

**WEST VIRGINIA EDUCATION AND STATE EMPLOYEES  
GRIEVANCE BOARD**

**TWELFTH ANNUAL REPORT**

**TO THE**

**GOVERNOR AND THE LEGISLATURE**

**CALENDAR YEAR 1997**



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**THE HONORABLE CECIL H. UNDERWOOD**

**Governor, State of West Virginia**

**and**

**MEMBERS OF THE LEGISLATURE**

Dear Governor and Members of the Legislature:

It is my honor and privilege to submit the Twelfth Annual Report of the West Virginia  
Education and State Employees Grievance Board.

**BILLY COFFINDAFFER**  
**CHAIR**

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### **History, Basic Facts and Mission**

The Legislature created the West Virginia Education Employees Grievance Board and established a grievance procedure for educational employees in 1985. W. Va. Code §§ 18-29-1, et seq. The Board is charged with the duty of administering the fourth level of this procedure. The aims of this innovative law are to maintain good morale, enhance job performance, and improve the educational system to better serve the citizens of this State. The procedure is intended to provide a simple, expeditious and fair process to resolve grievances at the lowest possible administrative level.

In 1988, the Legislature enlarged the Grievance Board's jurisdiction considerably by enacting a Grievance Procedure for State Employees, which covers most state employees.<sup>1</sup> The purpose of this law is to establish a procedure for the equitable and consistent resolution of employment grievances. This law also changed the agency's name to the West Virginia Education and State Employees Grievance Board. W. Va. Code §§ 29-6A-1, et seq.

Both grievance procedure laws contain a broad definition of what can be grieved, which allows employees to grieve nearly any employer action affecting their compensation, hours, terms, and conditions of employment, including allegations of discrimination, favoritism and harassment. W. Va. Code §§ 18-29-2(a)(1985) & 29-6A-2(i)(1988).<sup>2</sup> The

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<sup>1</sup> Employees of constitutional officers are not covered, unless they are in the classified service, and apparently none of these employees is in the classified service. Employees of the Legislature and uniformed members of the State Police are also expressly excluded.

<sup>2</sup> For example, "Grievance" is defined by W. Va. Code § 29-6A-2(i) (1988) as:

(continued...)

Board also exercises jurisdiction over claims based upon alleged violations or misinterpretations of federal and state wage and hour laws, and claims that may also be filed under the West Virginia Human Rights Act. More than thirty-five hundred (3,500) decisions have been issued since the Board was created.

In 1996 the Board estimated that West Virginia's two grievance procedure laws covered approximately sixty-four thousand, nine hundred four (64,904) public employees, consisting of about forty-four thousand two hundred (44,200) educational employees, nineteen thousand six hundred nine (19,609) state employees, and one thousand ninety-five (1,095) local health department employees.<sup>3</sup> The number of covered employees did not change significantly in 1997.

**The Board's mission statement is: to equitably, consistently and quickly resolve employment disputes between employees and county boards of education, higher education institutions, and state agencies so that good morale may be**

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<sup>2</sup>(...continued)

"Any claim by one or more affected state employees alleging a violation, a misapplication or a misinterpretation of the statutes, policies, rules, regulations or written agreements under which such employees work, including any violation, misapplication or misinterpretation regarding compensation, hours, terms and conditions of employment, employment status or discrimination; any discriminatory or otherwise aggrieved application of unwritten policies or practices of their employer; any specifically identified incident of harassment or favoritism; or any action, policy or practice constituting a substantial detriment to or interference with effective job performance or the health and safety of the employees."

Pension, retirement and medical insurance matters, however, are expressly excluded, and are, therefore, not grievable.

<sup>3</sup> County health department employees covered by a merit system are entitled to use the grievance procedure. W. Va. Dept. of Admin. v. W. Va. Dept. of Health and Human Resources/Boone County Health Dept., 192 W. Va. 202, 451 S.E.2d 768 (1994).

