Michigan Civil Service Commission Regulation 8.05
Employment Relations Board Appeal Procedures

SPDOC 26-05, effective June 7, 2026 (replaces Reg. 8.05, SPDOC 22-15)

1. Purpose

This regulation establishes standards and procedures to appeal a decision to the Civil Service Commission through the Employment Relations Board.

2. CSC Rule References

8-7 Appeal to Civil Service Commission

8-7.1 Appeal to Commission

When authorized in the civil service rules, a party aggrieved by the final decision of an adjudicating officer may appeal the decision to the civil service commission. An appeal to the commission must be filed with the employment relations board, as provided in the civil service rules and regulations. Unless an administrative officer recommends dismissal of the appeal as provided in rule 8-7.4, the employment relations board shall make a recommendation to the commission as provided in rule 1-15.4.

8-7.2 Claim and Application

(a) Further appeal as of right by employee. An employee with status who was dismissed for just cause may appeal as of right from a final decision of an adjudicating officer upholding the dismissal. The state personnel director shall provide for an expedited appeal procedure in the regulations.

(b) Further appeal as of right by appointing authority. An appointing authority that dismissed an employee for just cause may appeal as of right from a final decision of an adjudicating officer reinstating the employee. The state personnel director shall provide for an expedited appeal procedure in the regulations.

(c) Further appeal by application and leave granted. A party aggrieved by any other final decision of an adjudicating officer may appeal to the civil service commission upon application and leave granted.

8-7.3 Time Limits for Appeal to Commission

(a) Time limits for appeal to commission. Except where another rule or a regulation establishes a shorter period, a claim of appeal or an application for leave to appeal must be received by the employment relations board within 28 days after the date the final decision of the adjudicating officer is issued.

(b) Proof of service. The party filing the appeal must serve a copy of the claim or application on all other parties and provide proof of the service within 3 days after the claim or application is filed with the board.

(c) Late filing. If a claim or application is not filed timely, the claim or application must be accompanied by an affidavit setting forth either good cause or special extenuating circumstances for the delay.

(1) The administrative officer may accept a claim or application up to 28 days late if the appellant demonstrates good cause for the delay that was not due to the appellant's own negligence.

(2) The administrative officer may accept a claim or application filed more than 28 days but less than one year late if the appellant demonstrates special extenuating circumstances for the delay.

(3) A claim or application filed more than one year late cannot be accepted or considered under any circumstances.

8-7.4 Summary Dismissal of Claim or Application

A civil service administrative officer may recommend that the civil service commission summarily dismiss a claim or application for any of the following reasons:

(a) Not authorized. The appellant is not authorized to file the appeal or the claim or application is not subject to review by the commission.

(b) Lack of jurisdiction. Civil service staff or the civil service commission lacks jurisdiction over a necessary party or over the subject matter of the appeal.

(c) Untimeliness. The claim or application is untimely.

(d) Another action pending. Another civil service action has been initiated between the same parties involving substantially the same matter.

(e) Barred by prior claim. Substantially the same matter was adjudicated to finality in another action between the same parties.

(f) Failure to respond. A grievant or technical complainant fails to respond to a deficiency notice issued by civil service staff, as provided in the civil service rules and regulations.

8-7.5 Grounds for Granting an Application for Leave to Appeal

(a) Procedure. If an administrative officer does not recommend summary dismissal of the application for leave to appeal, the employment relations board shall consider the application as provided in rule 1-15.4(b) and the applicable regulations.

(b) Grounds for granting leave to appeal. In the discretion of the civil service commission, leave to appeal may be granted in any matter in which it is alleged that (1) the decision of the adjudicating officer is erroneous, (2) the decision violates article 11, section 5, of the constitution or is otherwise contrary to law, including the civil service rules and regulations, or (3) the question presented is of major significance to the classified service.

