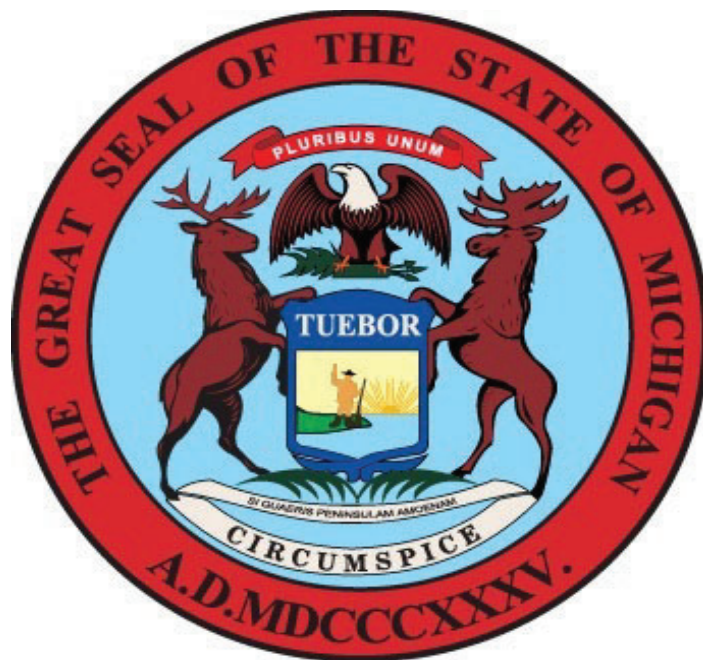


MICHIGAN EMPLOYMENT RELATIONS COMMISSION

FISCAL YEAR 2019 ANNUAL REPORT
(October 1, 2018 thru September 30, 2019)



Prepared by Bureau of Employment Relations Staff
Adopted: November 12, 2019

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INTRODUCTION

MESSAGE FROM THE COMMISSION CHAIR

On behalf of the members of the Michigan Employment Relations Commission (MERC), I am pleased to present the 2019 Annual Report. This report embodies many aspects of the FY period that reinforces the agency's mission to promote peaceful and harmonious labor-management relations within the State of Michigan. The Commission and Bureau staff continue to conduct activities with the utmost competence, impartiality and integrity.

The Bureau of Employment Relations (Bureau) continues to assist labor and management representatives throughout Michigan in the resolution of various labor disputes and related concerns. Doing so provides greater stability in the workplaces in this state for employers, labor organizations and employees.

This year's report reflects on the many successful outcomes obtained in the agency's Labor Relations and Mediation Divisions. High quality services such as representation elections, contract and grievance mediation activities, as well as fact finding and compulsory arbitration processes are readily accessible to labor and management representatives. The Commission's docket of pending unfair labor practice cases is current and up to date. The issuance of decisions by the Commission during the fiscal year resolved several complex cases to give clear guidance to impacted parties and others facing similar circumstances.

Training initiatives continue to be a top priority. Various training modules conducted by MERC staff were utilized by labor and management groups. Staff and Panel member training also occurred as illustrated by the successful Fact Finding and Act 312 Training Conference held on September 25, 2019. Attendees learned the most current information regarding MERC case updates, MERC statutes, MERC e-File system, as well as key issues regarding school funding, ability to pay, and retirement presented by Treasury Department and MERS representatives.

The Bureau consistently meets and often exceeds targeted goals set forth in its Dashboard metrics which regularly track key agency objectives. In addition, after the recent transition to the Department of Labor and Economic Opportunity, we will continue on a Strategic Planning process that involves insight from internal and external stake holders.

Under the capable leadership of our long-tenured Bureau Director Ruthanne Okun, staff continues to work professionally and provide excellent service in a work environment and culture that promotes cooperative labor management relations.

As FY 2020 commences, MERC and staff will continue to approach existing and new challenges with a continued zeal to foster positive and productive labor management relations in workplaces throughout Michigan. Visit the MERC web-site at www.michigan.gov/merc for updated information and share your feedback on how we may better serve the labor-management community.

Edward D. Callaghan, Chair

MESSAGE FROM THE BUREAU DIRECTOR

As I enter my 22nd (and final) year as Director of the Bureau of Employment Relations, I would be remiss if I didn't recognize staff members of our agency who, through their work every day, exhibit their dedication to MERC/BER's mission and goals. At the Bureau, we work in tandem with the Commission to fulfill our mission of fostering peaceful and cooperative employer-employee relationships and of administering laws governing labor-management relations in our State.

During recent years, we have implemented court and agency rulings regarding controversial legislative changes, including right to work; prohibited subjects of bargaining; and cost limitations on employer-paid health insurance. The Bureau continues to provide able and competent support to the Commission, allowing MERC to perform its work of deciding difficult cases without fanfare. Bureau staff has worked alongside of our colleagues in Lansing to ensure that they, too, recognize the critical role we play in moving our State forward and to ensure that adequate funds are available to support our efforts. We have implemented a state-of-the-art case tracking system (MERC e-file) that allows for electronic filing and look-up of cases and has moved us into the 21st century in the IT world. Our web-site at www.michigan.gov/merc has been enhanced, allowing for faster and easier access to information. Last, but certainly not least, MERC staff continues to work in tandem with the Wage and Hour staff. Both areas have worked together, each with a different but equally important statutory mandate, to serve the citizens of the State of Michigan without compromising the mission of either area.

We thank members of our parent department to which we have recently transitioned - the Department of Labor and Economic Opportunity under the capable leadership of Director Jeff Donofrio and Chief Deputy Director Susan Corbin - for their recognition of the contribution that our agency makes to moving this State forward. We also express heartfelt appreciation to persons in our predecessor department - the Department of Licensing & Regulatory Affairs for their leadership, guidance and support, along with our Commission Chair Edward Callaghan and Commissioners Bob LaBrant and Natalie Yaw. It was at the Commission's suggestion - and primarily the vision of our Chair Callaghan - that we have prepared an Annual Report since 2013 which contains a wealth of text, statistical information and charts, reflecting the stellar and hard work that the Commission performs along with the support of Bureau personnel.

On a personal note, I will be retiring in January 2020, so this will likely be my last opportunity to connect with some of you. I have enjoyed my lengthy tenure at the Bureau, which would not have been possible without the support of our parent departments, the Commission, Bureau staff and the labor relations community, which have worked together to ensure labor peace in spite of the challenges we have faced. Our job as an agency has always been and will continue to be to ensure that the labor relations processes in our State work for the parties. With your continued cooperation and support, this effort will undoubtedly continue after my retirement in the hands of our capable and dedicated agency staff and Commission.

I wish all of you the best of everything and, especially, continued good health.

Ruthanne Okun, Director
Bureau of Employment Relations

COMMISSION MEMBERS

MERC CHAIR EDWARD D. CALLAGHAN

Edward D. Callaghan was appointed Chair of the Michigan Employment Relations Commission on June 20, 2011 and was re-appointed on June 6, 2014, and, again, on October 3, 2017. Dr. Callaghan served as a full-time faculty member at Oakland Community College (OCC) from 2005 to 2015 and is currently an Adjunct Professor at OCC and Walsh College. He previously served as President of OCC's Orchard Ridge campus and as Vice Chancellor for Human Resources and College Communications. Chair Callaghan has negotiated labor contracts in the public sector for more than 30 years representing public employers, including: the City of Madison Heights, Dearborn Public Schools, Wayne County Community College, Henry Ford Community College and Oakland Community College.

Dr. Callaghan's extensive collective bargaining experience includes: handling MERC elections, unfair labor practice claims, and mediation cases. He has also served as an Act 312 arbitrator for police and fire municipal disputes and as a fact finder for governmental units in Michigan – both on behalf of the Michigan Employment Relations Commission.

Chair Callaghan earned a Ph.D from the University of Michigan, an MBA from Wayne State University, and a B.S. from the University of Detroit.

MERC Chair Callaghan's current appointment is for a 3-year term expiring on June 30, 2020.

MERC COMMISSIONER ROBERT S. LABRANT

Robert S. LaBrant was appointed a member of the Michigan Employment Relations Commission on July 1, 2012 and was re-appointed on May 27, 2015, and again, on July 28, 2018.

Commissioner LaBrant previously was employed as Senior Vice President and General Counsel at the Michigan Chamber of Commerce before retiring in 2012. Post-retirement, Mr. LaBrant served as Senior Counsel at the Sterling Corporation until 2017.

Before moving to Michigan in 1977, Commissioner LaBrant worked at the Appleton, Wisconsin Area Chamber of Commerce, the Metropolitan Milwaukee Association of Commerce and the Business-Industry Political Action Committee. Commissioner LaBrant was on the staff of Congressman Harold V. Froehlich of Wisconsin. He was a Captain in the U.S. Army with service in Viet Nam in 1971-72.

Commissioner LaBrant holds a Juris Doctorate, *cum laude*, from Western Michigan University's Thomas M. Cooley Law School in Lansing, Michigan. He completed his graduate certificate in public relations from the American University in Washington, DC, and received his bachelor's degree from the University of Wisconsin in Stevens Point, WI.

Commissioner LaBrant has served as an adjunct faculty member at Lansing Community College and at the Thomas M. Cooley Law School. He was admitted to State Bar of Michigan in 1983.

Commissioner LaBrant's appointment is for a 3-year term, expiring on June 30, 2021.

MERC COMMISSIONER NATALIE P. YAW

Natalie P. Yaw was appointed a member of the Michigan Employment Relations Commission on June 25, 2013 and was re-appointed on June 9, 2016. Commissioner Yaw has several years' experience in business law, both from a litigation and a regulatory perspective. Currently, she is a partner at Erskine Law, PC, in Rochester, where she focuses her practice on commercial litigation for corporate clients.