**maintained, effective job performance may be enhanced and the citizens of this State may be better served.**

The Grievance Board consists of three members appointed by the Governor for three year terms, with the advice and consent of the Senate. In March 1997, Governor Underwood appointed three new members to the Grievance Board. Billy Coffindaffer, from Monongalia County, was appointed for a term ending July 1, 1998, replacing James P. Geary, who had served as Chair of the Board since 1985. Roger Smith, II from Cabell County, was appointed to a term that expires on July 1, 1999, filling a vacancy on the Board. The third new appointee, Lowell Witters from Kanawha County, was appointed to a term expiring on July 1, 2000, replacing David L. White, who had served as a member of the Board since 1985. At its first meeting, Mr. Coffindaffer was elected Chair of the Board.

The Board employs full-time attorneys who serve as hearing examiners to preside over grievances that reach Level Four of the grievance procedure. These attorneys are designated as "hearing examiners" in the grievance procedure statutes, but the Board calls them administrative law judges (ALJs) in view of their duties and responsibilities.<sup>4</sup> The Board requires its ALJs to be licensed to practice law in West Virginia, and they are not permitted to have an outside law practice.

The Board has seventeen (17) budgeted positions in a flat organizational structure. See Appendix A. The Director, an Administrative Officer, five ALJs and a Secretary are

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<sup>4</sup> In its classified-exempt plan, the West Virginia Division of Personnel has placed these positions in the class title of ALJ II.

assigned to the Board's principal office in Charleston. Two ALJs and a Secretary are based in the Morgantown office, which was opened in December 1995. One ALJ and a Secretary are assigned to each of the remaining branch offices in Beckley, Elkins and Wheeling.

In accordance with the Administrative Procedures Act, the Board adopted new Procedural Rules, effective February 1, 1996, governing the practice and procedure for handling grievances at Level Four. These Procedural Rules were promulgated under the authority granted by W. Va. Code §§ 18-29-5(a) & 29-6A-5(a), and are codified at 156 Code of State Regulations 1 (156 C.S.R. 1).

#### **Annual Open Meeting and First Customer Survey**

The Board, after proper notice, conducted its annual open meeting in Charleston on January 9, 1998, as required by W. Va. Code § 18-29-5 (1985), and W. Va. Code § 29-6A-5 (1988). The purpose of the open meeting is to help the Board in evaluating Level Four of the grievance process, along with the performance of its ALJs, and to prepare an annual report to the Governor and the Legislature. All grievants whose cases were completed in 1997, state agencies, educational institutions, county superintendents, employee organizations, and the Director of the West Virginia Division of Personnel (Personnel) were invited to attend or to submit written comments. A Customer Survey form was also mailed along with the open meeting notice. The Board mailed nine hundred twenty-six (926) notices of the open meeting, compared with seven hundred twenty (720) notices last year.

Like last year, only six grievance participants appeared and testified during the

public meeting about their experiences with the grievance process, both at Level Four and at the lower levels. Five representatives of the American Federation of State, County, Municipal Employees Union (AFSCME), and one state employee, who had lost his grievance on timeliness grounds, testified briefly. The AFSCME representatives emphasized the small, and declining, percentage of grievances granted in favor of state employees, and summarized legislation they hope to have passed by the Legislature this year. This legislation would give State employees substantially the same grievance rights that education employees have been afforded since 1992. The employee representatives also offered criticism, suggestions and comments on a number of other issues.

For the first time, the Board used a Customer Survey devised by its staff to help in the evaluative process and to serve as a benchmark for future evaluations. (Appendix B) In designing the customer survey questions, the Board reviewed surveys used by agencies in other states that perform similar functions, and survey forms used in the Department of Administration. The Board was pleased that the use of the Customer Survey prompted a much larger response rate than the Board's former practice of simply affording grievance participants an opportunity to file written comments. More responses were received than ever before. One hundred forty-three (143) customer surveys were returned by January 27, 1998; only twenty-eight (28) written comments were submitted last year.

