

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARING RULES

Filed with the secretary of state on November 5, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the executive director of the Michigan office of administrative hearings and rules by Executive Reorganization Order Nos. 1995-16, 1996-2, 1997-2, 1998-2, 2002-1, 2003-1, 2005-1, 2011-4, 2011-5, 2011-6, 2019-1, and 2019-3, MCL 324.99903, 445.2001, 29.451, 29.461, 445.2004, 445.2011, 445.2021, 445.2030, 445.2031, 445.2032, 324.99923, and 125.1998; section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233; sections 2233 and 13322 of the public health code, 1978 PA 368, MCL 333.2233 and 333.13322; parts 31, 33, 41, 55, 63, 111, 115, and 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3134, MCL 324.3301 to 324.3315, MCL 324.4101 to 324.4113, MCL 324.5501 to 324.5542, MCL 324.6301 to 324.6321, MCL 324.11101 to 324.11153, MCL 324.11501 to 324.11554, and MCL 324.20101 to 324.20142; section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325; section 23 of the highway advertising act of 1972, 1972 PA 106, MCL 252.323; section 210 of the insurance code of 1956, 1956 PA 218, MCL 500.210; section 46 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1046; section 213 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.213; sections 7, 9a, and 27 of 1939 PA 176, MCL 423.7, 423.9a, and 423.27; sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and section 2 of the state employees' retirement act, 1943 PA 240, MCL 38.2)

R 792.10301, R 792.10302, R 792.10501, R 792.11102, R 792.11501, R 792.11601, and R 792.11609 of the Michigan Administrative Code are amended, and R 792.10601, R 792.10602, R 792.10603, R 792.10604, R 792.10605, R 792.10606, R 792.10607, R 792.10608, R 792.10609, R 792.11301, R 792.11302, R 792.11303, R 792.11304, R 792.11305, R 792.11306, R 792.11307, R 792.11309, R 792.11310, R 792.11311, R 792.11312, R 792.11313, R 792.11314, R 792.11315, R 792.11316, R 792.11317, R 792.11318, R 792.11319, R 792.11320, and R 792.11321 are rescinded, as follows:

PART 3: DEPARTMENT OF ENVIRONMENTAL QUALITY AND DEPARTMENT OF  
NATURAL RESOURCES

R 792.10301 Scope of rules; statutory procedures; absence of procedures.

Rule 301. (1) These rules govern all contested case proceedings before the department of environment, Great Lakes, and energy and the department of natural resources and requests for declaratory rulings.

(2) These rules do not apply to proceedings under parts 615 and 617 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61501 to 324.61527 and MCL 324.61701 to 324.61738.

(3) If a rule does not address an issue of procedure, then chapter 4 of the act applies.

R 792.10302 Definitions.

Rule 302. As used in this part:

(a) "Department" means the department of environment, Great Lakes, and energy or the department of natural resources.

(b) "Director" means the director of the department of environment, Great Lakes, and energy or the department of natural resources.

(c) "Final decision maker" means the director or any other person to whom the director has delegated final decision making authority in contested cases.

## PART 5: DEPARTMENT OF TRANSPORTATION

### SUBPART A. BUREAU OF HIGHWAY TECHNICAL SERVICES – HEARINGS ON TRAFFIC CONTROL ORDERS

R 792.10501 General rules.

Rule 1501. The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the hearing system in cases arising under 1939 PA 176, MCL 423.1 to 423.30, and 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

R 792.10601 Rescinded.

R 792.10602 Rescinded.

R 792.10603 Rescinded.

R 792.10604 Rescinded.

R 792.10605 Rescinded.

R 792.10606 Rescinded.

R 792.10607 Rescinded.

R 792.10608 Rescinded.

R 792.10609 Rescinded.

## PART 11. OCCUPATIONAL SAFETY AND HEALTH

### SUBPART A. GENERAL PROVISIONS

R 792.11102 Definitions.

Rule 1102. (1) "Act" as used in this part means the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) "Board" means the board of health and safety compliance and appeals within the department.

(3) "Citation" means a written communication issued by the department to an employer under section 33 of the act, MCL 408.1033.

(4) "Day" means a calendar day.

(5) "Department" means the department of labor and economic opportunity.

(6) "Director" means the director of the department or the director's authorized representative.

(7) "Executive secretary" means secretary to the board.

(8) "Party" means an applicant for relief, an employer cited or seeking a variance, an affected employee or employees, or their authorized representative, a person allowed to intervene, or the department.

(9) "Permanent variance" means a written order issued by the department authorizing an employer to deviate from the requirements of an occupational safety or health standard when protection is provided to employees equal to that which would be provided by compliance with the requirements of the standard.

(10) "Temporary variance" means a written order issued by the department authorizing an employer to deviate from the requirements of an occupational safety or health standard before the effective date of the standard for the specific period of time necessary for the employer to achieve compliance with the standard.

R 792.11301 Rescinded.

R 792.11302 Rescinded.

R 792.11303 Rescinded.

R 792.11304 Rescinded.

R 792.11305 Rescinded.

R 792.11306 Rescinded.

R 792.11307 Rescinded.

R 792.11309 Rescinded.

R 792.11310 Rescinded.

R 792.11311 Rescinded.

R 792.11312 Rescinded.

R 792.11313 Rescinded.

R 792.11314 Rescinded.

R 792.11315 Rescinded.

R 792.11316 Rescinded.

R 792.11317 Rescinded.

R 792.11318 Rescinded.

R 792.11319 Rescinded.

R 792.11320 Rescinded.

R 792.11321 Rescinded.

## PART 15. EMPLOYMENT RELATIONS COMMISSION

R 792.11501 General rules.

Rule 1501. The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the hearing system in cases arising under 1939 PA 176, MCL 423.1 to 423.30, and 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

## PART 16: OFFICE OF RETIREMENT SERVICES

### SUBPART A. GENERAL HEARING RULES

R 792.11601 Scope; definitions.

Rule 1601. (1) These rules apply to hearings held under the jurisdiction of the state employees' retirement board, the judges' retirement board, the state police retirement board, and the public school employees' retirement board.

(2) As used in these rules:

(a) "Retirement act" means the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1674; or the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437, as applicable.

(b) "Application" means a request for a benefit provided by an applicable retirement act, including a request to reopen a closed application and a reapplication.

(c) "Board" means the retirement board as defined in the applicable retirement act.

(d) "Closed application" means a request by an individual for a benefit provided by the act that was withdrawn by the individual or otherwise never decided by the retirement system or the board.

(e) "Good cause," as used in this part, means the legitimate failure to file a document or a witness list in a timely manner and does not include a person's own careless neglect or inattention to the requirements of these rules.

(f) "Reapplication" means a request by an individual for a benefit provided by the applicable retirement act, that was previously decided by the staff of the retirement system or the board.

(3) The terms defined in the retirement act have the same meaning when used in these rules.

R 792.11609 Medical examination.

Rule 1609. (1) For purposes of deciding eligibility for disability retirement under sections 21 and 24 of the state employees' retirement act, 1943 PA 240, MCL 38.21 and 38.24, a medical examination conducted by 1 or more medical advisors means either a personal medical examination of the retirement system member or a review of the application and medical records of the member.

(2) If an applicant for a disability retirement under section 21 or 24 of the state employees' retirement act, 1943 PA 240, MCL 38.21 and 38.24, fails to submit to a reasonable medical examination requested by the system, the application shall be denied.