Commissioner Yaw previously served as Vice President and Senior Counsel at Citizens Financial Group, Inc., and as an attorney at Dickinson Wright, PLLC, where she specialized in commercial and consumer lender liability litigation. She is a member of the State Bar of Michigan and serves as Vice Chancellor for the Episcopal Diocese of Michigan. She has a Bachelor's degree from Rice University and a Juris Doctorate, *summa cum laude*, from Michigan State University College of Law.

Commissioner Yaw's previous appointment was for a 3-year term, and it expired on June 30, 2019.

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).

Chairs of the Michigan Employment Relations Commission, from 1960-2019, are as follows:

- 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-present

BUREAU OF EMPLOYMENT RELATIONS

The Bureau of Employment Relations (the Bureau or BER) was housed within the Michigan Department of Licensing and Regulatory Affairs (LARA) until August 11, 2019, when BER was transferred to the Department of Labor and Economic Opportunity (LEO) by Executive Order of Governor Whitmer. BER is the administrative arm of the Commission. MERC/BER 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 disputes involving contract negotiations and grievances in the public and private sectors. Other services provided by BER include: fact finding; compulsory arbitration; grievance arbitrator selection; last offer elections; establishing labor-management committees; and training in collaborative negotiations.

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.

Bureau Directors from 1971 through 2019:

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

Supervision of Wage and Hour Division

In FY 2016, the Wage and Hour Division in LARA became a division in the Bureau of Employment Relations – working along-side of the Bureau’s Labor Relations and Mediation Divisions. With that transfer, Bureau Director, Ruthanne Okun, and then Mediation Supervisor, James Spalding, assumed oversight over the Wage and Hour Division and guided and facilitated its full integration into BER. Bureau Director, Ruthanne Okun, and current Mediation Division Administrator, Sidney McBride, retain those oversight responsibilities. Both agencies remain mindful of retaining their separate missions and goals.

STAFF BIOGRAPHIES:

Ruthanne Okun, BER Director has been in the field of labor and employment relations for the past 38 years. She graduated *magna cum laude* from Michigan State University and from Notre Dame Law School, where she was the Assistant Legislative Research Editor of the Journal of Legislation. Prior to attending law school, Director Okun served as the Personnel & Employee Relations Director of Larden Company, with facilities in Davisburg, Michigan and Plymouth, Indiana. Director Okun was employed for nearly 5 years with the law firm of Miller, Canfield, Paddock & Stone in its labor and employment relations department and was a partner at the Riverview law firm of Logan, Wycoff and Okun, PC. Since 1998, she has served as the Bureau Director and supervises staff located in Detroit, Lansing, and out-state areas, including staff of the Bureau’s Wage and Hour Division. Finally, she also serves as legal advisor to the Commission. Director Okun is a member of the State Bar of Michigan.

Miles Cameron has been a Labor Mediator with the Michigan Employment Relations Commission since July of 2008. Prior to joining the Bureau, 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 Labor Mediator with the Michigan Employment Relations Commission 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.

Bryan Davis, Jr. joined the Michigan Employment Relations Commission in January of 2019 and served as the Law Clerk. Prior to and concurrently for some months, Bryan worked as a Law Clerk for Sullivan, Ward, Asher & Patton, P.C., serving in a division of the firm focusing on labor and employment law, specifically ERISA litigation and ERISA and IRC compliance. Bryan's educational background includes a B.A. in Psychology and a M.A. in Rehabilitation Counseling from Michigan State University. Bryan is currently completing his Juris Doctorate from Michigan State University College of Law and his Master of Human Resources and Labor Relations from Michigan State University. Bryan left the Bureau in September 2019 to accept a full-time job opportunity.

Ed Eppert has been with the Michigan Employment Relations Commission since 2004 as a Labor Mediator in the Upper Peninsula, where he lives with his family. His previous work experience has been balanced between management and labor, including retail, education, and other government service. He has held Teamsters, RCIA and MEA union cards, serving 17 years in school union leadership roles while a teacher/coach. He then was a school superintendent for 11 years. He later worked several years promoting small business growth at the county level through Michigan State University. 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.

Maria Greenough has been a Court Reporter for the Michigan Employment Relations Commission since 1982. Prior to coming to the Bureau, 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 by the Michigan Employment Relations Commission since 1996. She came to the Bureau 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 is the Mediation Division Secretary for the Lansing Office of the Michigan Employment Relations Commission and provides secretarial support to the Elections Officer in Detroit. She has been in this position since August 2015. Tracy returned to State service in 2008 as a Legal Secretary for the MOAHR Administrative Law Judges and in 2013, became a shared service Legal Secretary with BER. Before returning 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.

Wanda Mayes joined the Michigan Employment Relations Commission in 2000 as a Labor Mediator. 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 career in labor relations 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.

Sidney McBride joined the Michigan Employment Relations Commission in 2009 and currently serves as Mediation Division Administrator, after having held the position of 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. Sidney graduated from Wayne State Law School in the top third of his class.

D. Lynn Morison is the Staff Attorney for the Michigan Employment Relations Commission, having previously worked for the Bureau as an Administrative Law Judge. Before joining the Bureau in 2001, she was a Staff Attorney for the Michigan Employment Security Board of Review. Prior to working for the state, she was on the faculty 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 is 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. Ms. Morison left the Bureau in September 2019 to accept an appointment on the Unemployment Insurance Appeals Commission.

Barbara Norris joined the Michigan Employment Relations Commission in 1981 and currently is the longest serving member of the Bureau of Employment Relation's staff. She functions as Mediation Division Secretary in the Detroit Office. Before coming 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 Michigan Employment Relations Commission in 2019 with over 25 years of legal experience. Prior to coming to the Bureau, she worked in the Attorney General's office as a Legal Secretary. Before she joined State service, she worked as 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 the Michigan Employment Relations Commission in January 2019 as a Labor Mediator after 38 years of 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 almost 20 years, Elizabeth was in private practice representing employers in all 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.

Nancy Pitt performed secretarial and executive support activities for the Director of the Bureau of Employment Relations and members of the Michigan Employment Relations Commission. She began her employment with MERC in 1982 and with the State of Michigan in 1977 as a typist with the Department of Social Services. In 1979, she accepted a position as secretary to the Manager of the Detroit Regional Office of the Department of Civil Service. In 1982, she moved to the Department of Labor, Bureau of Employment Relations to provide administrative support services to the Executive Assistant and the Commission. Nancy Pitt retired from the Bureau of Employment Relations in December 2018.

Ashley M. Rahrig joined the Michigan Employment Relations Commission in 2014 and serves as the Bureau's Departmental Analyst. Prior to her employment with the Bureau, 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 also an active member of the Labor and Employment Law Section of the State Bar of Michigan.

James Spalding had been the Mediation Supervisor for the Michigan Employment Relations Commission since September 2012, and a Labor Mediator since October 1992. Formerly, he was Assistant Director of Labor Relations for the Michigan Association of School Boards (1986-1992); Business Representative for the International Union of Operating Engineers, Local 547 (AFL-CIO) (1982-1986); Federal Aviation Administration, Air Traffic Controller (1977-1981) and President of the Professional Air Traffic Controllers Organization (PATCO), Local 375 at the time of the 1981 PATCO air traffic controllers' strike. Jim served seven years in the U. S. Air Force (1969-1976) and held the rank of Staff Sergeant. He was elected to the Delhi Township Park Commission in 1984, re-elected in 1988 and 1992 and served as Chairperson of the Park Commission from 1989 to 1996. Mr. Spalding went to Lansing Community College, earning an Associate Degree in Business, Personnel/Labor Relations, *magna cum laude*. James Spalding retired from the Bureau of Employment Relations in October 2018.

Deborah Stewart joined the Michigan Employment Relations Commission in 2011 with over 25 years of legal experience. She currently serves as Senior Executive Management Assistant to the Bureau Director and members of the Michigan Employment Relations Commission providing secretarial and executive support. Before moving to her current position, she was Legal Secretary and provided support to a diverse set of functions in the Labor Relations Division and Mediation Division (Act 312 and fact finding). Prior to coming to MERC, Deborah worked at the law firm of Kelley, Casey & Moyer, P.C., where she served as Legal Secretary/Paralegal/Assistant Operations Manager. In this multi-faceted role, she developed and implemented a training program, including a manual for incoming legal secretaries. She also assisted in managing all facets of the office support administration including IT and employee-related matters.

Robert Strassberg has been a Labor Mediator since January of 2009. He previously headed MERC's Election Department for 12 years. In that capacity, Bob supervised and conducted two of the largest elections in MERC history. Prior to joining the Bureau, Bob was a Personnel Director (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.

Fred Vocino has been a Labor Mediator with the Michigan Employment Relations Commission since October 2009. From 1991 to 2009, he held a staff position with the Michigan Nurses Association (MNA). There, he conducted contract negotiations/administration and rights arbitration, assisted with policy development and led in mediation and ULP proceedings. Before 1991, he was an elected UAW official at Wayne State University. In his academic studies at Wayne State (B.F.A.), he developed an appreciation for alternative dispute resolution principles, the application of which he regularly practiced while at the MNA. Fred serves in the Grand Rapids area and covers southwest Michigan from Whitehall to Sturgis.