The Board's staff tabulated the survey responses and created a database to record and help analyze the responses. The purpose of the analysis is to learn where our customers think we need to improve and then to act on that information by making changes where possible to enhance the services we provide. A brief analysis of the survey



responses will be made in this Report. A number of reports concerning the survey responses are in Appendix C.<sup>5</sup> Customers were grouped into five categories on the Customer Survey form: Grievant, Employer, Employee Representative, Counsel, and Other. The survey results were tallied and analyzed based on these categories.

Customers were asked to give their Overall Satisfaction rating of the agency on a scale from 100% to 0%. Overall Satisfaction ratings were reasonably good for most customers. Not surprisingly, Overall Satisfaction ratings were significantly influenced by the type of customer responding. The responses ranged from a high of 82 percent by Employers to a low of 39 percent by Grievants. Grievants rated the Board lower than other types of customers on every factor. Overall Satisfaction ratings were quite similar for Counsel and Employee Representatives.

Customers were also asked to indicate whether their Overall Satisfaction with the Board Increased, Decreased, Remained the Same, or was Not Applicable in 1997. Customers reported most frequently that their satisfaction level had Remained the Same. More than 50 percent of Grievants reported Decreased Overall Satisfaction, accounting for 78 percent of all customers reporting a Decreased Satisfaction level.

Ratings for most questions on the Customer Survey were as follows: (5) Excellent; (4) Good; (3) Fair; (2) Poor; (1) Very Poor. It should be emphasized that the survey

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<sup>5</sup> Three responses were largely incomplete and were not included in this database or otherwise considered. In several instances, the persons responding identified themselves as both a grievant and an employee representative. These persons were placed in the grievant category and were not counted twice. The Board recognizes that a quasi-judicial agency it does not have traditional "customers."

responses were very favorable overall. In all but two categories, the average rating by all customers was well above 3, and in category of "Courtesy," both ALJs and support staff, received ratings above 4. There was considerable good news.

The lowest rating was in the Promptness in Deciding Cases category. Except for ratings by Grievants, Prompt Decisions was the only factor in which an average rating of less than 3, or Fair, was given. All types of customers gave negative ratings on this factor. This rating was not surprising. The failure to decide cases within thirty working days as required by statute, or promptly, has been the most common complaint about the agency over the years. This criticism has been much less frequent in recent years due to improvements made in 1995 and 1994.

The Board asked customers to rate the importance of various factors relevant to the quality of the adjudication function. Counsel and Employee Representatives considered the most important factor to be Knowledge of the Law Applicable to the Hearing, while Employers and Grievants shared the opinion that Promptness in Deciding cases was very important. Consistent with several comments from Grievants expressing cynicism about the possibility of ALJ objectivity, Grievants believed the second most important factor was the Conscientiousness of ALJs in Finding Facts and Interpreting the Law Without Regard to Public Criticism, a factor not ranked highly by other types of customers. Likewise, Grievants and/or Employee Representatives, in several survey responses, expressed distrust about whether they could get a fair decision from an ALJ.

The second lowest overall rating was in Prompt Hearings. This result was somewhat surprising, as this was not perceived to be a problem area. Hearings are

ordinarily set at the earliest date upon which the parties agree. After examining the survey data, however, we believe the responses from higher education employees partly explain this relatively negative rating. The Board did not set "Mercer" cases for hearing quickly for several reasons discussed later in this report.<sup>6</sup> Higher education customers would be expected to give lower ratings for Prompt Hearings than the agency's ordinary customers. Because the Mercer cases have now been completed, the Board does not see this as an area for much concern at this time, unlike complaints about Prompt Decisions. Based upon these survey results and a review of the performance of ALJs during the past four years, this Board will make it a major goal to issue decisions more promptly. The Board will also look for ways to improve customer satisfaction levels in other areas in which improvements may be possible. One area of interest is to make the process more simple, or at least better understood, by employees. The Board will again review the recommendations made in the Report of Blue Ribbon Personnel Commission (1992).