8-7.6 Decision by Commission

The civil service commission shall review and act on the recommendation of the administrative officer or the employment relations board, as provided in rule 1-15.5.

8-7.7 Effective Date of Decision of Commission

A decision of the civil service commission is effective when issued unless a different effective date is specified in the decision.

8-7.8 Commission May Assume Jurisdiction

The civil service commission reserves the authority to assume jurisdiction and to take appropriate action in any proceeding at any time before the employment relations board issues its final recommendation.

8-7.9 Appeal of Final Commission Decision to Circuit Court

(a) Claim and service. If authorized by law, a party may file a claim of appeal from a final decision of the commission in the Michigan circuit court. Any claim, complaint, or petition challenging any decision, rule, or regulation of the commission must name the commission as a party and be served on the commission at the office of the state personnel director in Lansing.

(b) Settling claims and lawsuits. If a proposed agreement resolving a claim or lawsuit contains a provision pertaining to a commission decision, rule, or regulation, the appointing authority or its designee shall consult with the state personnel director or the director's designee before finalizing the agreement to ensure consistency with decisions, rules, and regulations. The commission is not bound by any provision pertaining to a decision, rule, or regulation, unless the director or director's designee approved the provision.

3. Definitions

A. CSC Rule Definitions.

1. **Adjudicating officer** means the state personnel director or other civil service administrative officer, technical review officer, hearing officer, or other officer authorized to make a decision reviewable by the civil service commission.
2. **Administrative officer** means the state personnel director or a person authorized by the director to take administrative action on matters filed with civil service staff or the civil service commission.
3. **Board** means the employment relations board.
4. **Commission** means the Michigan civil service commission.

5. **Good cause** means an acceptable excuse for failing to file or take other required action timely. Good cause does not include a person's own carelessness, negligence, or inattention to the filing or other requirements.
6. **Special extenuating circumstances** means a compelling excuse for the failure to file a matter timely that arises out of one of the following:
   (a) An intentionally or fraudulently misleading action by an appointing authority or party that prevented the filing.
   (b) Serious physical or mental incapacity of the person that prevented the filing.
   (c) Extraordinary unforeseen circumstances outside the control of the person that prevented the filing.
7. **Technical decision** includes each of the following individual decisions:
   (a) Technical classification decision means a civil service staff decision (1) classifying a position in the classified service or (2) making a working-out-of-class determination.
   (b) Technical disbursement decision means a civil service staff decision authorized under rule 7-6 or rule 7-7 regarding disbursements for personal services.
   (c) Technical appointment decision means (1) a decision of an appointing authority appointing a candidate to a position in the classified service or (2) a decision of civil service staff certifying or revoking an appointment to a position in the classified service.

B. Definitions in This Regulation.

1. **Authorized representative** means a person authorized by a party in a proceeding before the board or commission to appear for and represent the interests of the party.
2. **Concurrently serve** means, on the same day that a document is filed with the board, to (1) deliver by hand, (2) send by first-class or certified mail, (3) or send to an authorized email address.
3. **Contested hearing** means a quasi-judicial proceeding before a hearing officer in which the parties, after notice, may introduce documentary evidence, examine and cross-examine witnesses under oath, and submit arguments.
4. **Day** means a calendar day.
5. **File** means sending a document to the board at MCSC-ERB@mi.gov or by other method specifically and previously approved by the board's administrative officer.
6. **Proof of service** means a statement filed with the board certifying the date and method by which a party served a copy of a document on another party.