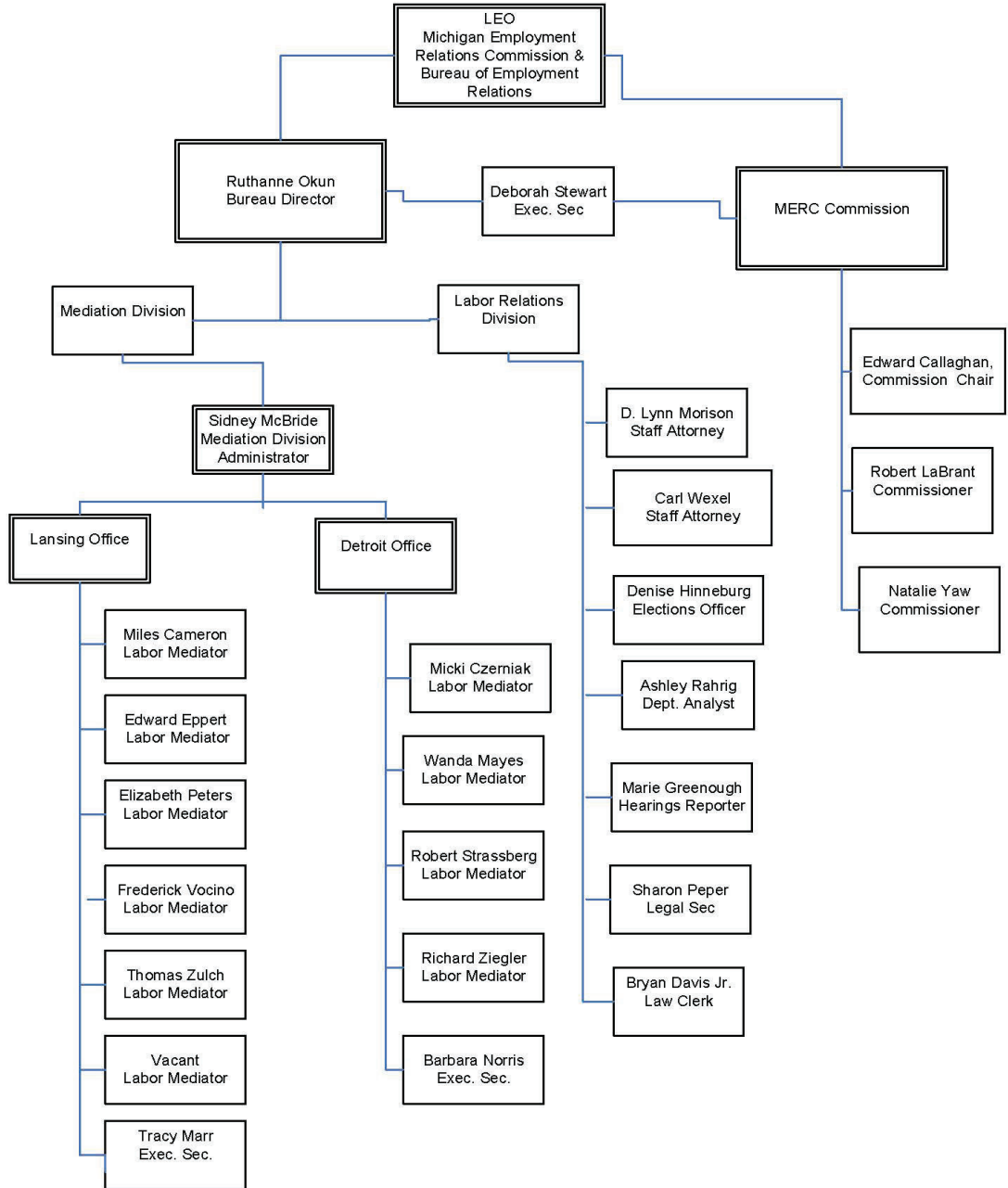
Carl Wexel works as a Staff Attorney/Administrative Law Specialist for the Michigan Employment Relations Commission and was previously employed by the Bureau as a Law Clerk beginning in 2013. Prior to law school, he was employed as a Director of Labor Relations for CSX Corporation, where he handled contract negotiations and administration, and as a Field Examiner for the National Labor Relations Board. He is a 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 Labor Mediator with the Michigan Employment Relations Commission 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 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 an M.A. in Industrial Relations from Wayne State University.

Tom Zulch joined the Michigan Employment Relations Commission as a Labor Mediator in 2017. Prior to joining the Bureau, he was Senior Staff Attorney for the Police Officers Labor Council from 2004 through 2017, handling all 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.

Organizational Chart

As of September 30, 2019



MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES (MOAHR)

With the creation of the State Office of Administrative Hearings and Rules (SOAHR) in 2005, Michigan became the State with the largest centralized hearings panel in the nation. Under an Executive Order, SOAHR was renamed as the Michigan Administrative Hearing System (MAHS) in early 2011. In 2019, MAHS was renamed, via Executive Order, the Michigan Office of Administrative Hearings and Rules (MOAHR).

The mission of MOAHR is to provide all parties in need of administrative hearings and rules with a timely, professional, sound, and respectful process. Three Administrative Law Judges from MOAHR are assigned to conduct MERC hearings related to union representation matters and unfair labor practice charges.

MOAHR Administrative Law Judges (ALJ)

ALJ Julia C. Stern is assigned exclusively to cases arising under the State's collective bargaining statutes, the Public Employment Relations Act (PERA) and the Labor Mediation Act (LMA). She has been involved in the administration of these statutes for more than 31 years. She received her undergraduate and law degrees from the University of Michigan and University of Michigan Law School. She was employed as a Field Examiner in Region 7 of the National Labor Relations Board from 1973-1976, and in private practice as an attorney representing employers in the private sector before coming to work for MERC in 1981. She served as Staff Attorney for MERC from 1981 to 1997 and has been an ALJ with the State since 1997.

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 the Michigan Employment Relations Commission as an Administrative Law Specialist beginning in 2013, handling matters related to the "Freedom to Work" laws. Prior to joining the Bureau, 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.

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 the State of Michigan and the Michigan State Police Troopers and Sergeants.

KEY LEGISLATIVE CHANGES AND ENACTMENTS

Since 2011, collective bargaining in Michigan (primarily public sector) has been greatly impacted by several amendments to PERA, the LMA and Act 312, and by other legislative changes that affect the Commission's administration of these three statutes. The scope of these legislative changes is broad and includes such areas as:

- 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 100-103);
- Limits on employer contributions to employee health care costs (2011 PA 152);
- Restrictions on giving pay and benefit increases to employees after contract expiration (2011 PA 54);
- Changes in the compulsory arbitration process for Act 312-eligible police and fire department employees (2011 PA 116);
- The ability of public employers to consolidate or transfer services (2011 PA 258-263);
- Union audit filing requirements (2011 PA 53);
- 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);
- Changes to the union audit filing requirement (2014 PA 414);

- Changes to Commission procedures in cases involving allegations of public school strikes and lockouts (2016 PA 194); and
- The Commission's exemption from the requirements of the Open Meetings Act only when deliberating the merits of a case (2016 PA 504).

The Commission continues to issue decisions interpreting the effects of the changes resulting from the above listed legislative enactments. (See the ULP section beginning on page 19). 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.

UNITS OF GOVERNMENT IN FINANCIAL DISTRESS

The Local Financial Stability and Choice Act (2012 PA 436) became effective on March 28, 2013. Upon the confirmation of a finding of a financial emergency in a local unit of government, as defined by 2012 PA 436, the local government may select from certain options, which include entering into a Consent Agreement negotiated with the State Treasurer or the appointment by the Governor of an Emergency Manager. Before removing a local government from receivership, the governor may appoint a receivership transition advisory board to monitor the affairs of the local government until the receivership is terminated.

The financial stress in municipalities and public school districts directly impacts the mission of the Michigan Employment Relations Commission and the Bureau of Employment Relations. Updated releases of the Department of Treasury's Emergency Manager Monthly Information Report and the Department of Education Deficit School District Quarterly Report are regularly provided to the Commission and MERC Labor Mediators for review and consideration.

Based on information issued by the Treasury Department in September 2019, no municipality was operating with an Emergency Manager and only one was operating with oversight by a Financial Review Commission. Two public school districts within MERC's jurisdiction were operating under a Consent Agreement with one other school district in receivership with a Transition Advisory Board. Also for 2019, 15 public school districts had the potential for fiscal stress. More detailed information on the content of these reports can be found on the Department of Treasury's webpage at www.michigan.gov/treasury.

During FY 2019, as in recent years, collective bargaining continued to be plagued with overarching concerns related to budget shortfalls and school district concerns regarding enhanced financial reporting requirements due to the early warning legislation. MERC Labor Mediators, nonetheless, continued to effectively assist the parties in reaching contract settlements.

MERC PROCESSES

REPRESENTATION PETITIONS AND ELECTIONS

MERC Representation Proceedings

The Public Employment Relations Act (PERA) provides all public employees in Michigan with the right to organize and be represented by a labor organization of their choice. Section 15 of

PERA provides that a public employer shall bargain collectively with a representative of its employees. The Commission is authorized to conduct representation proceedings to determine an exclusive collective bargaining representative.

Representation Petitions

A petition for representation proceedings (R 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 R petition 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; and **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.

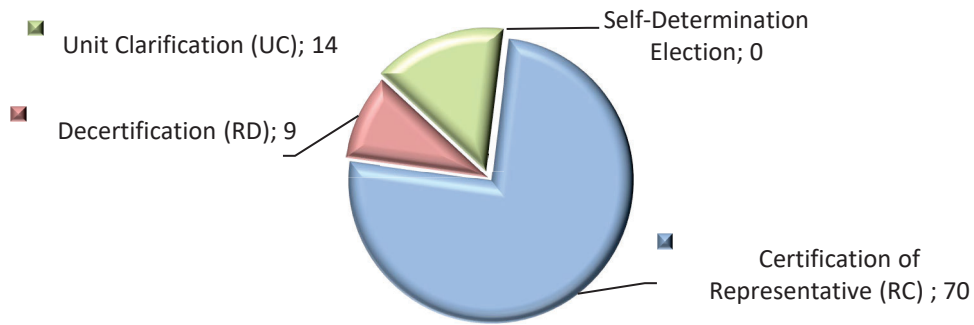
Consent Elections or Commission Directed Elections

There are two different types of elections conducted by MERC. A Consent Election is one where no disputed issues exist, and the parties authorize MERC to conduct an election. Conversely, a Commission Directed Election occurs when disputes remain, and the parties are unable to agree to a Consent Election. The dispute is referred to an ALJ for a factual and legal determination. Based on the ALJ's findings, the Commission reviews the record and either directs an election or dismisses the petition.

