

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

FISCAL YEAR 2021 ANNUAL REPORT
(October 1, 2020 through September 30, 2021)



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 bring you the Michigan Employment Relations Commission's 2021 annual report. Serving as Chair of the Commission has been a great honor and a very fulfilling professional endeavor. 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 continued good works of MERC and the dedicated efforts of all Commission staff to enforce the Public Employment Relations Act.

Since its inception in 1947, PERA has been the cornerstone for the protection of the rights of public sector employees 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 assists with, and fosters, the peaceful resolution of labor disputes between public employees and the labor organizations representing their employees.

The 2021 FY Report catalogues the significant work done by the Commission this past year. Despite the continuation of the global COVID-19 pandemic and the many challenges it has brought, the Commission has persevered in carrying out its designated mission. Notwithstanding the limitation on in-person activities, our mediators have successfully resolved dozens of contract disputes. Through continued remote hearings, dozens of unfair labor practice charges and representation cases have been heard and decided by administrative law judges, and the appeals of those matters have been decided by our Commissioners. We have expanded the use of electronic filing and have recently initiated a voluntary mediation program to assist parties in successfully resolving unfair labor practice disputes short of formal litigation. These achievements, which are impressive under any circumstances, are all the more noteworthy in light of the difficult circumstances under which they were attained. I extend my sincerest gratitude, respect, and congratulations to our dedicated Commission staff for their efforts and achievements.

I also wish to acknowledge two of our past members who departed the Agency in 2021. Samuel Bagenstos, my predecessor as Chair, was appointed by Governor Whitmer in December 2019. He resigned in January 2021 to accept a position as General Counsel for the Office of Management and Budget under the Biden administration. Sam had an impressive list of professional achievements prior to his appointment as Chair, including, but not limited to, his position as the Frank G. Millard Professor of Law at the University of Michigan. The Commission was fortunate to have had the benefit of his service, and I was grateful to have had the opportunity to work with him. Robert LaBrant was appointed Commissioner July 1, 2012 and reappointed for two successive terms. His service concluded on June 30, 2021, after having served the Commission for a total of nine years. Bob's many contributions to the Agency as Commissioner were reflected in his thoughtful, fair, and serious consideration of the decisions before him, along with his professionalism, collegiality, and wit. I thoroughly enjoyed the time I spent working with Bob, and the Commission owes him a debt of gratitude for his many years of dedicated service.

My goal for the duration of my tenure is to ensure that the Commission continues to fulfill its mission 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.

Tinamarie Pappas, Commission Chair

MESSAGE FROM COMMISSIONER YOUNG

For more than three decades, I worked as a labor attorney, primarily in the public labor relations sector. When Governor Whitmer appointed me to a position as Commissioner with MERC, I was truly honored and jumped at the opportunity to serve the Michigan labor community. Despite being on the Commission only a brief time, I have been 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 has been an inspiration. There are many challenges which we must face in the labor community as a consequence of the pandemic and, along with the staff and other Commissioner, I look forward to moving Michigan forward.

MESSAGE FROM DIRECTOR MCBRIDE

The unexpected onset of the coronavirus in early 2020 impacted public and private sector workplaces across the world. The Bureau and MERC were no different. By the latter months and the start of FY 2021, several ongoing adjustments were in place to maintain routine operations notwithstanding the seemingly omnipresence of the COVID-19 virus. MERC staff, partner agencies, party representatives and public citizens had become adjusted to a more “electronic” and “virtual” set of operations at the agency. All in all, this virus experience has allowed us to revamp and expand the use of technology in areas that may not have ever occurred but for the continuing pandemic. This FY 2021 Annual Report will highlight various metrics and accomplishments of the agency’s output attained during the outgoing fiscal year. I remain honored and appreciative of the dedicated service of the Commissioners, MERC staff and our close agency partners (e.g., MOAHR ALJs, MERC Panel Members, etc.)—all of which comprise the MERC Family that has contributed to the successful outcomes realized during Fiscal Year 2021.

Our MERC Commissioners continue to provide first-class service to the agency. Commissioner Young have maintained the high standard that agency constituents have been accustomed to over the years. Former Chair Bagenstos and former Commissioner LaBrant, each left the agency with an esteemed record of service that future appointees can emulate.

The Michigan Employment Relations Commission and MERC staff remain steadfast to provide prompt and competent service in the resolution of your dispute or concern. Thank you for the continued confidence in our services.

Sidney McBride, Bureau Director

BIOGRAPHICAL SUMMARIES:

MERC CHAIRPERSON TINAMARIE PAPPAS

Tinamarie Pappas was appointed as MERC Commissioner on August 24, 2020 by Governor Whitmer. Following the former Chair's departure in early 2021, Commissioner Pappas was appointed as the Commission's Chairperson. Commissioner 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.

Commissioner Pappas began her legal career as a trial attorney for 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.

Commissioner Pappas earned a Bachelor of Arts from the University of Michigan, and a Juris Doctor from Wayne State University Law School.

The 3-year term for Commissioner Pappas expires on June 30, 2023.

MERC COMMISSIONER WILLIAM YOUNG

William F. Young 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. Commissioner Young holds a Bachelor of Science from Michigan State University and a Juris Doctorate from the University of Michigan Law School.

