



**STATE PERSONNEL DIRECTOR OFFICIAL COMMUNICATION**  
**SPDOC No. 22-03**

TO: ALL APPOINTING AUTHORITIES, HUMAN RESOURCES OFFICERS,  
AND RECOGNIZED EMPLOYEE ORGANIZATIONS

FROM: JOHN GNODTKE, STATE PERSONNEL DIRECTOR

DATE: JUNE 24, 2022

SUBJECT: **PROPOSED AMENDMENTS TO RULES 8-2, APPEALS OF  
GRIEVANCE DECISIONS AND 9-1, DEFINITIONS; AND  
REGULATIONS 8.01, GRIEVANCE AND GRIEVANCE APPEAL  
PROCEDURES; 8.05, EMPLOYMENT RELATIONS BOARD APPEAL  
PROCEDURES; AND 6.02, UNFAIR LABOR PRACTICE CHARGES**

A handwritten signature in black ink, appearing to read "John Gnodtke", written over the printed name in the "FROM" field.

**THIS DOCUMENT IS AVAILABLE UPON REQUEST IN ALTERNATIVE FORMATS.  
FOR FURTHER INFORMATION CALL 517-284-0115.**

Hearing officers in the Civil Service Hearings Office (CSHO) typically hear grievance appeals under the rules and regulations. Since 1972, however, employees have been allowed to instead elect to have appeals heard by outside arbitrators. The rationale then for introducing the arbitration alternative was significant delays in processing cases by hearing officers after a 50% spike in appeals over a five-year period. Employees could opt for outside arbitration to expedite resolution but were required to split arbitration costs with the department to do so.

This arbitration alternative for non-exclusively represented employees (NEREs) is now significantly slower than the CSHO process. Decisions in arbitrated appeals in recent years have taken, on average, about four times longer to be issued as comparable appeals heard by CSHO hearing officers. Decisions by arbitrators with little or no exposure to the commission's rules and regulations also can inconsistently apply general arbitral principles instead of the specific standards in the rules and regulations. Addressing inconsistent or incorrect results can require further appeals, remands, and expense.

Arbitration is also costly. Civil service does not set outside arbitrators' fees, but parties face potential arbitrators' fees and expenses that can be hundreds of dollars per hour and include hearing, research, travel, and drafting time. CSHO staff has been required to intervene in disputes when arbitrator-selection services attempt to unevenly impose initial filing and case-management fees, which can exceed \$2,000, rather than the equal division required by the rules. Agencies have indicated that they cannot plan for

substantial arbitration expenses. There is no cost charged to either party for appeals heard by CSHO.

These extended processing times, inconsistent decisions potentially requiring further appeal to correct, and substantial expenses to the parties lead to inefficiencies in administering employee discipline. Because the arbitration alternative for NEREs appears to no longer provide the benefit of faster resolution and creates additional drawbacks, staff proposes amending rules to end the arbitration alternative. The definition for adjudicating officer, a term used for decisionmakers under civil service grievance and complaint procedures, is also proposed to be updated to remove reference to arbitrators currently authorized to hear NERE grievance appeals under the option. These proposed rule changes would have no effect on contractual arbitration under collective bargaining agreements; they would only affect the arbitration alternative in the NERE grievance process.

Corresponding amendments to regulations 8.01 and 8.05 to reflect the proposed ending of the arbitration alternative and correct cross-references are also offered, which would take effect upon adoption of the proposed rule changes. These rule and regulation amendments ending the arbitration alternative would be intended to have prospective effect only. Any grievance appeal electing the arbitration alternative before the proposed amendments' effective date would proceed through its conclusion, including any appeal to the commission, under the rules and regulations applicable to the arbitration alternative in effect at the time of the election.

Additional amendments to regulation 8.01 would allow service of hearings subpoenas by mail, clarify that pre-hearing disclosures must be provided to the hearing officer, state the longstanding practice that CSHO and any civil service appellate decisions are public documents generally made available online, and specifically state the longstanding practice that a suspension of days in a grievance appeal decision refers to workdays unless otherwise noted by the hearing officer.

Finally, the reference to regulation 8.01, § 4.L. in the first sentence of regulation 6.02, § 3.E would be amended to 8.01, § 4.K to reflect revised subsections in regulation 8.01.

Comments on the proposed amendments may be emailed to [MCSC-OGC@mi.gov](mailto:MCSC-OGC@mi.gov) or sent to Office of the General Counsel, Michigan Civil Service Commission, P.O. Box 30002, Lansing, Michigan, 48909. Written comments must be received by July 22, 2022.

Attachments