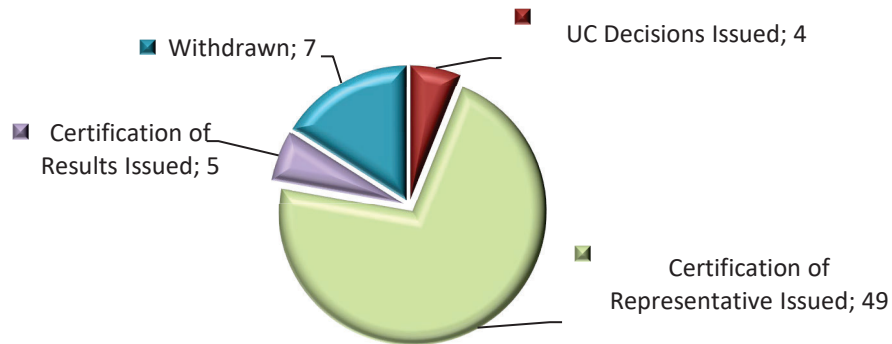
Election Outcomes

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 bargaining representative was certified. During FY 2019, the following representation petition activity occurred:

REPRESENTATION PETITIONS FILED (FY 2019)



REPRESENTATION PETITION OUTCOMES (FY 2019)



UNFAIR LABOR PRACTICES – FY 2019

PERA and the LMA establish grounds for a 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 with MERC, if it states a claim under MERC’s jurisdiction, it is transferred to an ALJ at the Michigan Office of Administrative Hearings and Rules (MOAHR) f/k/a Michigan Administrative Hearing System (MAHS) to make a factual and legal determination on whether the allegations establish a violation of the applicable Act. The ALJ may conduct a formal hearing as part of this process. Based on the evidence and arguments presented in the record, the ALJ issues a written decision and recommended order that contains findings of fact, conclusions of law, reasons for those conclusions, and the ALJ’s recommended order for disposition of the case.

If a party files an appeal of the ALJ’s decision (referred to as “exceptions”), those exceptions are reviewed by the Commission. The Commission will issue its own decision and order that affirms the ALJ, reverses the ALJ in whole or in part, or remands the matter for further factual findings.

If no exceptions are filed, the Commission issues a final order adopting the ALJ's decision as its own.

During FY 2019, case activity routinely involved charges filed by employers, labor organizations, and individuals asserting violations of the duty to bargain, the duty of fair representation, and the right to engage in or refrain from protected concerted activity.

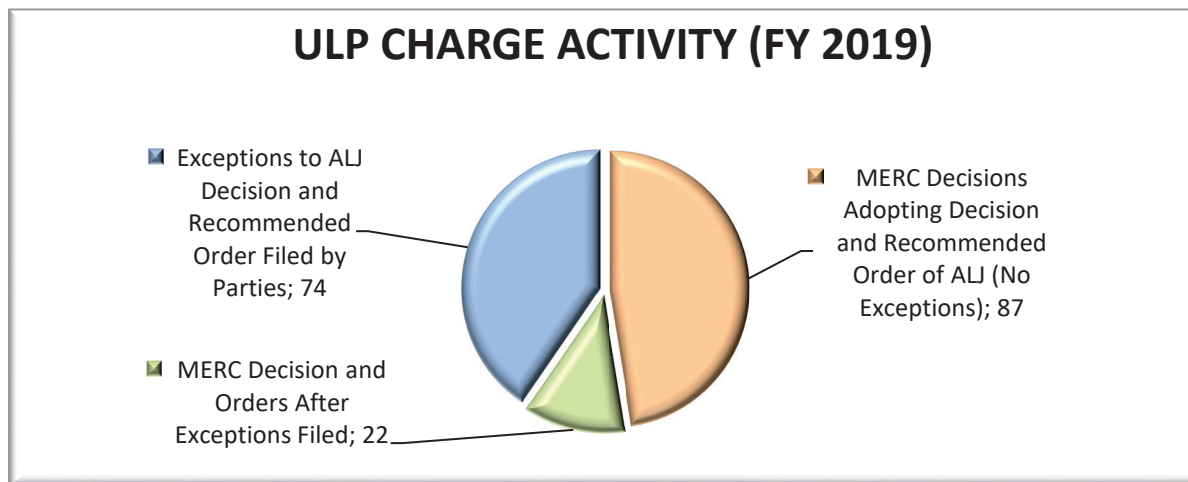
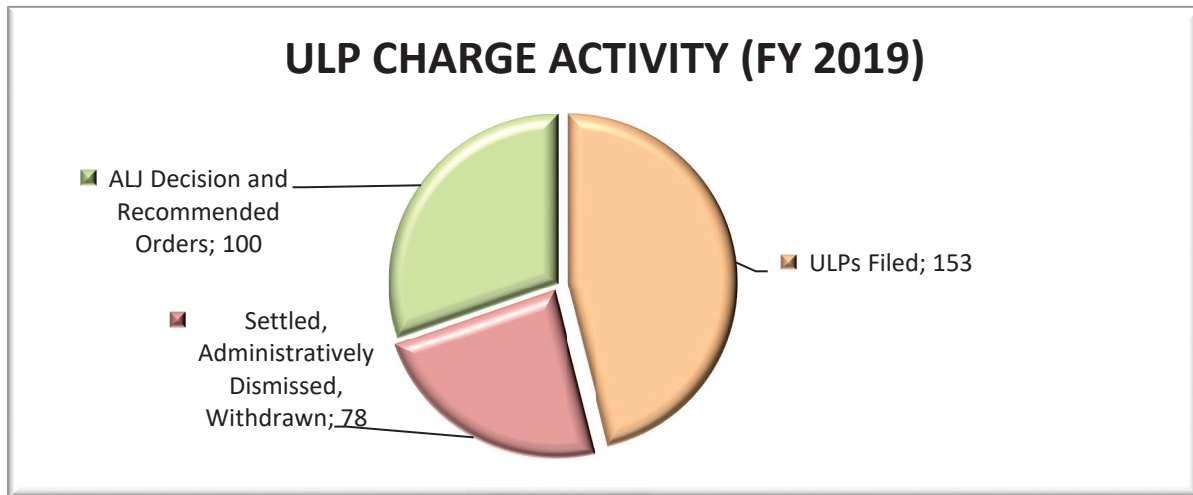
In Utica Community Schools -and- Utica Education Association -and- Utica Federation of Teachers, AFT Michigan, Case Nos. C15 J-131 & CU15 L-045, issued January 18, 2019, the Commission held that Respondent Utica Education Association (UEA) violated § 15(3)(j) of PERA by demanding that the Employer arbitrate a grievance challenging the staffing of the Employer's Alternative Learning Center. The Commission found that decisions with respect to teacher placement, a prohibited subject of bargaining, are within the sole discretion of the Public Employer to decide. The Commission further found that the Employer did not violate § 10(1)(e) of PERA by unilaterally assigning teaching duties to members of the Utica Federation of Teachers' bargaining unit, to the exclusion of UEA members, where UEA members did not exclusively perform the work in the past.

In Wayne State University -and- American Association of University Professors, AFT, Local 6075, Case No. C17 H-073, issued June 5, 2019, the Commission, contrary to the ALJ, rejected Charging Party's contention that a WSU Associate Vice President made a statement in a management-union meeting that constituted an unlawful threat in violation of § 10(1)(a) of PERA. The Commission found that the Associate Vice President's statement that she could require employees to attend recruiting events was not a threat which interfered with the § 9 rights of employees but was, at most, a prediction of what would happen if employees chose not to volunteer for recruiting events. Consequently, the Commission dismissed the unfair labor practice charge in its entirety.

In Marion Education Association and Michigan Education Association -and- Marion Public Schools, Case No. CU17 E-016, issued September 16, 2019, the Commission held that the Respondents did not breach their duty to bargain under § 10(2)(d) of PERA by attempting to arbitrate a grievance over the nonrenewal of a teacher's annual contract for extracurricular employment as a track coach. The Commission noted that, although § 15(3)(m) of PERA makes the discipline or discharge of a public school employee whose employment is regulated by the Teachers' Tenure Act a prohibited subject of bargaining, the State Tenure Commission has no jurisdiction over discipline regarding annual assignments of extra duty for extra pay, such as the work performed by an employee as a track coach. Accordingly, the Commission held that § 15(3)(m) of PERA did not apply to the nonrenewal of a track coach's employment.

MERC decisions, including case summaries, are posted on the agency's website located at www.michigan.gov/merc. You may also find information on the agency's website regarding the current status of the cases on appeal.

ULP activity at MERC during FY 2019 is reflected in the following charts:



“FREEDOM” (RIGHT) TO WORK (FTW)

In December 2012, Michigan enacted “Freedom (Right) to Work” laws with the passage of Public Acts 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 and make 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.

Subsequent to this, 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, public-sector employers and unions, including those exempt from Act 349, may 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.