Commissioner Young's term expires on June 30, 2022.

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 was previously 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, grievances, 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.

Maria Greenough has been the MERC Court Reporter since 1982. 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.

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 became a MERC Labor Mediator in 2000. Her educational background includes a B.S. in Business Administration (1985), a 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.

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.

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 had 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 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 support 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 worked 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 2021:

- 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. Dardarian 2006-2011
- Edward D. Callaghan 2011-2019
- Samuel Bagenstos 2019-2021
- Tinamarie Pappas 2021-present

Bureau Directors from 1971 through 2021:

- 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

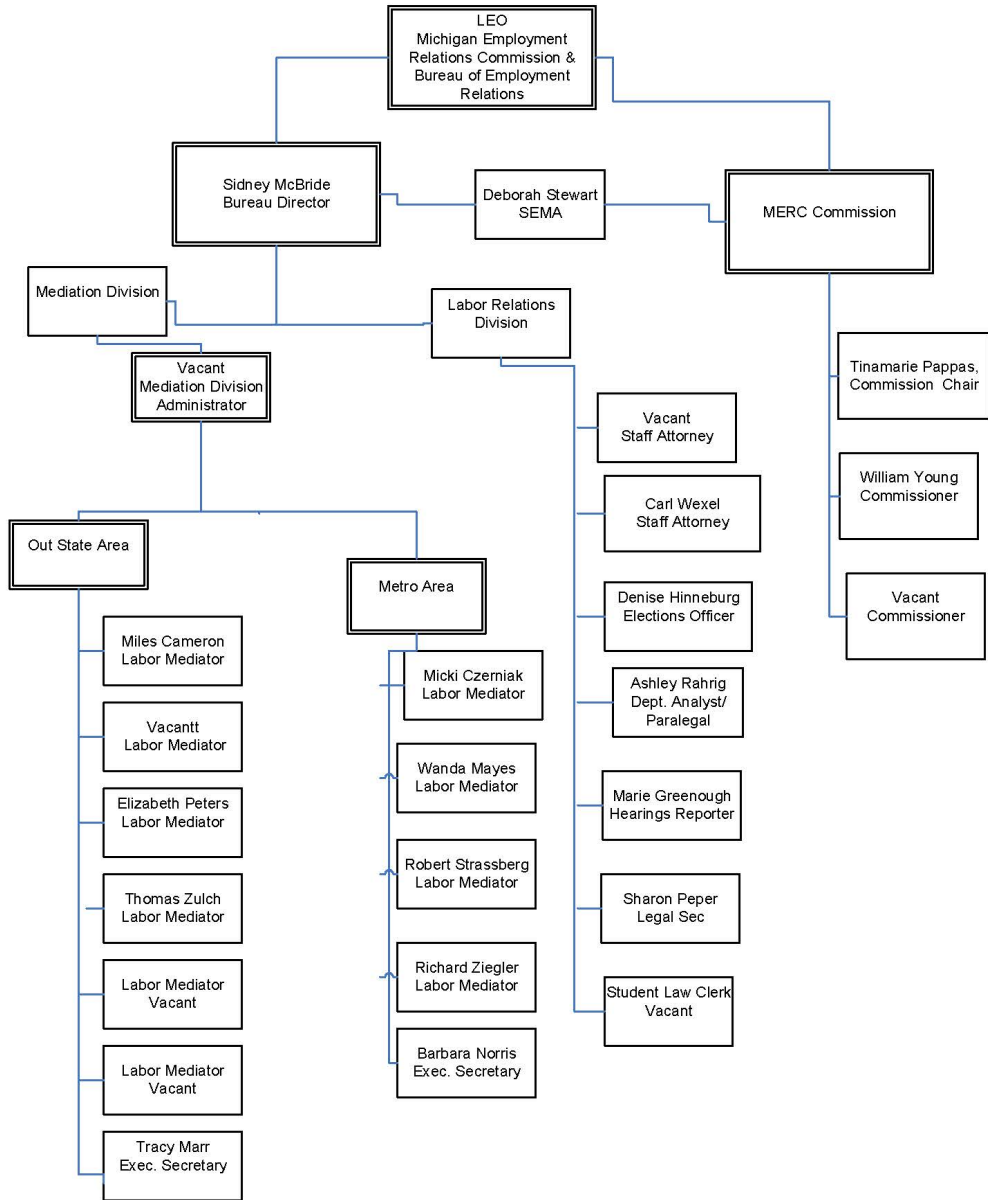
BUREAU OF EMPLOYMENT RELATIONS¹

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 WHD.

MERC Organizational Chart

As of September 30, 2021



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.