4. Standards

A. Appellate Jurisdiction of Employment Relations Board. An appeal to the Civil Service Commission may be filed from the following decisions, for which the Employment Relations Board exercises appellate jurisdiction for the commission:

1. **Grievance appeals.** Claims of appeal as of right and applications for leave to appeal from final decisions of adjudicating officers, under rule 8-2.5.
2. **Technical review decisions.** Applications for leave to appeal final technical review decisions, under rule 8-3.
3. **Labor relations appeals.** Applications for leave to appeal labor relations decisions of the state personnel director or other Civil Service staff, including decisions concerning the following:
   - **a.** Prohibited subjects of bargaining, under rule 6-3.5.
   - **b.** Recognition and unit determinations, petitions for unit elections, or excluded position determinations, under rule 6-6.
   - **c.** Unfair labor practice charges or other final labor relations decision, under rule 6-14.3.
   - **d.** Fines on employees or labor organizations for engaging in, promoting, encouraging, or supporting strikes, under rule 6-15.
4. **Other decisions.** Applications for leave to appeal other decisions of the state personnel director or other Civil Service staff, when authorized by the rules or regulations, including the following:
   - **a.** Disbursements for personal services, under rule 7-9.
   - **b.** Drug testing of new hires, under rule 2-7.4(b).
   - **c.** Benefits under group insurance plans, under regulation 5.18.

B. General Procedure.

1. **Form of appeal.** Appeals to the commission must be initiated by filing either (1) a claim of appeal as of right (claim) (CS-1756) to appeal a dismissal grievance or (2) an application for leave to appeal (application) (CS-1743) for all other appeals.
2. **Method of filing.** All documents must be filed with the Employment Relations Board by email at MCSC-ERB@mi.gov. The board's administrative officer may authorize an alternative filing method upon a party's timely request received before a filing deadline passes.
3. **Filing deadline.** The party filing an appeal (appellant), whether by claim or application, must ensure receipt of the appeal by the board within 28 days after the date the final

decision of the adjudicating officer is issued. Any document filed with the board is considered filed when the board receives the document, as provided in regulation 8.06.

4. **Signature required.** Any document filed with the board must be signed and dated by the filing party or the filing party's authorized representative. Photocopied or electronic signatures are acceptable.

5. **Service on other parties required.** A party that files any document with the board must concurrently serve a copy of the document on all other parties. In a group grievance, a party serving a group only must serve a copy on the group's authorized representative. In an appeal of a technical review decision or state personnel director decision, the adjudicating officer who issued the decision participates in board proceedings as an interested party and must be served.

6. **Proof of service required.** A party that serves a copy of any document on other parties must file a proof of service with the board within three days after the served document is filed with the board. If a party has been provided authorized emails from all other parties and their representatives, including a cc to all with the filing satisfies the proof of service requirement. Otherwise, a proof of service containing substantially all information in a CS-1740 must be filed. The board will not accept as proof of service a general statement in a cover letter or filing that other parties have been copied.

7. **Identification.**

   a. The appeal must contain the appellant's (1) name, (2) employee identification number, (3) employing agency, (4) mailing address, (5) telephone number, and (6) email address.

   b. If the appellant has an authorized representative, the appeal must contain the representative's (1) name, (2) organization, (3) mailing address, (4) telephone number, and (5) email address.

8. **Changing representatives.** If a party changes authorized representatives, the party or new representative must (1) provide the board in writing the information in § 4.B.7.b for the new authorized representative, (2) concurrently serve a copy of the notice on all other parties, and (3) file proof of service with the board.

9. **Cross-appeals.**

   a. Any other party may file a cross-appeal within 14 days after a claim or application is filed with the board.

   b. To perfect a cross-appeal, a cross-appellant must file (1) a signed concise statement of cross-appeal, (2) a cross-appeal brief, and (3) proof of service. The statement and

brief must comply with the content and filing requirements for the underlying appeal.

c. A cross-appeal may be prosecuted even if the adverse party's appeal is abandoned or dismissed.

10. **Stipulations.** The parties may stipulate in writing to any matter pertaining to the appeal, including the composition of the record. All stipulations must comply with the rules and regulations and are subject to acceptance by the board.

11. **Computing time and filing documents.** Unless otherwise specifically provided, regulation 8.06 applies to all proceedings of the board and commission.

