups to focus on the areas of most interest to those in attendance.
- Collaborative Bargaining (Interest Based Bargaining): Promotes a less adversarial approach to collective bargaining and contract negotiations. Many parties believe that a collaborative approach is more effective than the traditional, adversarial methods of collective bargaining. This collaborative approach is intended to avoid situations where one party wins while 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 consensus building for resolution.

- Interest Based Problem Solving (non-CBA): A variation of the Interest Based Bargaining training is a recently developed training program on collaborative problem solving. This program is typically presented along with training in the establishment of a labor-management committee to enhance communication and resolving workplace issues. This training is often done in conjunction or as a precursor to the Labor Management Committee training and facilitation.
- Labor Management Committees: Often used as the catalyst for strengthening the workplace relationship between labor and management, labor management committees provide an ongoing means for workplace disputes to be prevented or resolved earlier on due to the regular dialogue between the parties. MERC training and facilitation will help parties understand the underlying principles and methods necessary for setting up a productive labor management committee and help them advance toward that goal.
- Collective Bargaining Basics: Provides a summary review of the goals and objectives in the collective bargaining process. Also focuses on key nomenclature and principles of the bargaining process and means to reaching a tentative agreement and ratification.
- Grievance Processing & Contract Administration Basics: Provides a summary review of the goals and objectives in the grievance process under a collective bargaining agreement. Also focuses on key principles of the contract administration and steps in the grievance procedure of a collective bargaining agreement. Mock grievances and hands on simulations are often included in the training, depending on the particular group and time constraints.

OTHER FY 2022 HIGHLIGHTS

ELECTRONIC & REMOTE PROCESSES

Nearly 2 years after the initial COVID-19 restrictions began in early 2020, many State employees including MERC staff, have worked remotely away from the state building worksites. In FY 2022, LEO adopted and launched hybrid work schedules which were implemented by agencies depending on work functional needs. The staff at this agency has been able to utilize fully remote or hybrid schedules for all of the fiscal year. Electronic processing tools are available on the agency's website to ensure timely filing and processing of MERC filings, as well as accessing case details from the MERC e-File case management system. Highlights of a few of the commonly used e-processes include:

- MERC e-File: The agency's case management system has a public facing portal that can be used to initiate new MERC cases of the following types – ULP (CE, CU), Elections (RC, RD, RM, SD), Contract Bargaining (CB), Grievance Mediation (GM), Grievance Arbitration (GA) Appointments, and Work Stoppages (WS, SS, SL). MERC e-File may also be used to look up redated case information on MERC cases filed after December 2018.

- **Designated Filing Email Addresses:** To file materials on new and existing MERC cases without accessing MERC e-File, send an e-mail filing including any pdf attachments to the appropriate designated email address: merc-ulps@michigan.gov, merc-elections@michigan.gov, mercmediation@michigan.gov, merc-grievancearb@michigan.gov and mercpanel@michigan.gov. Matters before the ALJ's use --- willisj@michigan.gov
- **General Inquiries:** General questions may be sent to berinfo@michigan.gov, which will be rerouted to the appropriate MERC staff member for further processing.
- **Virtual “In Person” Meetings:** The 2020 pandemic forced extraordinary changes to the routine operations in workplaces across this nation (and the world). As such, electronic and virtual platforms to conduct business operations have become widely accepted, and even necessitated in a growing number of industries. This unexpected shift also occurred within government agencies and at MERC.

During FY 2022, this agency broadened its use of virtual and electronic tools in almost every aspect of our operations. Staff and agency constituents have become more accustomed to these “e-business operations” which have resulted in greater convenience, added efficiency and less delay. Mediation sessions, election conferences and ballot counts, meetings with staff and outsiders, and of course, case hearings held by judges, fact finders and arbitrators have increased dramatically over the past 12 months.

As with many courts, state, federal and municipal agencies, the use of virtual tools like MS Teams and Zoom has continually become a mainstay in workplaces whether the staff are working in-person, fully remote or under a hybrid schedule.

Certainly, this agency has embraced the use of virtual “in person” connections and will continue to explore those avenues that make the most sense for the best operations and outcomes.

VOLUNTARY MEDIATION PILOT PROJECT

With the Commission’s full support in early FY 2022, the agency launched a pilot project offering voluntary mediation services on newly filed cases in the labor relations division. Under the program, when a new unfair labor practice charge is filed with the agency, the parties are given a chance to mutually agree to participate in case mediation to seek resolution. Mediation is conducted virtually to expedite the process and maximize convenience for all involved. The mediation offer is included in the case initiation documents sent out by this agency, and a ten-day window is allowed for parties to opt to participate. If all parties agree, a MERC Labor Mediator is promptly assigned and contacts the parties to schedule the initial virtual session. If parties do not respond, any party declines the offer, or if the preliminary mediation process does not resolve the case dispute, the ULP case is forwarded to the MOAHR Administrative Law Judge for further processing in the normal course. The intended goal of this program is to expedite disposition of any ULP where the involved parties can possibly reach resolution by using the mediation process. Doing so will reserve the schedules of the ALJ’s for cases that require hearings or other

adjudicative assistance. By the close of FY 2022, 30% of ULP cases participating reached disposition.