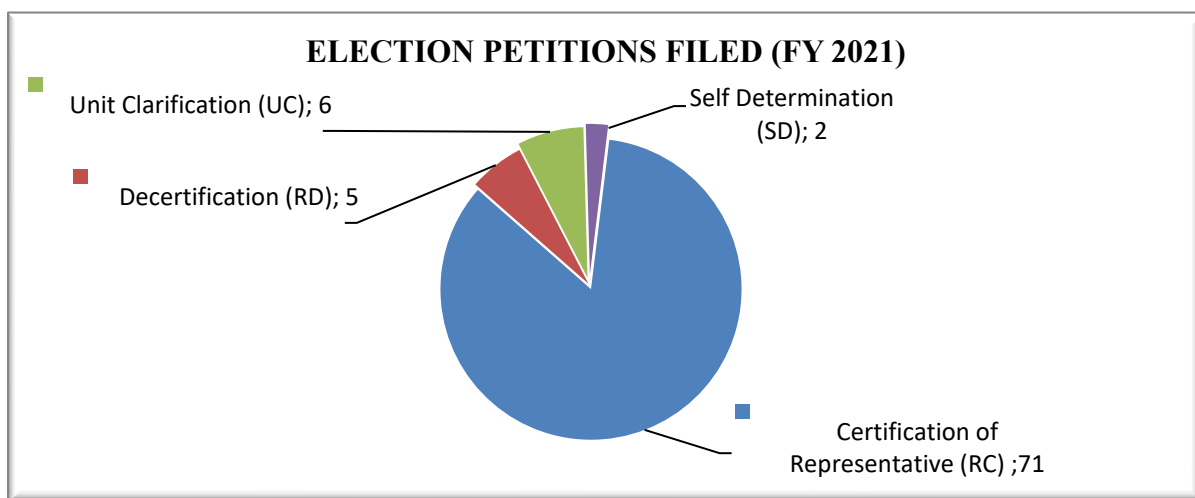
Election Outcomes

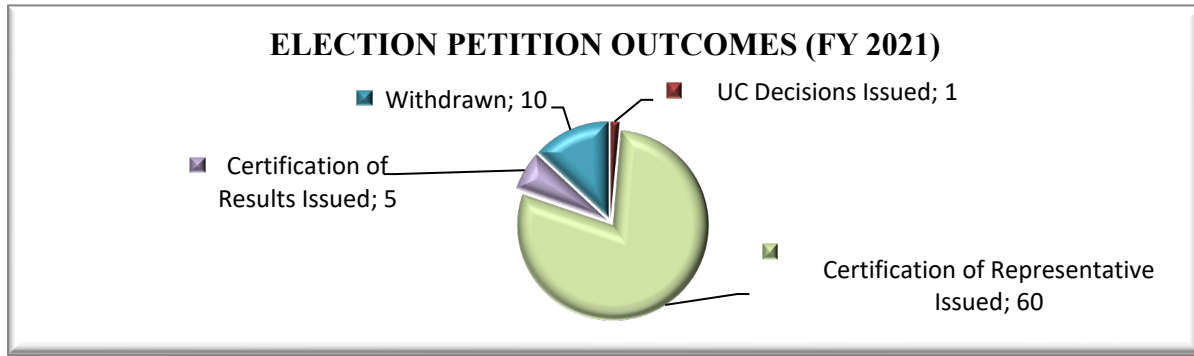
When a labor organization receives a majority of the valid ballots cast in a representation election, the Commission issues a **Certification of Representative** declaring that entity as the exclusive representative of the bargaining unit. If no labor organization receives a majority of the valid ballots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

During FY 2021, the following elections activity occurred:

ELECTIONS CASE ACTIVITY - FY 2021

Month	R Petitions Filed	UC Petitions Filed	Elections Held	Certification Issued	MERC Directed Elections	UC Decisions Issued
October	2	1	8	8	0	0
November	6	0	8	8	0	1
December	5	2	2	5	0	0
January	8	0	4	3	0	0
February	8	0	3	3	0	0
March	6	0	6	8	0	0
April	2	1	6	4	0	0
May	8	1	5	3	0	0
June	3	0	4	5	0	0
July	9	0	5	5	1	0
August	11	1	5	7	0	0
September	10	0	8	6	0	0
Total	78	6	64	65	1	1





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 2021

Month	ULP's Filed	Submitted to Mediation	Referred to ALJ	Received from ALJ	DRO's Issued	MERC Decisions Issued	20 Day Orders Issued	Claim of Appeal Filed
October	9	0	9	6	5	2	5	0
November	8	0	8	8	2	2	0	1
December	7	0	7	7	2	2	3	0
January	11	0	11	7	1	2	0	1
February	6	0	6	7	3	2	5	0
March	15	0	15	9	3	2	1	0
April	10	0	10	6	5	1	1	0
May	10	0	10	7	5	2	1	0
June	7	0	7	19	9	4	1	0
July	6	0	6	4	3	3	4	0
August	5	0	5	6	4	2	9	0
September	9	1	9	6	6	2	0	0
Total	103	1	103	92	48	26	30	2

HIGHLIGHTS OF MERC DECISIONS IN FY 2021

During FY 2021, ULP case activity involved cases filed by employers, labor organizations, and individuals asserting violations of PERA. Highlights of a few noteworthy cases included:

Failure to Rehire after Outsourcing:

Ypsilanti Community Schools -and- Teamsters Local 243 -and- Deanne Freeman -and- Leslie Harris, MERC Case Nos. 19-H-1710-CE, 20-A-0016CE & 20-A-0017-CE, issued January 12, 2021, the Commission unanimously found that the School District violated Section 10(1)(c) by failing to hire Charging Parties due to their prior union activity. The Individual Charging Parties had previously served as shop stewards for the Union, prior to the School District outsourcing its transportation services to a private sector company. After outsourcing, the new private sector company hired all of the prior workers, except for these two former union stewards. The Union and the former stewards filed charges against the School District asserting discriminatory conduct and anti-union animus against the former employees due to their prior union activity. The School District denied any misconduct and asserted MERC lacked jurisdiction to address the claim as the new transportation vendor is private sector and outside of MERC's authority. MERC disagreed finding jurisdiction proper because Charging Parties applied for employment within a public school district, which is a public employer. The Commission held that the remedy recommended by the ALJ (that included back pay and job reinstatement) was appropriate, and also upheld the ALJ's credibility determinations.