MEDIATION – CONTRACT AND GRIEVANCE

Mediation Overview

The Michigan Employment Relations Commission encourages labor and management representatives to consider utilization of the agency’s Labor Mediators. The services are available through the Mediation Division and at no cost to the parties. The outcomes through labor mediation remain within the control of the parties. The Labor Mediator is present as a highly skilled, confidential neutral to assist the parties in settling the dispute(s) by offering suggestions and recommendations.

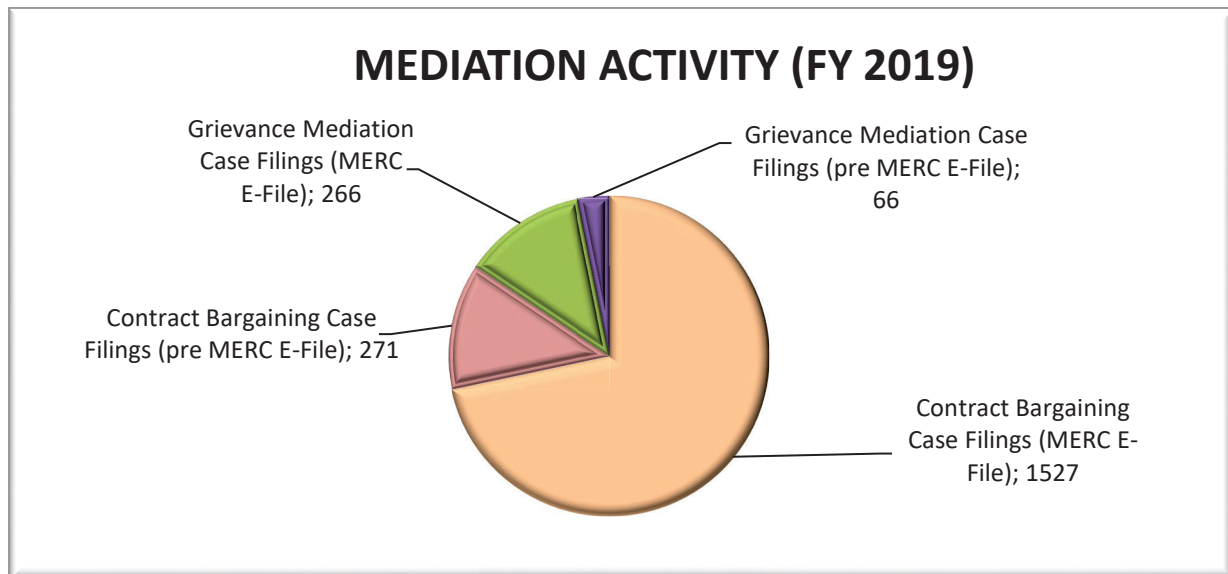
Contract bargaining cases are initiated close to the expiration of an existing bargaining agreement. The contract bargaining case (CB) is initiated by filing a Status of Negotiations or similar form via MERC e-File or using the traditional filing methods. At a point during negotiations, as necessary, either party may request mediation assistance to the collective bargaining process. Once a request is received, a MERC Labor Mediator is assigned who continues to work with the parties toward resolution. Also, contract mediation may be initiated by the Commission based on a pending labor dispute such as a threatened work stoppage.

Grievance mediation is a process where a skilled MERC Labor Mediator seeks to assist the parties in reaching a mutually acceptable resolution to a grievance dispute involving an alleged violation of a collective bargaining agreement. The process is voluntary based on the labor agreement or other mutual agreement between the parties. Either party may initiate a grievance mediation case (GM). Once initiated, a MERC Labor Mediator is assigned and will contact the parties. The process is designed for expedited processing and depending on the party’s availability, a grievance mediation date can be held within 14 days of case initiation. Settlement of the grievance is solely within the control of the parties. The Labor Mediator is present as a highly skilled, confidential neutral to offer suggestions, recommendations and assist in settling the dispute.

To initiate mediation, either party may use the MERC e-File system or any of the traditional filing methods of mail, fax and email. Be sure to reference the electronic case Filing Policy on the website to ensure that 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. Also a more detailed description of the agency’s mediation process is found in the “Guide to Public Sector Labor Relations” located on the MERC website under the “Publications” tab.

Mediation Activity FY 2019

The Mediation Division processed 1798 new contract bargaining cases based bargaining notices filed during FY 2019. These bargaining notices signal the start of contract negotiations between the Employer and Labor Organization on a new or successor agreement (or reopener for a segment of an existing agreement). Once mediation assistance is requested by either party, the MERC Labor Mediator is assigned and begins to assist the parties in working through possible options for contract resolution. The involvement of the MERC Labor Mediator, more often than not, resulted in the parties reaching a ratified collective bargaining agreement without the need for any job action or the filing of a petition for Fact Finding or Act 312 Arbitration. Additionally, the Mediation Division initiated 332 grievance mediation cases that utilized mediation assistance to resolve disputes arising out of an array of alleged contract violations. The use of the MERC Labor Mediator and MERC's Grievance Mediation process as a precursor to grievance arbitration or another remedy has helped reduce grievance processing costs for both Unions and Employers, as well as, helped to preserve the working relationships between the parties. The case filings for contract and grievance cases reflect a steady level of mediation activity during the fiscal year as shown in the chart below.



FACT FINDING & ACT 312 COMPULSORY ARBITRATION

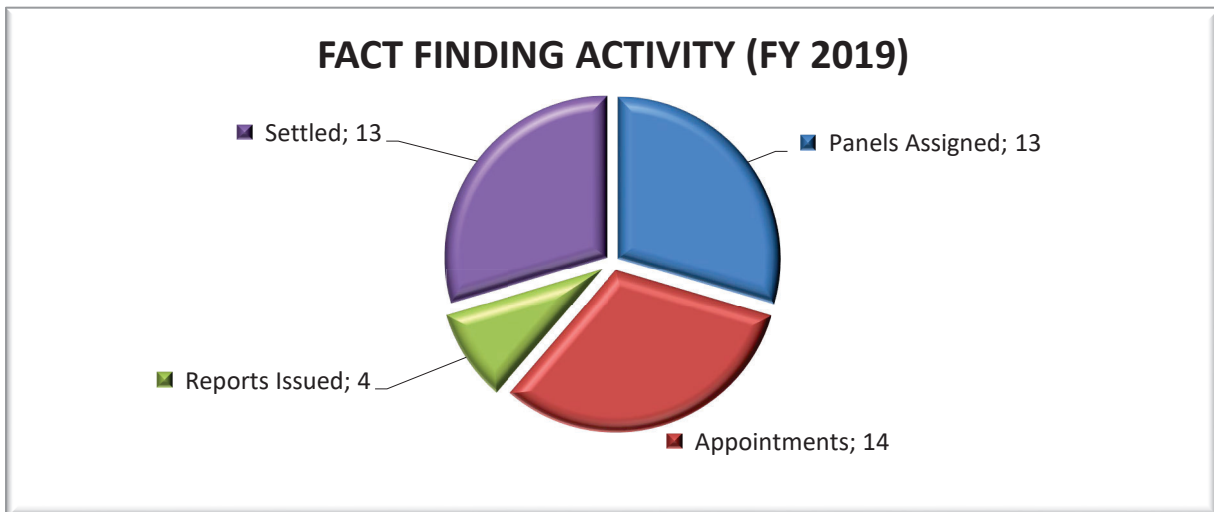
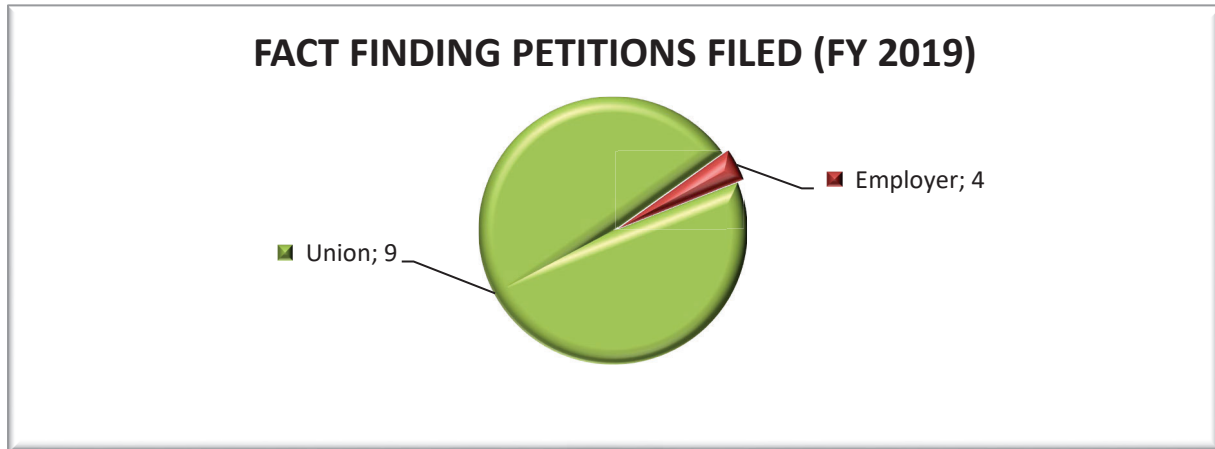
When collective bargaining and mediation assistance do not result in a complete final labor agreement, either party may file a petition for fact finding, or, if eligible, compulsory arbitration (Act 312). A neutral fact finder or Act 312 arbitrator is appointed by the Commission to conduct hearings and issue a written, non-binding recommendation (fact finding) or a binding award (Act 312).

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 recommendation then serves as a basis to resolve the issues with the assistance of a mediator.