12. **Limit on communications.** The board and its administrative officer shall not communicate privately with parties or authorized representatives on the facts or merits of a pending matter. Private communications for scheduling and administrative matters unrelated to the facts or merits are allowed. The board does not consider additional or rebuttal briefs, unless specifically requested by the board or authorized in this regulation.

13. **Forms.** All board forms referenced in this regulation are available at www.mi.gov/erb.

C. Claim of Appeal as of Right (Claim).

1. **Authorized.** Only the following may file a claim of appeal as of right:

   a. A nonexclusively represented employee (NERE) with status aggrieved by a final decision of an adjudicating officer upholding the employee's dismissal for just cause.

   b. An agency aggrieved by a final decision of an adjudicating officer reinstating a NERE dismissed for just cause.

2. **Eligibility.** A dismissal for just cause is the permanent termination of the employment relationship of a NERE with status for just cause. It does not include, for example, the following: (a) termination of a probationary employee without status; (b) layoff; (c) separation from the classified service at the end of a leave of absence; (d) revocation of an appointment authorized in rule 3-6; (e) separation of an employee in a limited-term appointment at or before the end of the term of appointment due to lack of work or funding; or (f) separation of a member of the Senior Executive Service (SES) or Senior Executive Management Assistant Service (SEMAS) when the employee's appointment expires if the employee did not have status when appointed to the SES or SEMAS.

3. **Contents of claim.** The claim must contain substantially all the information required in a CS-1756. The claim must clearly identify the decision appealed (including the case name, decision number, and Civil Service reference number). The appellant's brief in the support of the claim must accompany the claim and must include the following:

a. A statement identifying one or more ground for modification or reversal listed in § 4.O.1 on which the appellant relies.

b. A statement of the facts and law supporting the appellant's argument.

c. Identification of the documents, testimony, or other facts in the record and the rules, regulations, agency work rules, or other law on which the appellant relies.

4. **Brief of responding parties.** An appellee or cross-appellee must file any response brief and proof of service to the board within 28 days after the claim is filed with the board.

D. Application for Leave to Appeal (Application).

1. **Authorized.** If a claim of appeal as of right is not authorized, a party aggrieved by a final decision of an adjudicating officer may appeal to the board upon application and leave granted when authorized in the rules and regulations.

2. **Contents of application.** The application must contain substantially all the information required in a CS-1743, including the following:

a. Decision appealed. The identity of the decision appealed, including the case name, decision number, and Civil Service reference number.

b. Concise statement of material proceedings. A concise description of the material events, dates, and decisions leading to the application.

c. Grounds for appeal. A sufficient explanation establishing one or more of the following grounds for appeal:

(1) The decision of the adjudicating officer is erroneous.

(2) The decision violates article 11, section 5 of the constitution or is otherwise contrary to law, including the rules and regulations.

(3) The question presented is of major significance to the classified service.

3. **Response to application.** Any other party to the decision appealed must file any response and proof of service within 28 days after the application is filed with the board. The response must contain substantially all the information required in a CS-1754. The response must clearly identify the decision (including the case name, decision number, and Civil Service reference number). If the original application is deficient, the board may issue notice of an amended deadline for response to allow other parties an appropriate opportunity to respond.

E. Summary Dismissal of Claim or Application. Before the board considers an appeal, its administrative officer may recommend summary dismissal to the commission for the reasons listed below. The recommendation is transmitted directly to the commission for review and final action.

1. **Not authorized.** The appellant is not authorized to file the appeal.
2. **Lack of jurisdiction.** Civil Service or the commission lacks jurisdiction over a necessary party or the subject matter of the appeal.
3. **Untimeliness.** The appeal is late.
4. **Another action pending.** Another Civil Service action has been initiated between the same parties involving substantially the same matter.
5. **Barred by prior action.** Substantially the same matter was adjudicated to finality in the Civil Service system in another action between the same parties.
6. **Failure to respond.** The party failed to perform properly and timely any act required by the rules or regulations, administrative officer, board, or commission.
7. **Failure to state a claim.** The appeal failed to allege and address any ground for granting leave to appeal under rule 8-7.5.