Parking Changes:

University of Michigan Health System and University of Michigan House Officers Association, Case No. 19-H-1721-CE, issued February 9, 2021, the Commission found that the Employer violated PERA when it unilaterally relocated the parking spaces reserved for employee parking notwithstanding the Union's request to bargain over the impact of any parking changes to its bargaining unit members. The Employer sought to revamp seven parking areas to provide additional patient and guest parking. In doing so, more than 900 spaces were reassigned within the 6 parking locations that comprised parking structures and surface lots. The change resulted in many employees, including bargaining unit members having to pay more in monthly costs, or travel farther between the new parking space and their worksite. The Employer viewed the impact of the changes as "minimal". The Commission majority disagreed finding the parking reassignments to be a substantial change in working conditions that had a material impact on unit employees. By refusing the Union's demand to bargain, the Employer committed a bargaining violation. The Commission also rejected the Employer's "covered by" defense finding no language in the CBA that reasonably addressed the parking issue in this dispute.

Contract Bar to Election:

City of Farmington Hills, Case No. 20-K-1702-RC, issued June 8, 2021, the Employer and Incumbent Union were parties to a collective bargaining agreement covering the period of July 1, 2017 through June 30, 2022. A renegotiated agreement between the parties was reached on July 28, 2020 and mutually ratified in August 2020. On November 4, 2020, a rival Union filed a petition for a representation election and argued that the contract ratified in August 2020 was a premature extension of the initial 5-year agreement and could not bar the newly filed petition. The Commission disagreed finding that the August 2020 ratified agreement did not constitute a

premature extension under Section 14(1) of PERA. The Commission reasoned that the petitioner (and others) had an opportunity to file during the open window period and after the expiration of the first 3 years of the initial 5-year agreement. The fact that the Incumbent Union renegotiated and ratified a subsequent agreement after expiration of the 3-year protected period of that initial contract did not meet the definition of a “premature extension” under PERA section 14. Consequently, the Commission dismissed the rival Union’s representation petition as barred and untimely.

TA Ratification Bar to Election:

Wayne County, Case 20-L-1803RC, issued June 8, 2021, the Commission majority found that a 30-day election bar existed when the Employer and Incumbent Union reached a tentative agreement on contract negotiations on the same day that a rival Union filed a petition for representation election involving that same unit. The MERC majority viewed that light of the revamped processes used during the virtual bargaining setting caused by COVID-19 limitations, the Parties’ tentative agreement was complete and sufficient to trigger the 30-day grace period consistent with PERA and MERC’s General Rules. The Commission also found that the tentative agreement was fully ratified and adopted by the parties prior to the expiration of that 30-day grace period. Consequently, the MERC majority dismissed the representation petition as barred under Section 14 of PERA. Conversely, the dissenting Commissioner argued that the tentative agreement reached on the same day as the petition’s filing was incomplete did not trigger the 30-day grace period. The dissent reasoned that the TA was not a complete written collective bargaining agreement and executed by the authorized representatives of the parties as required by longstanding Commission precedent. The Dissent also concluded that the tentative agreement was not ratified by the Employer within the 30-day “grace” period.

Unilateral Changes and the “Covered By” Doctrine:

University of Michigan (Medical Center) -and- Michigan Nurses Association, Case Nos. 19-D-0876-CE-2 & 19-I-1855-CE, issued July 16, 2021, the Commission found that a ULP may have occurred based on the unilateral changes made by the Employer to the parking conditions of employees including in the bargaining unit. The ALJ had concluded that the parking changes were “covered by” the existing collective bargaining agreement. MERC disagreed and held the contract language was broad and non-specific and did not authorize the Employer to unilaterally make the disputed parking changes that affected many bargaining unit members. The case was remanded for further factual findings by the ALJ.

Administrative Determinations on R Petitions:

Regents of the University of Michigan, 21-C-0630-RC, issued July 13, 2021 and August 10, 2021, the Commission unanimously directed a representation election following the Director’s administrative determination on the sufficiency of the supporting show of interest. The case involved two unions--an Incumbent and a spinoff Independent Group. The Petitioner (Independent Group) filed multiple Representation (R) petitions seeking to represent an existing bargaining unit represented by the Incumbent Union (Incumbent). Prior to any filing with MERC, the Independent Union sought representation authority through an internal disaffiliation vote among the unit members. Subsequently an election petition was filed without a show of interest, relying instead on the disaffiliation vote. The Bureau Director dismissed that R petition for lack of a show of interest per MERC rules. The Independent Group then filed a second R petition along with a

requisite show of interest. Notably, there was a slight difference in the name of the Independent Group listed on the R petition compared to what appeared on the show of interest materials.