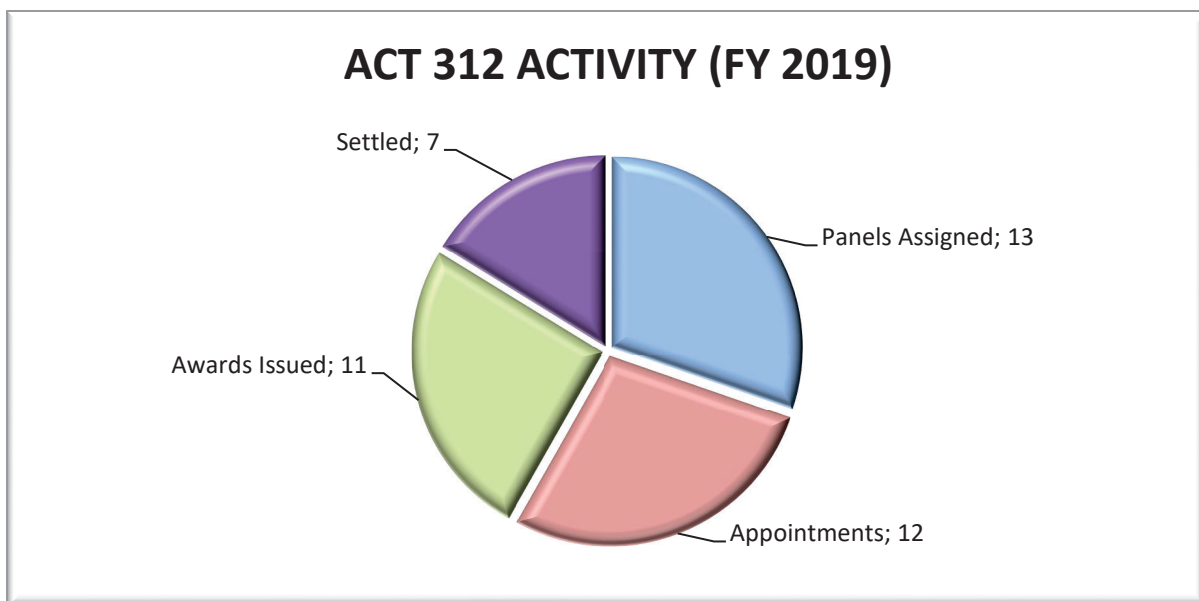
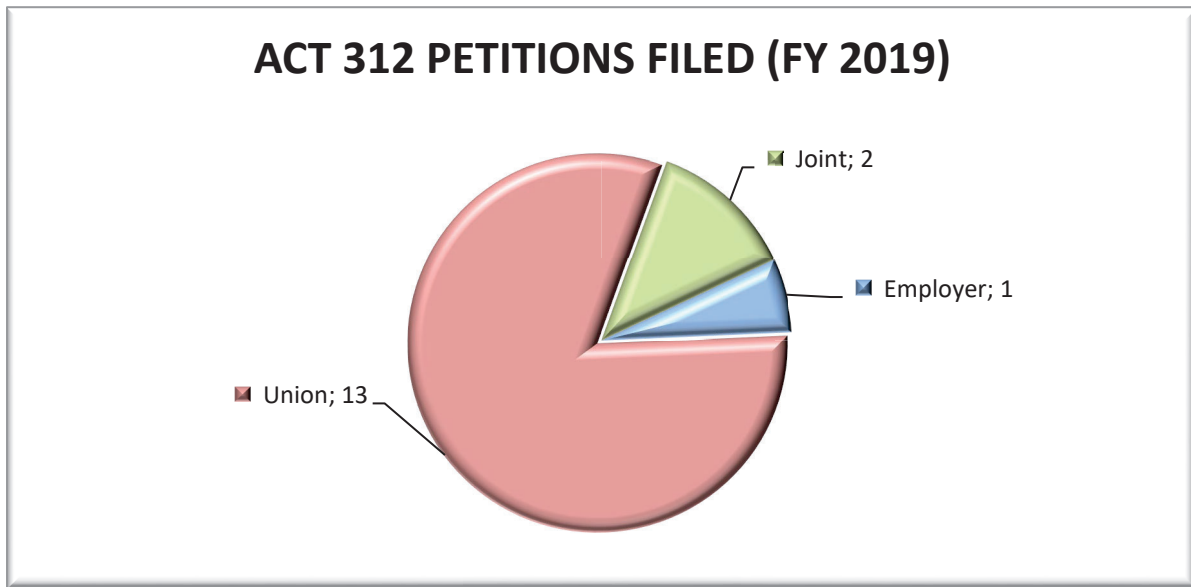
Fact finding activity during FY 2019 included:



Act 312 - Compulsory Arbitration for Municipal Police and Fire Departments

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 amended in various ways 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.

Act 312 activity during FY 2019 is as follows:



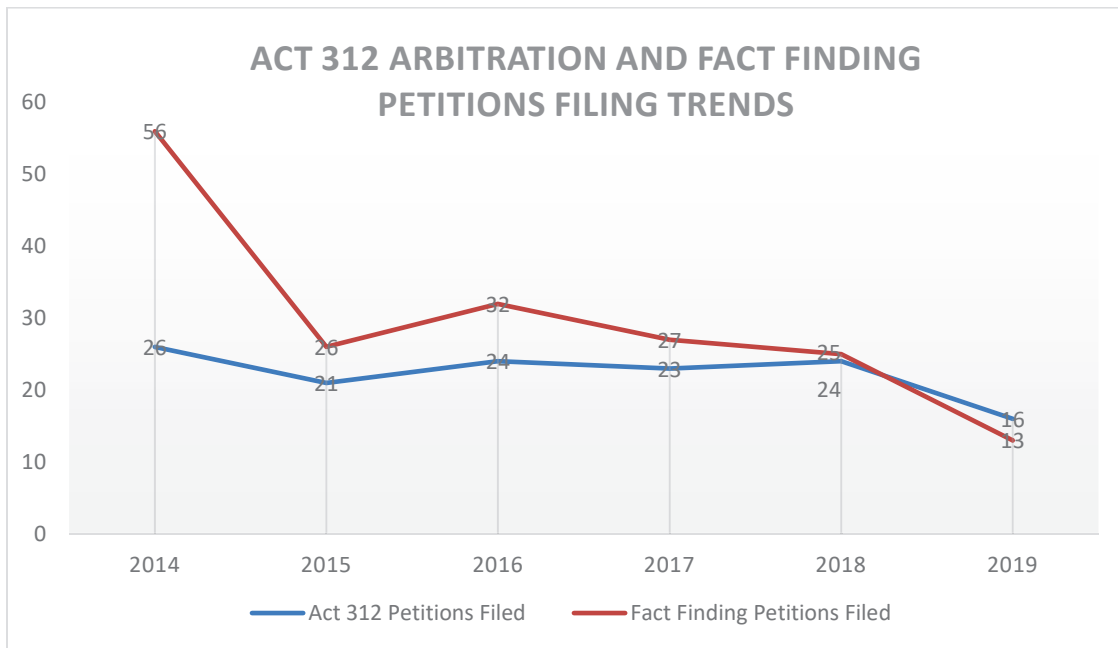
FACT FINDING AND ACT 312 ARBITRATION ACTIVITY SUMMARY

Several common issues appeared in many of the Act 312 Awards and Fact Finding Reports issued in FY 2019. The four issues most often in dispute related to wages, pensions, active employee health care contributions and retiree health care. Based on conclusions reached by Act 312 Arbitrators and Fact Finders the summary outcomes for FY 2019 were: Wages ranged from a low of 1% to a high of 4% per contract year; Employee Health Insurance changes varied most involving increased employee contribution amounts; Defined Benefit Pensions were sometimes reduced or replaced with a Defined Contribution Plans for new hires; Retiree Health Insurances changes

resulted in reduced benefits or increased costs to retirees or the retiree plan was replaced with a Health Savings Account for new hires.

FACT FINDING AND ACT 312 ARBITRATION TRENDS

During FY 2019, a total of 29 petitions for either Act 312 Arbitration or Fact Finding were filed with the agency. From those filings, eleven Act 312 Awards and four Fact Finding Reports were issued. These numbers suggest that, increasingly, public sector contract negotiations are being settled sooner and without recourse to the ‘next step’ in dispute resolution remedies. MERC Labor Mediators have been successful in bringing parties to faster resolution, rather than prolonging contract outcomes. As noted in previous annual reports, the added impetus to resolve these public sector labor contracts sooner rather than later, stems from the impact of several legislative amendments that eliminated retroactive pay adjustments during contract expiration (unless Act 312 eligible), expanded the number of prohibited subjects of bargaining and added time constraints to the Act 312 Arbitration process. Filing trends also continue to show steady but decreasing activity when compared the number of filings during FY 2011 and prior. (Refer to prior MERC Annual Reports).



