

DRAFT OF NEW EOC APPEAL PROCEDURES

Drafted by MPMay, 2 October 2008.

1. Appeals would be made to a Panel of the EOC, consisting of 3 voting Commissioners and one alternate Commissioner (who would serve only if one of the other 3 was unable to do so, in order to avoid delays due to vacations, etc.). The Panel would review the entire record, meet, and make a final determination on behalf of the EOC. That determination would be reported to the EOC, but would act as the final ruling, subject to court appeal.
2. The membership on the Panel would rotate every two months and Commissioners would initially be asked to sign up for times they are available. The intent would be to have a Panel with a mixture of Commissioners who have previous experience on appeals and one new member. Panel assignments should result in each Commissioner serving the same number of months each year.
3. The Panel would be given the option, under limited and extraordinary circumstances, of preparing a Certification and sending the decision-making to the entire EOC. These limited and extraordinary circumstances would include, but not be limited to:
 - a. A case presenting a serious question of constitutional law;
 - b. A case presenting a novel and serious question of the interpretation of the MEOC Ordinance;
 - c. A case presenting a new legal or policy question under the MEOC ordinance, and not involving the application of established law to the facts.
4. The Certification from the Panel would state the relevant facts of the case, the options for a decision, and the reason under the limitations above that the matter should be heard by the full EOC. Once certified by the Panel, the matter will be heard by the full EOC.
5. The Certification from the Panel would be distributed to the parties, who would have 10 working days to respond to the Certification, which responses would go to the full EOC.
6. Panels would have a time limit target of 45 days from the date all submissions on a file were sent to the Panel to render a decision.
7. The new policies would go into effect January 1, 2009, following appropriate changes in the EOC Rules.