The Incumbent Union objected to the 2nd petition moving forward on 3 grounds--(a) Independent Group's unauthorized use of the name variant, (b) possible confusion stemming from the similar names of the competing unions, and (c) the pending ULPs related to these parties. After several subsequent filings and preliminary resolution efforts by the ALJ, the Bureau Director administratively determined that the matter should proceed notwithstanding the noted concerns. The Director reasoned that any possible confusion in signing the show of interest cards would be rectified with the voting process, and the ULP issues either fell outside the agency's authority or would not interfere with the employees' ability to choose between either union. After concluding no remaining issues existed to merit an evidentiary hearing on the petition, the Commission issued its decision directing an election in the matter. The next day, the Incumbent filed a reconsideration motion and requested the Commission stay its election order. MERC denied both requests indicating the supporting pleadings merely restated issues already addressed in the prior order and administrative determination.

Duty to Bargain Re: Change in Pay Period

City of Detroit (Dept of Transportation) -and- Amalgamated Transit Union Division 26, Case No. 20-A-0190-CE, issued September 14, 2021 and supplemental decision on November 12, 2021. The Commission affirmed the ALJ, in part, agreeing that the Employer committed an ULP by refusing to bargain with the Union regarding the switch from weekly to bi-weekly pay checks. The Commission disagreed with the ALJ's recommended order to return to the "status quo" of weekly pay periods. MERC found no evidence in any of the pleadings that the bi-weekly pay period change had been implemented as of the close of the ALJ record. After issuance of the initial MERC decision, the Union requested reconsideration and reinstatement of the ALJ's recommendation to return to weekly pay periods. MERC rejected both requests. However, based on information contained in the reconsideration motion of an actual date that the pay period change had been implemented, MERC remanded a "spinoff" case to the ALJ on the issue of whether the implementation was proper or premature.

Contract Repudiation:

City of Detroit (Law Department) -and- UAW 221, Public Attorneys Association, Case No. 20-D-0755-CE, issued September 9, 2021, the Union alleged separate counts of contract repudiation due to the Employer's failure to implement a contractual pay increase and its reduction in workforce due to alleged budget constraints. Affirming the ALJ, the Commission found the Employer's refusal to honor a contractual pay increase constituted a repudiation of the contract and ULP violation. The Commission also agreed with the ALJ and dismissed the second repudiation claim concluding the "reduction in force" issue involved contract interpretation to be resolved through the contract's grievance procedure.

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

“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:

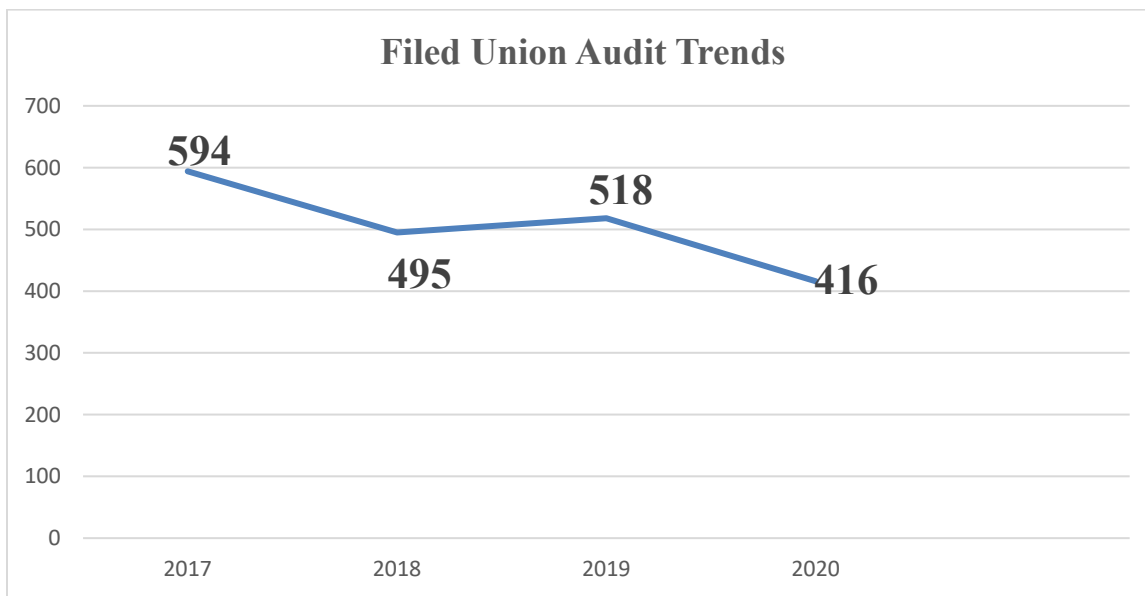
- Organize together or form, join, or assist in labor organizations;
- Engage in lawful concerted activities for the purpose of collective negotiation, bargaining or other mutual aid and protection; and
- Negotiate or bargain collectively with their employers through representatives of their own free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

HIGHLIGHTS OF MEDIATION ACTIVITY DURING FY 2021

During FY 2021, employers and unions continued to experience the negative impact of COVID-19 in public and private sector workplaces throughout Michigan. One ongoing concern involved the difficulty with recruiting and maintaining an adequate workforce as COVID-19 restrictions lessened and workplaces attempted to shift to operate at pre-pandemic levels. Worker shortages, as well as existing employees feeling "overworked and underpaid" led to the use of creative measures to address staffing needs.