REMOTE ACCESS TO MONTHLY COMMISSION MEETINGS

On May 3, 2022, Governor Whitmer signed Public Act 63 of 2022, which codified a change to the Open Meetings Act (OMA) requiring enhanced public access to meetings via streaming or recording. Although the legislation has an effective date of March 29, 2023, this agency sought to jumpstart the process to allow the public remote access to the Commission's monthly meetings. Since the April 2022 meeting, the public has been able to observe or listen to the monthly Commission meetings conveniently from a remote location using an internet connection with a computer, laptop, smartphone, or by calling in and listening from a landline or cell phone.

COURT REPORTING FUNCTION

Following the retirement of the longtime MERC Court Reporter during the 2nd quarter of FY 2022, the court reporting administrative functions have been co-managed by the MERC Departmental Analyst and MOAHR staff. Official records for hearings before the ALJ's and Act 312 Arbitrators are provided by state approved service providers—Penn Reporting, LLC and Network Reporting.

RULE MAKING

During FY 2022, MERC staff continued to an internal review of changes to the agency's General Rules and Act 312 Rules. Much of the review related to information obtained from the completed focus group meetings. The remaining focus group discussions and the subsequent steps in the process toward completion will resume during FY 2023.

BUDGET

The authorized budget appropriation for the agency during FY 2022 was \$4.4M. These funds are derived exclusively from state security fees and not general fund monies.

STAFF DEPARTURES & PROMOTIONS

Maria Greenough – After serving as the MERC Court Reporter since 1982, Maria retired from State service in January 2022. Prior to MERC, Maria was a freelance reporter affiliated with several court reporting firms in southeast Michigan, handling medical malpractice and auto negligence matters for insurance companies. She has a B.A. in Business from Cleary Business College; her certifications include Registered Professional Reporter and Certified Stenograph Reporter.

ON THE LIGHTER SIDE

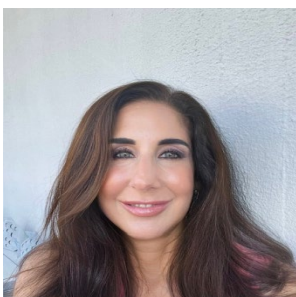
LEO DIRECTOR VISIT

This agency has benefited from the continued support of the LEO Department headed by Director Susan Corbin and Deputy Director of Labor, Sean Egan. Recently Director Corbin and Director of Employee Engagement, Jeff Dutka, visited the Bureau's office in Cadillac Place, located in Detroit.



STAFF PHOTO GALLERY

Here's an opportunity to put a face with the name of the FY2022 staff --- at least those who voluntarily submitted photos!



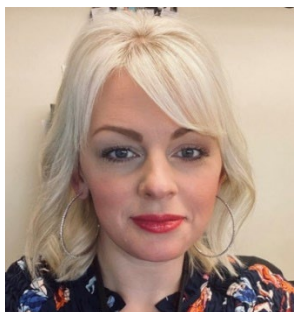
Tinamarie Pappas, MERC Chair



Bill Young, MERC Commissioner



Sidney McBride, BER Director



Ashley Rahrig, Dept. Analyst



Bob Strassberg, Mediator



Wanda Mayes, Mediator



**D. Lynn Morison,
Staff Attorney**



**Barbara Norris,
Mediation Secretary**



Liz Peters, Mediator



**Tracy Marr,
Mediation Secretary**



Tom Zulch, Mediator



**Deborah Stewart
Senior Exec. Mgmt. Asst.**

WEBSITE RESOURCE MATERIALS & CONTACT INFORMATION

RESOURCE MATERIALS/FORMS

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

- BER/MERC Offices
- “What’s New” link with new and significant agency information
- Freedom to Work Information with Frequently Asked Questions
- LEO FOIA Requests

CASE DECISION ACCESS

- The *MERC Website* has diligently sought to improve the public’s access to MERC decisions. Case searches may be conducted by year and month by clicking on the “1998-present MERC Commission Decisions Issued” link on the “MERC Decisions” page at www.michigan.gov/merc. Decisions on cases initiated in MERC e-File may be accessed by searching for the specific case, locating the event filing “MERC Decision Issued” and locating the associated attachment.
- The *Library of Michigan* houses scanned MERC Decisions dating back to the first decision, dated August 16, 1965. These older MERC decisions are available, compliments of the Library of Michigan, on the Governing Michigan web site, accessed via a link on the “MERC Decisions” section of the MERC webpage. Staff began working with DTMB to augment the options for the public to conduct case searches. The outcome of these efforts will likely began to be tested and implemented in early FY2023.

OFFICE LOCATIONS

| | |
|---|---|
| <p>Cadillac Place (Detroit) 3026 West Grand Blvd, Ste. 2-750 P.O. Box 02988 Detroit MI 48202-2988 313-456-3510 313-456-3511 (fax)</p> | <p>Mason Bldg. (Lansing) 503 W. Allegan Mason Bldg., Garden Level Lansing MI 48909 517-373-3580 (Mail and Faxes send to Detroit Office)</p> |
|---|---|