### **1997 Adjudication Data and Major Activities**

The number of grievances reaching Level Four has remained relatively constant for the last several years, except for 1994 when classified higher education employees filed five hundred forty-six (546) grievances challenging their classification and/or pay grade after the Mercer Project was implemented.<sup>7</sup>

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<sup>6</sup> As noted earlier, the name was derived from the name of the company which assisted higher education in developing the classification system, William M. Mercer, Inc.

<sup>7</sup> A detailed breakdown of grievance activity for the last six years is contained in Appendices D and E. Appendix D shows the number of grievances filed at Level Four  
(continued...)

The number of grievances filed with the Board in 1997 increased by fifty-two (52) over last year, an increase of almost 10 percent. The table below shows the number of cases reaching the Board during the past six years for each major category of employer, excluding Mercer cases filed in 1994.

<b>Grievances filed at Level Four</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>	<b>1994</b>	<b>1993</b>	<b>1992</b>
<b>State</b>	261	200	265	276	252	217
<b>Higher Education</b>	56	57	38	57	48	30
<b>County Boards of Education</b>	269	277	283	277	243	261
<b>Totals</b>	<b>586</b>	<b>534</b>	<b>586</b>	<b>610</b>	<b>543</b>	<b>508</b>

Although grievance activity at level four increased this year, the number of cases filed was nearly identical to the number filed in 1995. Most of the change was due, like last year, to fluctuation in the number of State employee grievances reaching Level Four. State employee grievances increased by 31 percent this year over last year.<sup>8</sup> The clearance rate for 1997 was 113 percent, with 662 cases disposed of and 586 cases filed.

The Board issued a record number of Decisions in 1997, a percentage increase of 24 percent, as reflected in the table below.<sup>9</sup>

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<sup>7</sup>(...continued)

against higher education institutions and county boards of education during the last six calendar years. Appendix E is an alphabetical listing by state agency showing the number of grievances filed at Level Four during this same time span.

<sup>8</sup> The number of grievances filed at Level Four represents less than 1 percent of all public employees who have the right to invoke the grievance procedure.

<sup>9</sup> Dismissal orders are often entered when grievances have been prematurely appealed  
(continued...)

<b>All Decisions and Orders</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>	<b>1994</b>	<b>1993</b>	<b>1992</b>
<b>Decisions Issued</b>	422	339	349	313	280	274
<b>Dismissal/Remand Orders</b>	240	389	266	201	225	198
<b>Totals</b>	<b>662</b>	<b>728</b>	<b>615</b>	<b>514</b>	<b>505</b>	<b>472</b>

In 1997, however, ALJs took longer to write and issue decisions than in either of the last two years. Decision-making time has increased the last two years. Total case processing time also increased again. The table below shows the average number of working days it took to issue decisions after the cases became mature for decision, total case processing time, and the percentage of cases decided within thirty working days.<sup>10</sup>

<b>Average Number of Working Days</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>	<b>1994</b>
<b>Decision-Making Time</b>	69	44	39	67
<b>Total Processing Time</b>	181	145	136	154
<b>Percentage of Cases Decided within Thirty Days</b>	19%	38%	40%	17%
<b>Dismissal Cases Decided within Thirty Days</b>	37%	41%	60%	12%

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<sup>9</sup>(...continued)

to Level Four without a required lower level hearing having been held, or when cases are settled and the grievant requests the grievance be dismissed. Occasionally, however, these rulings involve complicated procedural or substantive issues.

<sup>10</sup> A case is considered mature for decision on the date the ALJ has everything he or she needs to render a decision. For example, a case is not considered mature for decision until proposed findings of fact and conclusions of law are filed or the time for filing proposed findings and conclusions has expired. Both grievance procedures statutes require the ALJ to render decisions within thirty (30) working days after the Level Four hearing.