For instance, the problems caused by the recruitment/retention difficulties (at times) led to increased entry level wage rates and higher wage demands. The combination of these recruitment/retention issues, along with the receipt of one-time federal stimulus monies, in some instances, led to higher wage rates across the wage scale.

MERC Labor Mediators readily disposed of a number of agency cases involving unique and reoccurring workplace disputes during the fiscal year. Several key topics included:

1. Balancing the use of "virtual" or remote processes against requests for "in person" sessions.
2. Impact of fewer resources and profits due to restricted or limited operations.
3. Mandatory in-person assignments for certain employees while others work remotely.
4. Impact of "off and on" COVID-19 related shutdowns at schools/ universities with staff often facing student social-distancing issues and working remote and in-person schedules.
5. Undertaking COVID-19 vaccination and testing measures for 'in person' workers.
6. Assignment of teachers to unconventional duties due to COVID-19 (e.g., classroom meal handouts, disinfecting classrooms, monitoring vendor conducted on-line courses).
7. Debate over the permissible uses of the restricted, one-time federal stimulus monies.
8. Continued impact of per pupil funding losses due to home school, truancy etc.
9. Continued impact of budget uncertainties (and other issues) on parties' ability to uphold obligations under existing CBA terms and conditions.
10. Increased rejections by union members on 1st round voting on tentative agreements.
11. Increased restrictions on the use of mandatory overtime provisions.
12. Increased number of disciplinary grievances proceeding to the mediation process.
13. Continued reduction in Defined Benefit pension plans versus Defined Contribution and Hybrid retirement plans.

MEDIATION ACTIVITY - FY 2021

Month	Bargaining Notices Received	Contract Mediation Requested	Contract Mediation Conferences	Contracts Settled in Mediation	Grievance Mediation Requested	Grievance Mediation Conferences	Grievances Settled in Mediation
October	123	27	60	16	3	13	9
November	63	21	28	5	6	5	1
December	73	35	50	16	6	5	5
January	200	34	42	14	13	18	16
February	182	29	42	5	23	23	21
March	288	24	40	7	13	8	8
April	211	25	40	11	11	17	14
May	143	21	28	9	17	20	16
June	159	39	56	13	15	17	1
July	98	38	63	9	14	5	3
August	138	39	56	27	26	30	15
September	93	35	45	18	7	9	11
Total	1771	367	550	150	154	170	120

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

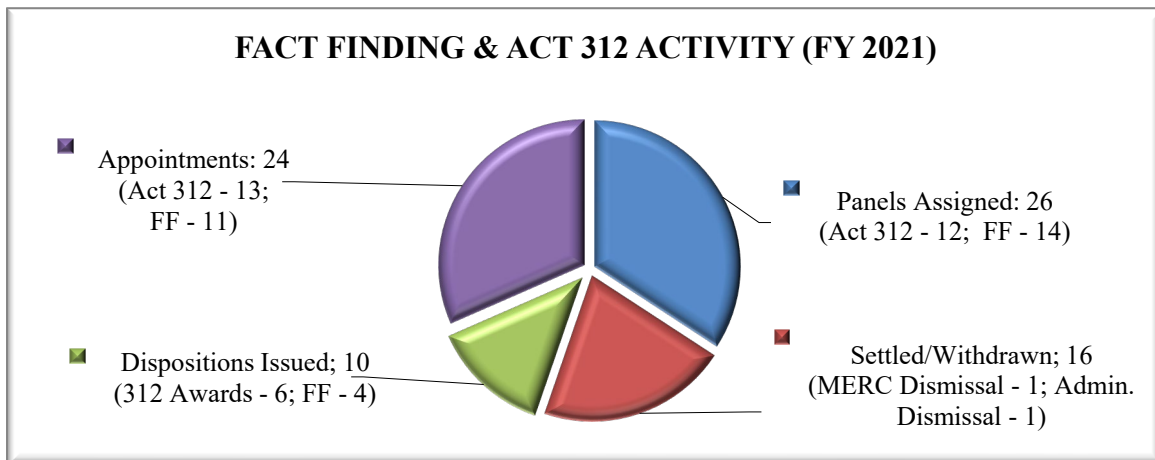
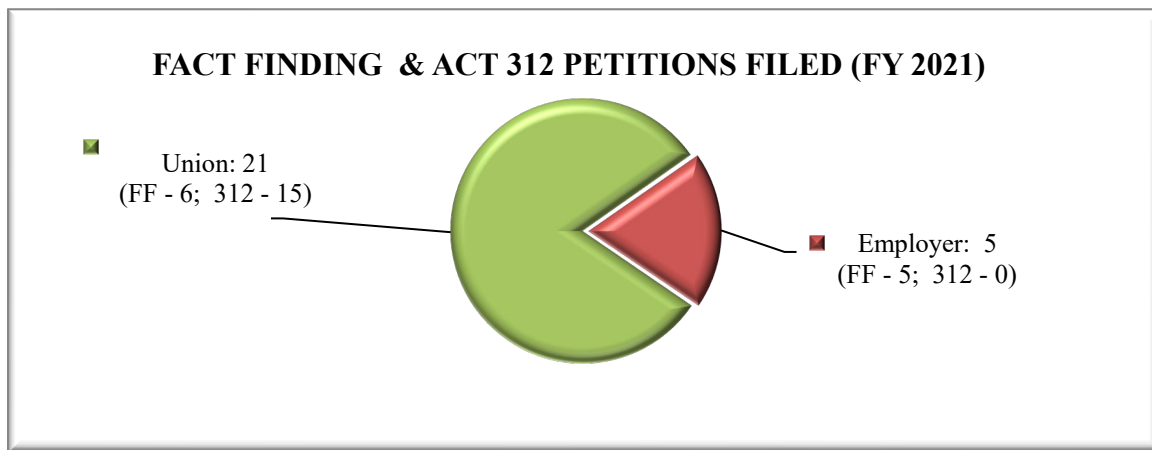
In public sector collective bargaining, the parties are prohibited from undertaking self-help remedies such as strikes or lockouts (work stoppages). Instead, a special type hearing can be requested where a 3rd party neutral (not the mediator) hears and reviews information related to the outstanding disputed 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.