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

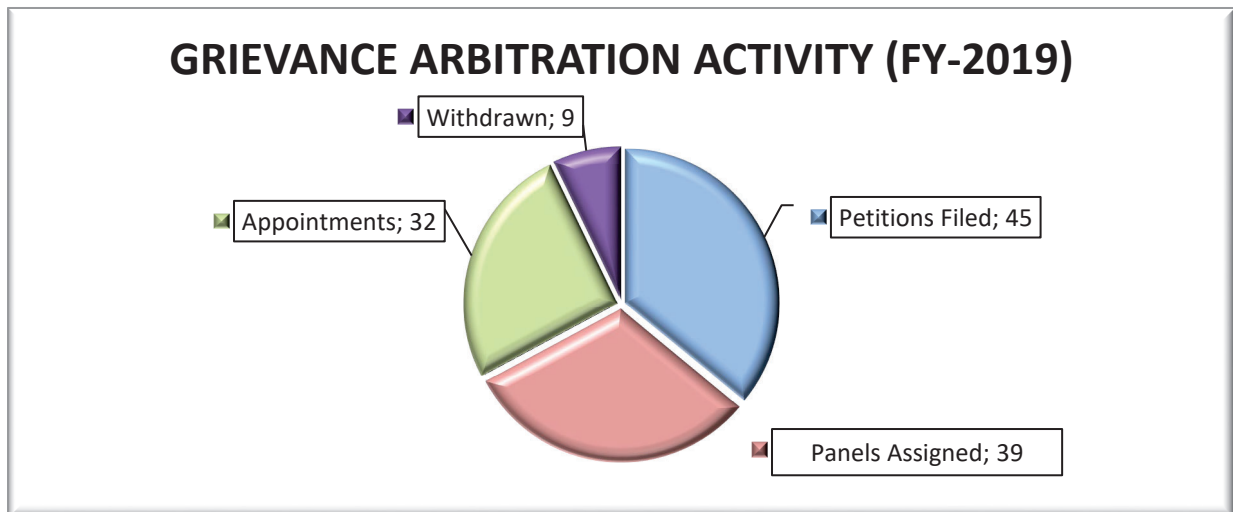
FACT FINDING TRENDS

	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

GRIEVANCE ARBITRATION

Pursuant to its authority to aid in resolving labor disputes, MERC assists parties in selecting a skilled arbitrator to perform grievance arbitration in the field of labor relations. Parties may utilize this service subject to the terms of their labor contract or by mutual written agreement. MERC’s involvement is limited to assisting in the appointment of a grievance arbitrator. There is no charge for MERC’s role in the appointment process; however, the daily rate set by the arbitrator is paid by the parties, along with any other costs associated with the arbitration process. MERC does not enforce or vacate grievance arbitration awards and will not collect fees.

Grievance Arbitration activity utilizing MERC services during FY 2019 was:



UNION AUDITS

In 2014, the Michigan Legislature amended PERA to require that labor organizations representing public sector employees in the state provide an independent audit to MERC. PERA Section 423.210(9) specifically 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.

Registration forms and Independent Audits must be submitted to MERC in pdf format via email to www.unionaudits@michigan.gov using an agency coversheet and the assigned identifying number.

During FY 2019, the Commission received 518 union audits. The posted audits and information for registering to file an audit are available on the Commission's website.

FY 2019 TRAINING, EDUCATION & OUTREACH

MERC CONSTITUENT TRAINING PROGRAMS

As noted in prior annual reports, the first MERC Basics training program was presented on August 20, 2014 in Troy, Michigan. The presentation focused on basics aspects of labor-management relations in the public sector in Michigan and the services available through MERC. The initial MERC Basics training program was developed by Michigan Employment Relations Commission staff, spearheaded by a core group comprised of Commission Chair Edward Callaghan, Mediation Supervisor James Spalding and Labor Mediator Sidney McBride. The Basics training session mushroomed over the next few years with presentations throughout the state to various labor and management groups.

Among those developments, in FY 2019, was an Interest Based Problem Solving program. MERC's Mediation Division assisted groups in establishing the groundwork to set up labor-management committees within their work locations throughout the state. The mission was to provide training in the use of a non-adversarial interest-based problem solving model to address issues apart from contract negotiations and grievances. As with the MERC Basics program, within a short time, MERC Mediation received several training requests for the new program.

During FY 2019, the agency refreshed some of the existing programs and created several new training modules, all designed to meet the evolving needs of agency constituents. By the final quarter of FY 2019, the following training programs were being offered at no charge to union and employer groups as separate or joint training events:

- *MERC Basics and MERC Beyond the Basics*: Provides a summary review of MERC's authority and processes under PERA, LMA 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 approach to collective bargaining. This collaborative approach is intended to avoid situations where one party wins only if the other loses. The process focuses on open and frank discussions, free exchange of information, an examination of issues, interests, and mutual concerns, and the use of 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 Interest Based Problem Solving. This program is typically presented along with training in the establishment of a labor-management committee to improve the quality of communication and enhance the process of 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.

CONSTITUENT & OUTREACH PRESENTATIONS

- *Alpena Kiwanis Club*
 - MERC Mediation Basics
- *Ann Arbor Community & Business Outreach*
 - MERC Basics & Mediation Services
- *Bay County Community & Business Outreach*
 - MERC Basics
- *Grand Rapids Community College and Faculty Association*
 - IBB Training
- *Kiwanis Club of Saginaw Northwest*
 - MERC Basics & Mediation Services
- *Michigan Association of Police Executive Body*
 - MERC Basics & More
- *Michigan Community College Human Resource Association (MCCHRA)*
 - Mediation Basics
- *Michigan Public Employer Labor Relations Association (MPELRA) Conference*
 - MERC Process & Legal Updates
- *Michigan State University Law School Mock Program*
 - Negotiations Competition
- *Montcalm Society of Human Resource Managers (MSHRM)*
 - MERC Mediation Basics
- *Muskegon Area Labor Management Committee, High School Mock Program*
 - Collective Bargaining
- *State Bar Labor & Employment Law ICLE Program*
 - MERC Case Law Update
- *St. Louis Public Schools & Michigan Education Association (MEA)*
 - Interest Based Bargaining Training
- *Wayne State University Labor Law Studies Program*
 - MERC Mediation Basics

STAFF AND PANEL MEMBER TRAINING

- 26th Annual Bernard Gottfried Memorial Labor Law Symposium
- State Bar of Michigan Labor & Employment Law Section's Mid-Winter Conference
- Association of Labor Relations Agencies (ALRA) - 67th conference
- Detroit Labor Employment Relations Agencies - monthly programs
- Act 312 and Fact Finder Training Conference (MERC Panel Members)

MERC staff organized a one-day training conference for Act 312 Arbitrators, Fact Finders and constituents which was held at Schoolcraft College in Livonia on September 25, 2019. Welcoming remarks by Bureau Director Ruthanne Okun, Mediation Division Administrator Sidney McBride and the Commissioners were followed by a segment in which MERC attorneys Lynn Morison and Carl Wexel presented on "Legislative Changes & Significant Case Law Affecting Act 312 Arbitration & Fact Finding." Also, Nick Brousseau and Michael Wrobel, from the MI Department

of Treasury were joined by Sue Feinberg from Michigan Employee Retirement Services (MERS) to present a segment entitled “Retirement Issues, Ability to Pay & School Funding.”

Mediators Micki Czerniak and Thomas Zulch were joined by George Roumell at lunch time with reflections and recollections regarding the early years upon the 50th Anniversary of P.A. 312 of 1969 (Compulsory Arbitration for Police and Fire). Two ‘break-out’ sessions in the afternoon, one for the Act 312 Arbitrators and Fact Finders (panelists were Richard Block, Elaine Frost and William Long), the other for constituents (panelists were John Clark, Suzanne Clark, Pamela Gordon, Michael O’Hearon and Dan Ringo) featured candid discussion on key topics including MERC Rules and polices re: Act 312 Arbitration and Fact Finding entitled “Who’s in Control.” The Conference was well received by those in attendance, with all evaluations falling into the ‘Satisfied’ or ‘Very Satisfied’ category.

INTERAGENCY COOPERATION

MERC and staff are strong advocates for interagency cooperation and work closely with other state agencies as we strive to meet our goals and, ultimately, benefit the citizens of the State of Michigan. To that end, ongoing productive relationships exist with the following agencies:

- *Michigan Department of Education*

The Michigan Department of Education, State Aid and School Finance Section, collaborates regularly with BER in an ongoing effort to share information regarding public schools in deficit or facing financial distress. That information provides a significant level of understanding of the financial status of public school districts and the potential impact of respective budgets on the collective bargaining process. When MDE has identified a school district that is facing potential financial distress, they contact the Mediation Division for early intervention and assistance on resolving the economic concerns.

- *Michigan Department of Treasury*

The Michigan Department of Treasury produces regular reports that are shared and reviewed by MERC Commissioners and Mediation staff. The monthly report entitled-- Financial Emergency Information summarizes the municipalities and school districts in financial distress. The other report, the Quarterly Report of Deficit School Districts, gives a snapshot of the various deficit stages of impacted public school districts, ISDs and PSAs. Additionally, Treasury staff regularly serve as presenters at MERC’s Act 312 Arbitrator and Fact Finder training program. During a segment of the training program on September 25, 2019, Nick Brousseau and Michael Wrobel, both of Treasury, provided attendees with an enhanced understanding of key components of public school and municipal finance, actuarial studies, OPEB liability, funding sources for local units of government and more. This information is critical for the MERC panel members, as well as the advocate attendees.

- *Library of Michigan*

The Library of Michigan, in cooperation with MERC and BER, has made significant progress in ensuring that MERC Decisions are readily available to the public through its Governing Michigan

website. The Library houses scanned MERC Decisions dating back to the first Decision, dated August 16, 1965, and completed this undertaking during FY 2018, with all MERC Decisions available on the library’s website, which can be obtained from the link MERC’s webpage at www.michigan.gov/merc.

OTHER FY 2019 HIGHLIGHTS

BUDGET

The authorized and available appropriations for the Bureau of Employment Relations during FY 2019 was \$4,289,800. The Bureau is funded exclusively from State Restricted funds.

DASHBOARD (SCORECARD PERFORMANCE SUMMARY)

The Michigan Dashboard was created in 2011 to measure progress in meeting key objectives and to serve as a catalyst for positive change in State government. The three key metrics identified by BER were: Issuance of Orders within 8 Months of Record Close; Consent Elections conducted within 65 Days of Filing Petition; and Mediate Labor Contract Disputes Closed without Proceeding to Grievance Arbitration. The following chart represents the average of BER’s Dashboard performance during the 12 months in FY 2019.