F. Consideration of Application. If the board's administrative officer does not recommend summary dismissal, the board shall review the merits of the grounds for the application and issue a recommendation to the commission.

1. **Grounds for granting application.** The board may recommend that the commission grant the application if it determines that any ground for appeal in rule 8-7.5(b) is met.
2. **Recommendation.**
   a. **Denial of application.** If the board recommends denying the application, the board shall issue a recommendation to the commission for final action.
   b. **Grant of application.** If the board recommends granting the application, the board may concurrently make its recommendation on the merits of the appeal or may conduct further proceedings before issuing a separate recommendation on the merits. The board may notify parties of a schedule for any additional briefs or oral arguments that the board deems necessary. The board's recommendation to grant leave is reviewed by the commission when reviewing the board's final recommendation on the merits of the application.
3. **Remand.** The board may remand a case for further action. Unless the board expressly retains jurisdiction, a case is remanded without prejudice to filing a new application from any further final decision of the adjudicating officer. A remand order is not appealable to the commission as a final recommendation of the board.

G. Extensions of Time.

1. **Incomplete filing.** If a party in good faith files a timely claim, application, brief, or other pleading that does not substantially comply with the rules and regulations, the board's

administrative officer shall issue a deficiency notice to the party and allow 14 days to correct the deficiency.

2. **Extension before deadline.**

   a. **Stipulation.** The parties may stipulate in writing to an extension of time to file a claim, application, brief, or other pleading. The board must receive any stipulation before the original deadline passes. A stipulated extension cannot exceed 28 days.

   b. **Advance request.** A party may file an extension request in writing with the board. Any request must be received before the filing deadline. The board's administrative officer may grant an extension if the administrative officer finds sufficient justification.

3. **Late filing.** Any late appeal, motion, or other document must be accompanied by a written explanation for the lateness. If no explanation is provided, the administrative officer must send a deficiency notice. If the party fails to establish the required good cause or special extenuating circumstances or does not timely correct the deficiency, the appeal is dismissed as late or for failure to respond. The board or its administrative officer may ask the other parties to respond to the explanation, if deemed necessary.

   a. **1 to 28 days.** The board's administrative officer shall deny as untimely any document received up to 28 days late, unless the filing party establishes good cause that was not due to the party's own negligence.

   b. **29 days but less than 1 year.** The board's administrative officer shall deny as untimely any document received more than 28 days but less than 1 year late, unless the filing party establishes special extenuating circumstances.

   c. **1 year or more.** The board's administrative officer shall deny as untimely, without notice of deficiency, any document received 1 year or more late.

H. Effect of Filing Appeal.

1. **After final decision of adjudicating officer.**

   a. **Exclusive jurisdiction.** Once an appeal from a final decision of an adjudicating officer is perfected, the board exercises exclusive jurisdiction, subject to assumption of jurisdiction by the commission.

   b. **Stay of final grievance decision.** A grievance decision of an adjudicating officer is final and binding on the parties 29 days after issuance, unless either (1) the decision provides for a later effective date or (2) a party files an appeal to the commission within 28 days after issuance.

(1) Unless all parties agree otherwise, the status of the parties and their relationships at the time of the decision remain unchanged during the 28-day period after the final decision is issued.

(2) If a party files a timely and proper appeal within the 28-day period, the effective date of the decision is automatically stayed pending further order of the board or commission.

(3) If no party intends to appeal a final decision, the parties may implement the decision anytime.

(4) If no party has filed an appeal within 28 days after the final decision is issued, the decision is effective on the 29th day and the parties must promptly comply with its terms.