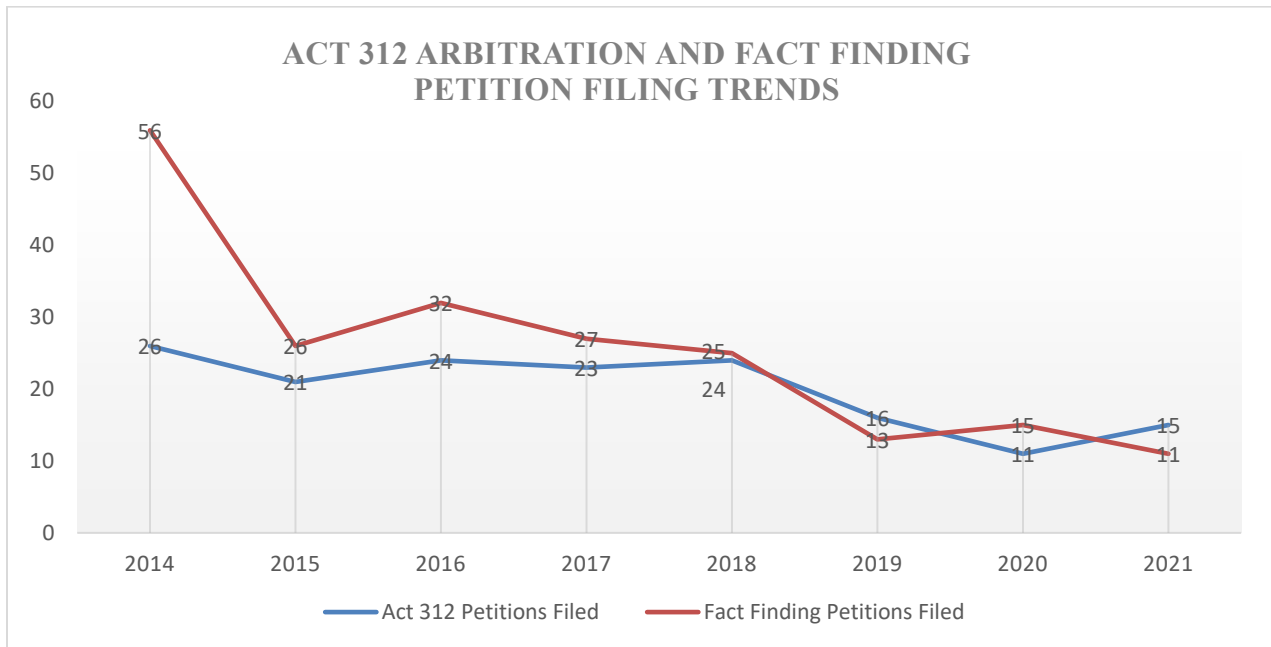
Fact-Finding & Act 312 Compulsory Arbitration

Fact-Finding: MERC fact-finding 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.

Fact-finding and Act 312 Arbitration activity during FY 2021 included:





ACT 312 ARBITRATION TRENDS

	PETITIONS FILED FOR ACT 312	PANEL ASSIGNED FOR ACT 312	ACT 312 ARBITRATOR APPOINTED	AWARDS FOR ACT 312
2014	26	37	26	10
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

