

MERIT EMPLOYEE RELATIONS BOARD
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<p>CLASSIFICATION MAINTENANCE REVIEW APPEAL PROCEDURES FOR MERIT SYSTEM EMPLOYEES</p>

1. The position incumbent is notified in writing of a final classification decision and is given a copy of (a) the classification specification for the new classification assigned to the position, (b) this Classification Maintenance Appeal Procedures for Merit System Employees, (c) the classification appeal form, and (d) the name of the designated agency representative (normally the agency personnel administrator or a high level personnel professional, or if the agency does not have a personnel professional, a high level agency manager). The classification decision may be appealed to MERB within thirty (30) calendar days from the notification to the employee of the classification decision.
2. The designated agency representative should within ten (10) calendar days offer to meet with the employee(s) considering filing a classification appeal to explain the process and answer questions about the appeals process. These meetings may be with individual employees or with groups of employees.
3. Within thirty (30) calendar days from the date the employee is given written notice of the final classification decision from the designated agency representative, the employee who decides to appeal must complete the employee portion of the classification appeal form (items 1-4), sign it, and send copies of the appeal to the designated agency representatives and to MERB. Receipt by MERB with items 1-4 completed and signed serves as the basis for timeliness (faxed or emailed copies are acceptable).
4. The Merit Employee Relations Board will forward a copy of the employee's appeal to the Department of Human Resources (DHR) Classification and Compensation Section upon receipt. Within ten (10) calendar days from the receipt of the employee's signed appeal, the designated agency representative has the hiring agency head or designee complete the agency's portion of the classification appeal form (items 5-7) and submit the agency's portion of the employee's appeal to the Merit Employee Relations Board.
5. Within ten (10) calendar days after receipt of the employee's appeal, MERB notifies the agency head, the designated agency representative, the employee, the Secretary of the Department of Human Resources, and the DHR Classification and Compensation Section, in writing, that the appeal has been received and is assigned to an Independent Reviewer. The State must provide access to all documentation pertaining to the classification decision.

6. Within thirty (30) calendar days of assignment of the appeal, the Independent Reviewer reviews the appeal form as filed by the employee and as completed by the agency and any other relevant documentation that was used in the classification decision provided by the DHR Classification and Compensation Section. The Independent Reviewer may contact the employee and agency via the designated agency representative, and/or the DHR Classification and Compensation Section, to get additional information or clarification. Based on this review, the Independent Reviewer shall prepare a written report of findings and recommendations concerning the classification appeal and shall submit it to MERB, the employee, the DHR Secretary and the Manager of the DHR Classification and Compensation Section. In unusual circumstances, the Board may authorize the Independent Reviewer an additional thirty (30) calendar days to issue findings and recommendations to the parties.

When the independent Reviewer makes his/her findings and recommendations, he/she shall consider whether:

- (a) One or more major duties and responsibilities and/or major knowledge, skills and abilities are not included in the class specification;
 - (b) Another class specification is clearly a more accurate description of the position.
7. Within thirty (30) calendar days of the date of the Independent Reviewer's findings and recommendations, the DHR Secretary and the employee shall accept, deny, or ignore the findings rendered by the Independent Reviewer and notify, in writing, the Merit Employee Relations Board.
 8. If the Independent Reviewer's findings and recommendations are accepted by the employee and the DHR Secretary, MERB is required to also accept the findings and to so notify the parties.
 9. If the Independent Reviewer's findings are rejected or ignored by the DHR Secretary or employee within (30) calendar days after the Independent Reviewer's findings and recommendations, MERB has sixty (60) calendar days to conduct a hearing. At this same time, the appeal file containing the PCQ/JAQ, the written analysis by the Independent Reviewer, and any other documentation provided by the employee or agency and the DHR Classification and Compensation Section is available for review by the employee and the DHR Secretary. Parties may call the Merit Employee Relations Board if he/she wishes to schedule a time to review the file.
 10. The employee and/or the DHR Secretary may respond in writing to the findings and recommendations of the Independent Reviewer. Such written response, which may include affidavits, should be filed with MERB, served upon the opposing party, and provided to the Independent Reviewer within thirty (30) days of the issuance of the Independent Reviewer's findings and not less than ten (10) days prior to the scheduled hearing for oral argument.

11. The Independent Reviewer shall forward a decision binder containing the appeal form completed by the agency and the employee, and any pertinent documentation from the DHR Classification and Compensation Section's classification maintenance review decision file, and the written findings and recommendations by the Independent Reviewer and any written responses thereto and any other pertinent material to the members of MERB not less than ten (10) calendar days prior to the scheduled hearing for oral argument.
12. The Board shall hold a hearing at which all parties may attend and have the opportunity to present brief oral arguments. The Independent Reviewer will summarize the grounds for the appeal, the primary points made by the parties, and his/her findings and recommendations based on review of the facts. The appellant will have the opening argument (normally no more than 15 minutes) followed by the DHR Secretary (normally no more than 15 minutes), and the appellant may close (normally 5 minutes). The Board may question the parties and the Independent Reviewer as deemed necessary.
13. Within fifteen (15) calendar days of the hearing, the Board shall render a final and binding decision considering the following criteria:
 - (a) the findings of the Independent Reviewer;
 - (b) the DHR Secretary's initial determination;
 - (c) the DHR Secretary's response to the Independent Reviewer's findings;
 - (d) the employee's response to the Independent Reviewer's findings;
 - (e) the oral argument;
 - (f) the consistency with other existing classified positions of a similar nature;
 - (g) the minimization of the number of classifications.
14. The Board shall notify the employee and the DHR Secretary in writing of the Board's decision.

Adopted by the Board: June 19, 1997
Revised: April, 2004
March, 2009
October 2023