(5) If a motion to reinstate a stay is concurrently filed with a late appeal accepted under § 4.G.3, the board may reinstate the stay if in the interests of justice.

c. Reinstatement or restoration of base pay. If a final decision of an adjudicating officer orders an agency to reinstate a grievant who was dismissed for just cause, the agency, as a condition of appeal to the commission, must temporarily either (1) reinstate the grievant or (2) restore the grievant's base pay and medical, dental, and vision insurance.

d. Unit representation determination. If the state employer or a labor organization files a timely application for leave to appeal a unit determination decision of the state personnel director, the decision is stayed pending further order of the board or commission.

2. Before final decision of adjudicating officer.

a. Interlocutory appeal. A party may file an application for interlocutory appeal from an interim decision of an adjudicating officer. The appellant must file any application and proof of service within 14 days after the date of the interim decision. The application must concisely describe the material events, dates, and decisions leading to the interlocutory appeal, allege grounds for appeal, and establish one of the following conditions:

(1) Certification. The adjudicating officer has certified that the interim decision involves a controlling question of law or procedure for which (1) there is substantial ground for difference of opinion and (2) an immediate appeal will materially advance the case's ultimate resolution.

(2) Irreparable harm. If the relief requested is not granted, the appellant will suffer irreparable harm by awaiting final decision in the case.

b. **Response.** Any other party must file any response to the application and proof of service within 14 days after the date the application is filed.

c. **Stay of proceedings.** Proceedings before the adjudicating officer are not stayed by filing an interlocutory appeal, unless the adjudicating officer expressly orders a stay.

I. Special Procedures.

1. **Expedited procedure.** After notice to the parties, the board may shorten the time to file responses, dispense with briefs, require simultaneous briefs, call for immediate appearance for oral argument, or otherwise expedite any proceeding.

2. **Emergency appeal.** Upon (1) showing of due diligence and irreparable harm if normal practice is followed and (2) reasonable notice to all parties and opportunity for their response, the board may grant a motion for emergency relief or appearance before the board at its next meeting. The moving party must file the motion and proof of service.

3. **Other motions.** All motions, other than those justifiably made at oral argument or otherwise authorized in this regulation, must (1) be made in writing to the board, (2) briefly state the relief sought, and (3) be accompanied by a brief or affidavits setting forth grounds for the action requested. The moving party must file proof of service of the motion. Other parties must file any written response and proof of service within 14 days after the date the motion was filed with the board. All motions are decided upon the documents filed with the board, unless the board calls for oral argument or indicates otherwise.

4. **Joinder.** Upon motion of a party, the board, or its administrative officer, parties may be added, dropped, or substituted at any stage of proceedings as the board deems appropriate.

5. **Consolidation.** Upon motion of a party, the board, or its administrative officer, proceedings before the board may be consolidated when similar or related facts or issues of law exist, if no substantial right of any party is prejudiced.

6. **Intervention.** Upon written motion establishing sufficient reason, the board may permit a person, an organization, an employer, or Civil Service staff to intervene as a party or interested party before the board. The moving party must file the motion and proof of service. The board may request intervention or responses by non-participating persons as deemed necessary.

7. **Group appeals.**

a. In group appeals, a filing may be signed by an authorized representative for the group.

b. When a filing is made, the board must be provided with the name, mailing address, and telephone number of each participant as a party in a group appeal. Group appellants must file a CS-1793.

c. In group appeals, all correspondence between the board and parties is with the authorized representative. If a party does not have an authorized representative or has more than one authorized representative, the board shall issue appropriate orders for the conduct of proceedings.

J. Relief. The board may recommend any relief within the commission's authority under the constitution and the rules and regulations. This includes, but is not limited to, recommending that the commission affirm, reverse, or modify any adjudicating officer decision or remand for further proceedings.

