

BUREAU OF EMPLOYMENT RELATIONS

HIGHLIGHTS of CHANGES TO MERC’S GENERAL RULES (effective 12-16-14)

February 1, 2015

RULE	HIGHLIGHT of CHANGE/ ADDITION
101- 104	<p>Adds: “Public Employer”, “Labor Organization” and “Party Representative” to the definitions of “Applicant”, Charging Party, Petitioner and Respondent.</p> <p>Adds: “Bureau” and “Designee” to list of definitions.</p> <p>Replaces “Election Agent” with generic term of “Designee” or “Commission Designee”</p>
106	NEW RULE: Defines “Party Representative” and clarifies that a party need not be represented by an attorney in a proceeding before MERC.
124	Corrects prefix of rule number from 42 4 .124 to 42 3 .124.
131 (a)	Clarifies definition of “advocate” in the fact finder selection process.
132 (3)	Authorizes BER to suspend the selection process and appoint a fact finder when MERC initiates the fact finding process.
133 (2)	Enables a party to request in its fact finding petition(s) that another petition(s) involving another bargaining unit(s) under the same employer be heard before the same panel chair.
134 (4)	Provides that parties may rely on a filed fact finding petition, and the petitioner’s request for withdrawal of its petition shall not terminate the process unless MERC orders so for good cause.
135	Codifies MERC’s creation of a fact finder panel of neutrals. Provides that panel members may be removed with or w/o cause; Allows MERC to appoint the same fact finder to hear multiple fact finding petitions involving same employer; Allows MERC to appoint a fact finder if there is undue delay in the selection process.
136	Codifies various parameters of the fact finding process & powers of fact finder including pre-hearing statements and answers, 2 day hearing limit (extensions for good cause); Precludes references to the mediator recommendations; Provides timeline for concluding the process.
137 (1)	NEW: Requires fact finder reports to be issued within 30 days from record close, subject to time extensions from the Bureau Director.
137a	NEW RULE: Authorizes MERC to order expedited fact finding.

138 (1)	Limits a fact finder to charge no more than 2 prep days for each day of hearing, unless obtains prior approval from Bureau Director.
141 (4)	NEW: Authorizes MERC to conduct an election w/o showing of interest after a consolidation or transfer of services where multiple labor organizations are involved and no voluntary agreement exists.
144	Clarifies that MERC determines the manner of an election after consulting with the parties.
145 (3)	Defines “intervenor” in the elections process as a union seeking to be added to the ballot.
146 (3)	Allows ALJs to consider issues not specifically raised by the parties in an election proceeding.
149	Adds: Military Leave eligibility for an absentee ballot and clarifies other aspects of absentee balloting. Clarifies that MERC sets the time for ballot counting if not indicated in the election consent agreement.
149a	Changed “election agent” to “designee”.
151	Codifies certain parameters for filing ULPs-- page limit, filing a statement of service; Clarifies that not complying with the rules can result in charge rejection or dismissal w/o hearing.
152	Changes notice of hearing time frame to comport with the statute
153 (3)	Clarifies process for amending a charge including must be in writing & delineate the additions and deletions from the prior filing.
154 (2)	Establishes a means for withholding publication of the ALJ’s Decision and Recommended Order if agreed by the parties; but stresses that MERC has the final decision.
156	Adds authority for ALJ to require an amended answer.
158 (1)	Authorizes ALJs to order parties to file positions statements.
(2)	Clarifies that failure to comply with a pre-hearing order may result in dismissal or grant of relief.
161 (4)	Codifies format for requesting “Oral Argument” in a written motion or pleading;
(6)	Clarifies that pleadings to the ALJ must contain an original and one copy.
162	Clarifies the process for seeking an order for a more definite statement of a charge.
165 (2)	Clarifies that a Motion for Summary Disposition may require a supporting affidavit. Expands grounds for granting a Motion for Summary Disposition for failing to timely respond to a dispositive motion, show cause order or other order.

166 (2)	Clarifies where to file motions: MAHS if before the Decision and Recommended Order is issued; Otherwise with MERC.
167	Clarifies in the heading that a “Motion for Reconsideration” is filed after MERC’s decision.
171 (6)	Adds language regarding the handling of ex parte communications with an ALJ or MERC staff.
(7)	Allows for expedited MERC proceedings when outside injunctive relief has been obtained.
(8)	Establishes parameters for Court Reporting services and transcripts.
172	Authorizes ALJs to hold pretrial conferences and order position statements; Allows the use of electronic and video technology at the pretrial or hearing stages.
173	Clarifies number of briefs in R cases-- 1 original and 2 copies.
174	Deletes the “Substitution of ALJ” section since now controlled by MAHS.
175 (3)	Authorizes ALJs to issue bench decisions at the conclusion of oral argument or full hearing.
176	Codifies parameters of exceptions and supporting brief: 50 page max; number of copies and supporting documents that must be filed; Clarifies what such filings may/must include; Clarifies time for responding to cross exceptions and issues.
176a	NEW: Clarifies method for requesting a time extension to file exceptions or a response; Establishes the extended filing deadline applies to all parties and that no further extensions will be granted, absent mutual consent or exceptional circumstances.
177 (1)	Defines and distinguishes between “Compliance” and “Enforcement” as to MERC orders.
178	Codifies requirements for making ORAL ARGUMENT requests before MERC.
179 (2)	Authorizes MERC to consider and request pleadings on issues not raised by the parties.
182	Permits MERC to expand alternative service methods such as email and fax.
184	Establishes 50 page limit on pleadings unless expressly decreased or increased by MERC or ALJs.
185	NEW RULE: References the Retention and Disposal Schedules for Commission Materials.