Seventy-two (72) decisions issued in 1997, including sixteen (16) Mercer cases, are known to have been appealed to circuit court. The appeal rate declined from last year, as shown in the table below.

1997	1996	1995	1994	1993	1992
17%	22%	17%	20%	26%	23%

The overall percentage of grievances granted in cases decided this year was identical to last year and has remained relatively constant for several years. The Board ruled in favor of the employee in approximately 26 percent of the grievances in the last two years, compared to 24 percent in 1995 and 27 percent in 1994.<sup>11</sup> A breakdown for 1997 by category of employee is listed below:

1997 DECISIONS	DECISIONS ISSUED	DECISIONS GRANTED	PERCENT GRANTED
Higher Education	34	8	23%
Mercer	60	15	25%
State	123	21	17%
Boards of Education - Professional Personnel	93	28	30%
Boards of Education - Service Personnel	111	39	35%
Regional Education Service Areas	1	0	0%
TOTALS	422	111	26%

The Board gives priority to dismissal cases over other types of grievances,

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<sup>11</sup> Cases were counted as granted, if the grievance was granted in any part.

expediting the issuance of decisions in these type cases. The Board received sixty-nine (69) dismissal cases in 1997, compared to sixty-one (61) cases in 1996 and seventy-three (73) in 1995. Fifty-one (51) dismissal grievances were filed in 1994 and fifty-seven (57) in 1993. ALJs rendered decisions in thirty-four (34) dismissal cases, overturning the dismissal in nine cases. This compared with twenty-one (21) decisions in 1996, with six cases being granted.

The Board also received fifty (50) suspension grievances, compared to thirty-nine (39) in 1996 and twenty-nine (29) the year before. Eighteen (18) suspension cases were decided, with five of the suspensions being overturned. By Order, the Board disposed of an additional thirty-four (34) dismissal and suspension cases due to such factors as settlements, withdrawals and the like. This compared to fifty (50) dismissal and suspension cases disposed of in this fashion in 1996.

The number of cases decided based upon the record made at lower levels in the grievance procedure, without a Level Four hearing, increased in 1997, but the time taken to issue these decisions increased, as reflected in the table below.

<b>Submitted on Record (SOR) Cases</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>
<b>Number of SOR Cases Issued</b>	82	53	73
<b>Working Days To Issue</b>	63	31	27
<b>Percentage of All Cases Decided</b>	23%	18%	21%

The number of hearings scheduled declined again in 1997, although the number of hearings held increased slightly from 1996, as shown in the table below:

Hearing Activity	1997	1996	1995	1994
Hearings Scheduled	688	789	988	725
Hearings Held	313	303	386	268

### **Administrative Support Activities Including Year 2000 Accomplishments**

In 1997 the Board's secretarial staff assembled and transmitted ninety (90) certified records, many of which were voluminous, to circuit clerk's offices. This was a record number again this year. Eighty-two (82) certified records were prepared and submitted to circuit clerks in 1996, compared with sixty-six (66) in 1995, and sixty (60) in 1994. The secretarial staff typed the transcripts in about 70 percent of these cases. Although producing transcripts continues to be a substantial task for the agency's limited secretarial staff, they transmit the certified record within thirty (30) days of receipt of the circuit court Order requiring submission of the record.<sup>12</sup>

It must be noted that the Board does not comply with its statutory duty under W. Va. Code § 29-6A-6, to provide promptly a certified copy of the Level Four hearing transcript to any party upon request. With its limited resources and small secretarial staff, the Board simply cannot comply with this obligation. Hearings held at the Board's offices are mechanically recorded but are not transcribed ordinarily, unless the case is appealed to circuit court. Thus ALJs must listen to audio tapes in most cases to draft their decisions.