K. Record. The original record possessed by Civil Service staff must be transmitted promptly to the board upon request.

1. **Preparation of record.** Unless the parties have stipulated to a record, the board will obtain the record from the applicable Civil Service division and make it available to the parties for inspection and copying.
2. **Record after contested hearing.** An appeal of a decision after a contested hearing is heard on the original papers and exhibits certified by the adjudicating officer and any transcript. The parties may stipulate to facts instead of providing a transcript. When a substantial part of the transcript has no bearing on the appeal, the entire transcript is not required, but a party can obtain and submit all or any part of the transcript.
3. **Record with no contested hearing.** An appeal of a decision without a contested hearing is heard on the original papers and exhibits transmitted to the board by the adjudicating officer. These include all original documents filed by the parties and any supplemental documents used by the adjudicating officer in rendering a decision.
4. **Transcript not available.** When a stenographic record was made but a transcript cannot be created, the parties may meet with the adjudicating officer to settle the record.
5. **Definition of record.**

   a. When contested hearing held. If a contested hearing was held, the record before the board to which the briefs are addressed includes the following:

   (1) The grievance record, including grievances, complaints, answers, investigative or disciplinary reports, and material correspondence at prior steps of the grievance process.

   (2) Pleadings, papers, briefs, and correspondence properly submitted by the parties to the adjudicating officer.

(3) Filings, decisions, and orders of the adjudicating officer.

(4) Certified transcripts of proceedings.

(5) Exhibits admitted into evidence by the adjudicating officer or board.

(6) Things judicially noticed.

(7) Any claim, application, or cross-appeal filed with the board.

(8) Briefs, supporting documents, and affidavits filed with the board.

b. When no hearing held. If no contested hearing was held, the record before the board to which the briefs are addressed includes the following:

(1) Pleadings, papers, briefs, exhibits, and correspondence properly submitted by the parties to the adjudicating officer.

(2) Other documents relied upon by the adjudicating officer in rendering a decision.

(3) Filings, decisions, and orders of the adjudicating officer.

(4) Any claim, application, or cross-appeal filed with the board.

(5) Briefs, supporting documents, and affidavits filed with the board.

L. New Evidence.

1. **Record closed.** Except for pleadings filed and decisions issued on appeal to the board, the record is closed when the final decision of the adjudicating officer is issued.
2. **Motions.** When considering an appeal, the board shall not accept new evidence except upon its own motion or written motion of a party for a legally sufficient reason. A document that could have been added to the record during earlier proceedings is presumed to have an inadequate basis for addition to the record. When the board allows new evidence, it may do any of the following:
   a. Hear the evidence.
   b. Request a response brief from other parties.
   c. Assign the matter to a board member or an adjudicating officer to hear and return a record.
   d. Remand the case to an adjudicating officer to hear the evidence and render a new or supplemental decision.

M. Dismissal of Appeals.

1. **Authority.** An appeal can only be dismissed by (1) the board based upon a motion from a party or the board itself, (2) the board's administrative officer, as authorized in rule 8-7.4 or § 4.E, or (3) stipulation of the parties.

2. **Withdrawal.** A party may withdraw an appeal by filing a written request and proof of service on all other parties with the board and obtaining approval of the board's administrative officer.

N. Oral Argument.

1. **Chair.** The chair of the board presides at oral argument.
2. **When heard.** Oral argument must be heard on a claim of appeal as of right. In any other case, oral argument may be scheduled at the discretion of the board.
3. **Procedure.** The parties are heard in public session in the order established on the board agenda. The board shall give notice of oral argument to a party or the party's authorized representative. Unavailability of a party with an authorized representative is not cause to postpone oral argument.
   a. A written motion to postpone oral argument may be filed up to the day before oral argument with the board's administrative officer. The motion must state good cause and set out the position of all other parties on the motion. The moving party must file proof of service of the motion.
   b. The board's administrative officer may postpone or reschedule oral argument based on administrative considerations.
   c. An oral request to the board to postpone on the day of oral argument must set forth good cause. The board may postpone, adjourn, or reschedule oral argument based on administrative considerations upon request or its own motion.
4. **Time limit.** Unless otherwise directed by the board, each party may address the board for up to 15 minutes. In a group grievance, one person may address the board for up to 15 minutes for all members of the group. An appellant may offer rebuttal argument for up to 5 minutes. The board may extend the time for any party at its own discretion.
5. **Contemptuous conduct.** Contemptuous conduct during the claim, application, or oral argument is grounds for exclusion from oral argument and other appropriate disqualification.
6. **Recording by party.** A party may employ at its expense a certified stenographic, audio, or video reporter to record an oral argument if the board determines that it will not be unduly disruptive. The party must request approval of the board at least 14 days in advance.