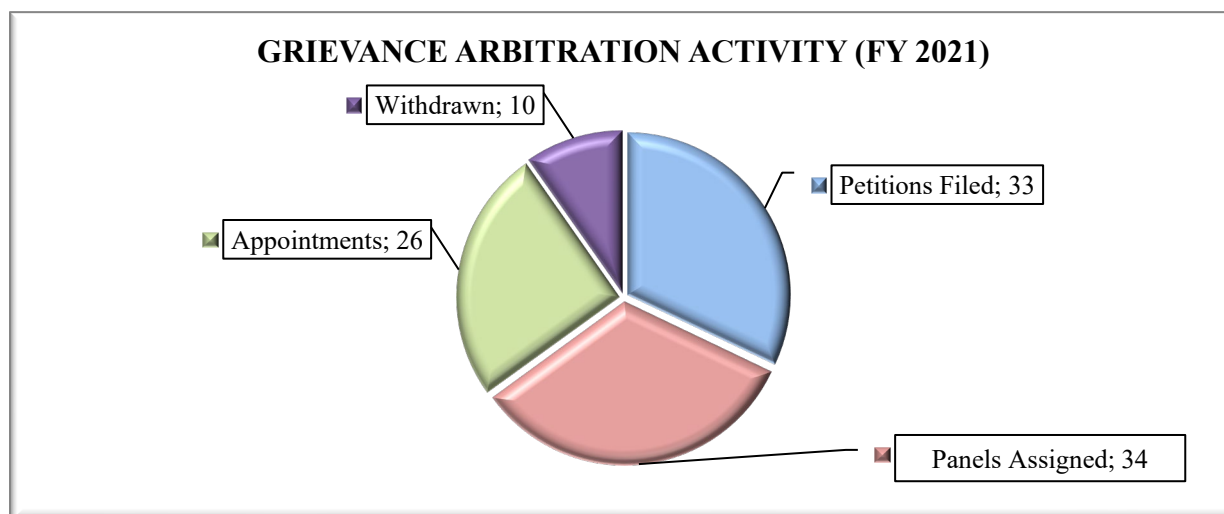
FACT FINDING TRENDS

	PETITIONS FILED FOR FACT FINDING	FACT FINDER PANEL ASSIGNED	FACT FINDER APPOINTED	REPORTS ISSUED FOR FACT FINDING
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

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 2021 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 2021 HIGHLIGHTS

VIRTUAL & REMOTE PROCESSES

As previous noted, the 2020 pandemic forced many workplaces to utilize various forms of advancing technology in order to meet regular and unusual business demands. As time progressed, virtual and remote processes (in many instances) proved to be a more accommodating and efficient means to conduct functions including prehearing conferences, mediation sessions, case hearings and training events. During FY 2021, MERC processes were conducted using remote and virtual means. Agency staff became very skillful at using these soft tools and thereby building party reliance on these specialized methods. Even state government shifted and adopted remote and hybrid alternative work schedules for many state employees. In sum, virtual and remote processes will likely continue well beyond the passage of any COVID-19 concerns. MERC Staff will continue to be in the forefront of mastering any of these advancing methods that we use so that we benefit the participants (including MERC staff) while also delivering the best service outcomes.

BUDGET

The authorized budget appropriation for the agency during FY 2021 was \$4.54M. These funds are derived exclusively from state security fees and not general fund monies.

STAFF DEPARTURES & PROMOTIONS

Samuel Bagenstos - In January 2021, Commissioner Chair Bagenstos left MERC to a Presidential appointment with the Biden Administration as General Counsel of the White House Office of Management and Budget. Bagenstos was appointed on December 18, 2019 to serve as MERC Commissioner and Chairperson. He also served at the Frank G. Millard Professor of Law at the University of Michigan Law School teaching courses in constitutional law, civil rights law, and labor and employment law. He previously roles have included service as Principal Deputy Assistant Attorney General for Civil Rights, and law clerk for US Supreme Court Justice Ruth Bader Ginsburg and for Ninth Circuit Court Judge Stephen Reinhardt. Bagenstos is a graduate of the University of North Carolina and the Harvard Law School.

Robert S. LaBrant - Commissioner LaBrant's third term expired on June 30, 2021. He was initially appointed as MERC Commissioner on July 1, 2012 and re-appointed in 2015 and 2018. Commissioner LaBrant previously was employed as Senior Vice President and General Counsel at the Michigan Chamber of Commerce. Subsequently, he served as Senior Counsel at the Sterling Corporation until 2017. Commissioner LaBrant holds a Juris Doctorate, *cum laude*, from Western Michigan University's Thomas M. Cooley Law School in Lansing, Michigan. He was admitted to State Bar of Michigan in 1983.

Ed Eppert – Ed retired from State service effective April 30, 2021. Ed served as a MERC Labor Mediator since 2004 assigned to the Upper Peninsula area where he lives with his family. His previous work experience has been balanced between management and labor, and other government service. He holds a B.A. from Michigan State University majoring in economics, an M.B.A. from Central Michigan University, and an Ed. Specialist Degree in School Administration from Northern Michigan University.

MERC E-FILE

The MERC e-File system launched in December 2018 and provided a public facing component that readily allows the public access to case related information and documents from the agency's website. For the first time in MERC history, public citizens (including MERC constituents) could search and view limited case information on any pending or disposed MERC cases that were initiated after mid- December 2018. Party representatives can electronically submit or "e-file" new cases and add new filings and materials on pending cases with greater convenience and less formality. MERC e-File details, including the system link, are located on the home page of the website at: <http://michigan.gov/merc>.

RULE MAKING

During FY 2021, MERC Staff continued the process toward possible changes to the agency's General Rules and Act 312 Rules. Several focus group discussions were completed that involved labor and management representatives covering targeted areas of the agency's services and processes. The sessions have spearheaded items for the staff and Commission to review as part of the ongoing Rule Making process that should be completed during FY 2022.

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

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 517-335-9181 (fax)</p>
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