MiScorecard Performance Summary							
Agency: Employment Relations				Legend:			
Director Ruthanne Okun				Green 90% or greater of target			
Period: FY 2019				Yellow >=75% to <90% of target			
SCORECARD				Red less than 75% of target			
				White not applicable			
Metric	Status	Trend	Target	Current	Previous	Frequency	Metric Definition
Employment Relations							
Issuance of Orders		↓	90%	96.5%	98.2%	Annual	Percent Issued within 8 Months of Record Close
				85 of 88	56 of 57		
Conduct Consent Elections		↓	80%	82.2%	92.1%	Annual	Percent Held within 65 Days of Filing Petition
				51 of 62	70 of 76		
Mediate Labor Contract Disputes		↓	80%	91.0%	93.2%	Annual	Contract Disputes Closed w/o Proceeding to Grievance Arbitration
				213 of 234	207 of 222		

PRIORITIES

In our 2018 Annual Report, we reported that significant progress had been made in our previously established priority to complete the Bureau's case tracking modernization project. We reported that this project was well on its way to completion; the contract was on-going with a competent vendor; and construction of the system was projected to be completed in the late Fall of 2018 with a Go-Live date set for December 2018. Post-go-live activities would occur through the beginning months of 2019 and thereafter, if needed.

All deadlines set forth above have been met and significant progress has been made with post-go-live activities on-going and the completion of the MERC e-file project in plain sight.

MERC successfully implemented a new case management system that was launched in December of 2018. The success of the launch and follow-up work on the new system was largely due to steadfast involvement of MERC Mediation Supervisor, Sidney McBride, who competently led the agency in this endeavor. This is a "state of the art" system with high level functionality using a less expensive baseline platform. For the first time, MERC staff can access and process cases over the internet without direct connection to the State network. More importantly, a streamlined filing approach allows public citizens and party representatives to search/view case information, and file and process new cases more conveniently and efficiently over the internet using any computer, tablet or cell phone. Several of the vendor's new clients (including other labor relations agencies throughout the country) have contacted agency staff to discuss various aspects of the key features in the MERC e-file system.

EMPLOYEE ENGAGEMENT

In the past several years, employees in the Bureau of Employment Relations have completed the Employee Engagement Survey conducted by Price Waterhouse Cooper (PWC), which is administered to all State of Michigan employees. Employee engagement is defined as the strong and positive connection between a person and his or her job.

The Survey was an important part of the reinvention of state government and was designed to "help ensure a customer-focused government and a work culture in which employees are highly engaged, respected, and valued; and have the opportunity to express and explore views on issues related to their jobs." Employee engagement inspires significant outcomes of real value because when employees are truly engaged, the State of Michigan reaches its full potential.

In FY 2019, the Bureau of Employment Relations had an employee engagement score of 86%.

Alongside all other State agencies, the Bureau submitted an Action Plan in an effort to achieve better scores when the survey is next administered. Targeted in the Bureau's Employee Engagement Action Plan for FY 2019 were the following: (1) department leadership is creating a culture of continuous improvement, (2) meaningful action has been taken since the last survey, and (3) sufficient effort is made to obtain opinions of staff.

MERC E-FILE

The agency launched its new “state of the art” case management system, MERC e-File, to process new cases filed on or after December 17, 2018. The bifurcated “roll-out” included two phases where initially MERC staff processed cases in the new system that were filed using traditional methods of mail, email and fax. Two months later, the public facing component of the system was made available to the public 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. Also, party representatives could electronically submit or truly “e-file” new cases and add new filings and materials on pending cases with greater convenience and less formality. This shift to allow public e-filing of cases and e-search of case information makes MERC a forerunner agency in state government’s continued commitment in making state agency information more accessible and convenient for those who want it.

The MERC e-File system is web based using the Salesforce platform and designed by specialty vendor Vertiba, a Salesforce Consulting Partner, with a strong background using the Salesforce platform to develop case management systems in public sector government. The MERC e-File system is available to the public 24 hours a day and seven days a week over any available internet source using a PC, laptop, tablet or smart phone. The project’s team included representatives from the state’s DTMB agency, as well as, the following MERC personnel: Sidney McBride, Deborah Stewart, Denise Hinneburg, Barbara Norris and Tracy Marr. By the close of FY 2019, the system’s new case filings since its start were as follows: Contract Bargaining (1527); Grievance Mediation (266); Grievance Arbitration Appointments (26); Unfair Labor Practices (120); Elections (78) and Work Stoppage (2).

More MERC e-File details, including the system link, are located on the home page of the website at: <http://michigan.gov/merc>.

MERC ACCOMPLISHMENTS

Joint training was a priority in FY 2019, and a training/retreat of all Bureau Divisions (Mediation, Labor Relations, along with Wage and Hour) was conducted in October 2018.

Act 312, Fact Finding, and Constituent Training took place at Schoolcraft College in Livonia, Michigan on September 25, 2019, during which a full day of training was conducted with speakers that included MERC staffers and Commissioners. Also presenting were advocates and representatives, and presenters from our constituent pool, and elsewhere in state government, including the Michigan Department of Treasury.

The docket of the Michigan Employment Relations Commission is up to date and its mandates are followed. Well-researched and well-drafted decisions are being issued within 8-12 months of record closure. The issuance of decisions during the past year has resolved complex cases involving issues of first impression in a manner that provides clear guidance to constituents and serves to properly implement legislative action.

Mediation staff continue to implement a program by which mediators work collaboratively with school districts and municipalities that are facing a financial emergency, consistent with the requirements of Michigan public school deficit elimination plan legislation.

Several new training modules geared to agency constituents have been added to the existing MERC Basics and Collaborative Bargaining programs during FY 2019.

In-depth strategic planning has been taking place at MERC for more than two years. We are at the 5th step of a 7-step process that has been facilitated by staff member, Micki Czerniak, and ultimately concludes with comments from, and surveys of, our internal and external customers. Strategic Planning is a process that has been endorsed and is being facilitated with the current administration.

An Open-Door policy has always existed at MERC, and employee engagement scores have exceeded the norm. A confidential suggestion box offers multiple means of communication regarding concerns. Meetings of all staff are held every other month, at which employee input is sought and encouraged.

Policies and procedures have been adhered to and were updated last year to ensure their accuracy and comprehensiveness. Job descriptions have similarly been updated and submitted, where appropriate.

Due to the highly specialized nature of the work performed by MERC staff combined with a large proportion of staff eligible for retirement, succession planning is of vital importance. The Succession Plan at MERC, which was prepared previously by staff, has been reviewed and revised and is up to date. Succession planning is critical as MERC staff is comprised of long-tenured individuals who come to the agency and almost never leave for a position elsewhere in State service. Remarkably, over 75% of MERC staff are eligible to retire within the next 5 years, and several Bureau staffers have indicated their plan to retire at the end of this year and in 2020. Long-tenured MERC ALJ Julia Stern, known to be an encyclopedia of MERC law, will retire in mid-October. Mediator Fred Vocino (currently working in the Grand Rapids area) will retire in mid-December. On September 30, 2019, staff attorney D. Lynn Morison left her position to assume another State government position as a Commissioner on the recently established Unemployment Insurance Appeals Commission. Finally, in January 2020, Bureau Director Ruthanne Okun will retire from her more than 21-year tenure with the State.

MERC continues to provide public sector employees and their labor unions with an effective alternative to strikes and other work stoppages/disruptions by working through disagreements to find common ground and promote labor peace.

2020 Goals

- One of the most significant goals at the Bureau of Employment Relations is related to filling the gaps existing in the agency's service delivery and improving our customer service in this regard – especially as it relates to mediation meetings. Several changes including an “in time” mediator assignments process for cases that involve collective bargaining, along with, updated mediation request forms with date offerings included are intended to get the MERC Mediator

involved—sooner than later. Additional changes to improve delivery of mediation services are also being discussed.

- In some cases, employers and labor organizations, especially in the private sector, are unclear as to MERC’s role. Our primary goal, therefore, will be to improve the scope, awareness and impact of the agency’s services to labor and management constituents. The Bureau will utilize a variety of resources, including MERC’s website, presentations, training, written materials and community involvement to improve constituent awareness of the services provided.
- We are seeking to capture whatever institutional knowledge may be retained within the agency, the loss of which may be significant because of the number of anticipated retirements in the next 5 years. As examples, Mediation Supervisor, James Spalding and the Bureau’s Executive Secretary, Nancy Pitt retired in October and December of 2018 (respectively), taking with them their wealth of institutional knowledge. As noted elsewhere in this report, several additional retirements/departures are expected.
- Revisions are being made to our *Guide to Public Sector Labor Relations in Michigan*, and an updated version will be posted on the web.
- MERC continues to provide public sector employees and their labor unions with an effective alternative to strikes and other work stoppages/disruptions by working through disagreements to find common ground and promote labor peace.
- The Commission and its staff will utilize its best efforts to continue the goal of case issuance within eight months after the close of the record.

MERC WEBSITE & RESOURCE MATERIALS

The following materials are among some of the information that is available on the MERC website:

- MERC Homepage
- MERC and 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, Polices 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 Offices
- “What’s New” - provides new and significant information, including recent key rulings by MERC

- Freedom to Work Information with Frequently Asked Questions
- LEO FOIA Requests

COMMISSION DECISION ACCESSIBILITY

The Bureau of Employment Relations has diligently sought to improve the ease with which Commission decisions may be searched. Constituents have the ability to conduct case searches 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.

Additionally, MERC decisions are also available on the Governing Michigan web site, accessed via a link on the “MERC Decisions” webpage, compliments of the Library of Michigan. The Library houses scanned MERC Decisions dating back to 1965.

MERC/BER CONTACT INFORMATION

Should you need additional information regarding the Commission or Bureau, contact:

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