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<sup>12</sup> The Administrative Procedures Act, specifically W. Va. Code § 29A-5-4(d), provides that an agency shall transmit, within fifteen days of receipt of the petition for appeal or within such further time as the court may allow, a certified copy of the record to the circuit court. Circuit courts must decide cases on appeal based only upon the evidentiary record developed in the grievance procedure. See W. Va. Code §§ 18-29-7 & 26-6A-7.



The Board, however, has equipped each office with a high-speed tape duplicating machine, and does provide audiotapes of the hearings to any party upon request, in lieu of a transcript.

In 1997, the Board entered into an open-ended statewide contract for transcription services with a court-reporting company. The transcription contract provides that the company will provide the Board with a certified transcript, both in paper and electronic form, within a certain number of days. The Board must pay ninety-two cents (92¢) a page for the original transcript, and any party to the grievance can obtain a copy of the transcript from the transcription service for fifty cents (50¢) a page. The Board has used the transcription service primarily to obtain transcripts in Mercer cases.

Several years ago the Board's staff created an electronic database, called Boardlaw, that now contains case summaries and pertinent information on more than three thousand five hundred (3,500) decisions issued since 1985. The database is a valuable research tool for the ALJs and all interested persons who need to be aware of new precedent interpreting and applying the extensive body of personnel laws and regulations applicable to public employees. The database was redesigned and improved in 1997. The database is updated monthly with a summary of the new decisions rendered and was updated substantially in 1997 with information concerning the outcomes of many cases that had been appealed to circuit courts and to the Supreme Court of Appeals.

In 1997 the Board began providing much better access to information about its Decisions and the services it provides. The Board's staff, with assistance of the Information Services and Communications Division of the Department of Administration

(IS&C), created a Home Page located on the State of West Virginia's Home Page at [www.state.wv.us/admin/grievanc/grievanc.htm](http://www.state.wv.us/admin/grievanc/grievanc.htm). Virtually everyone agrees the Home Page is well designed and extremely useful. The full text of all decisions issued from January 1994 to the present are on-line and can be searched easily. The information in Boardlaw about all decisions rendered since 1985 is also available there and can be searched separately from the decisions. The Board's Procedural Rules can be found there, along with other information useful to anyone involved in handling grievances.

The Board has begun using the Home Page to disseminate Boardlaw in a more efficient and inexpensive manner. It can be downloaded now from the Home Page. Accordingly, the Board is gradually phasing out its disk subscription service for Boardlaw that had grown to forty-two (42) subscribers by early 1997. According to a recent report from IS&C, user sessions during December 1997 averaged more than fifty-five (55) per day, lasting an average of approximately thirty (30) minutes.

The Board is required by W. Va. Code § 18-29-11 (1992) to provide a statewide quarterly report to inform the members of both higher education governing boards and all county boards of education and employee organizations of current personnel-related issues. Rather than issue a quarterly report, the Board distributes the report on a monthly basis to disseminate the information more quickly. The report contains summaries of all cases decided each month. Nearly one hundred (100) copies of this report are mailed each month. The report was revised in 1997 to make it more informative and useful. The Board's staff also changed the manner in which the report is created and began distributing the report by e-mail, rather than by mailing it. This is one of several on-going efforts to use

modern communication technology to provide more effective and efficient services to all customers.

Copies of all decisions rendered each month are provided to the Attorney General's Office. The Secretary of State's office is also supplied copies of all decisions, and it operates a subscription service to distribute the decisions to a number of organizations.

In 1997, the Board continued to gradually replace and upgrade its equipment in all offices to provide ALJs and clerical staff with better equipment to more effectively and efficiently perform their duties. Most notable was a peer-to-peer computer network installed in the Charleston office to share files and printer resources. All offices have access to the Internet and are using e-mail more frequently. All ALJs have ready access to Michie's West Virginia Law on CD-ROM.