O. Recommendation.

1. **Grounds for modification or reversal.** The board reviews appeals from technical review decisions de novo and may recommend to the commission any action authorized by law. For all other appeals, the board may recommend that the commission modify or set

aside a decision of an adjudicating officer if substantial rights of the appellant are prejudiced because the decision is any of the following:

a. In violation of, or an erroneous interpretation of law, including the Civil Service rules and regulations.

b. In excess of the authority or jurisdiction of the adjudicating officer.

c. Made upon unlawful procedure resulting in material prejudice to a party.

d. Arbitrary and capricious.

e. A clear abuse or unwarranted exercise of discretion.

f. Affected by other substantial and material error of law.

g. For a decision based on a contested hearing, not supported by the preponderance of competent, material, and substantial evidence on the whole record.

2. **Interim board decisions.** Board decisions that are procedural or not final recommendations are effective when issued, unless the decision provides otherwise. An interim decision is reviewed by the commission only when it reviews any final board recommendation.

3. **Final recommendation.** Unless the board remands for further action, the board must issue a final recommendation to the commission on each claim and application. The board must recommend that the commission affirm, reverse, or modify the decision of the adjudicating officer.

4. **Conference.** Decisions of the board are made in a conference from which all persons except the board and its staff are excluded. The board may meet and confer in person, by telephone or other electronic means, or by correspondence.

5. **Majority.** Decisions of the board must be by majority vote of a quorum.

6. **Division.** When only two members participate and they disagree on the ultimate decision, each member shall make a separate written recommendation.

7. **Dissent.** Decisions of the board are unanimous unless indicated.

8. **Confidentiality.** Except for the record and published decisions of the board or commission, all files of the board and commission, state personnel director, adjudicating officers, and Civil Service staff related to appeals, including internal correspondence and discussions, research, staff analyses, and draft decisions are confidential and not open to the public.

9. **Notice.** The board shall issue all its decisions and orders to the parties by United States or interdepartmental mail or email to the last known address of the parties and their representatives or as otherwise deemed appropriate.

10. **Further appeal to the courts.** The final decision of the commission is subject to review in the Michigan circuit court. A claim of appeal must be filed within 60 days after the date the final commission decision is issued. A claim of appeal must name the Michigan Civil Service Commission as an appellee and must be served on the Michigan Civil Service Commission at its main office, 400 S. Pine Street, Lansing, Michigan 48913. See Michigan Court Rule 7.117 and MCL 24.301.
11. **Awards.** All awards are subject to the provisions of rule 8-2.4 and regulation 8.01, § 4.J.

P. Post-Decision Procedures.

1. **Commission review.** After the board issues a final recommendation, the commission automatically reviews the recommendation and issues a final commission decision without further action required by any party.
2. **Enforcement.** If a party fails to comply with an order of the board or commission, a party may request a further order of the commission compelling compliance. If the commission issues a compliance order, every party must promptly comply and the state personnel director shall take all necessary steps to compel compliance. If a party fails to comply with a compliance order of the commission, the director or other party may apply for further relief to the appropriate circuit court or court of claims.

Contact: Direct questions on this regulation to Employment Relations Board, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 517-335-5588; or MCSC-ERB@mi.gov.