#### **Higher Education Reclassification Grievances (Mercer Project)**

The Board issued its last "Mercer" Decision arising from the reclassification of higher education employees by July 31, 1997. To understand the Mercer project, the following background is needed. The Legislature amended W. Va. Code § 18B-9-4 in 1993 to require, among other things, "an equitable system of job classifications" for classified employees of the University System of West Virginia Board of Trustees ("BOT") and the Board of Directors of The State College System of West Virginia ("BOD") (collectively "the governing boards"). As amended, W. Va. Code § 18B-9-4 required the governing boards to establish by rule and implement a system establishing uniform classifications in all institutions of higher education within West Virginia. This reclassification is commonly called the "Mercer" project.

On March 28, 1994, the Legislative Rule promulgated by the BOD to implement W. Va. Code § 18B-9-4 became final (131 C.S.R. 62). On May 5, 1994, the Legislative Rule promulgated by the BOT to implement this Code Section became final (128 C.S.R. 62). The Legislative Rules promulgated by the governing boards set forth identical procedures for a classified employee to seek review of the initial classification under the new system.

The review procedure in these cases, as set forth in the Legislative Rules at §18, began with the employee filing a request for review form with the president of the institution. The president's recommendation on the employee's request for review was made to the Job Evaluation Committee ("JEC"). If the JEC failed to act on the employee's request for review by June 30, 1994, or if the employee disagreed with the JEC decision and wished to pursue a challenge to the initial classification, the case then commenced at Level Three of the grievance procedure for educational employees.

The grievances of those employees who did not waive the statutory period for hearing before the respective governing board, moved immediately from Level Three to the Board at Level Four. At meetings held during the first week of October 1994, both governing boards passed resolutions waiving the right to decide any Mercer grievances at Level Three, placing all remaining grievances arising from W. Va. Code § 18B-9-4 before the Board, without any lower level hearings. Five hundred forty-six (546) Mercer grievances advanced to Level Four at that time. The Board finished about 75 percent of these cases by early 1997 and, as stated earlier, issued the remaining sixty (60) Mercer opinions by the end of July.

The Board will not undertake to present in this Annual Report a comprehensive

discussion concerning the processing of Mercer cases. Only a few major points will be noted, most of which were made last year. The Board believes the ALJs assigned these cases did an exceptional job in handling the unprecedented difficulties presented by the Mercer litigation.

It also is of the opinion that the Mercer cases could not have been scheduled and heard more quickly than they were, even if the Board had expended more of its limited resources on this litigation. The Board experienced much more difficulty in processing these cases than other types of cases for several, often interrelated reasons. A major part of the difficulty was simply that the Board's ALJs, and about everyone else, were dealing with an entirely new and rather complicated classification system. Despite understandable complaints about delay on the Board's part, it took the parties a long time to get prepared to present and defend these grievances. Employees believed they needed discovery before they could properly proceed to hearing, and no lower level grievance hearings were held in any of these cases, unlike most cases that reach the Grievance Board.

Scheduling and logistical difficulties were common, primarily because the governing boards initially had only two attorneys to appear and defend the claims, and they had only a very limited number of knowledgeable human resource personnel available to testify in defense of the claims. The Board was, therefore, limited in both the number of hearings it could schedule each month, and in scheduling multiple hearings on the same date at different locations.

Hearings in the Mercer cases lasted much longer than hearings in other types of grievances. Hearings frequently lasted several days, and the hearings had to be

scheduled over a period of weeks and months. This was true even though the ALJs encouraged or required that the parties file written, pre-filed testimony to minimize the length of hearings and to assist the parties in being better prepared for hearing. This was a useful technique that the Board had not employed before.

To complete the Mercer cases, the Board issued one hundred five (105) decisions and two hundred sixty-seven (267) dismissal Orders. The Board granted twenty-four (24) of the Mercer grievances in whole or in part. Twenty-eight (28) of the Mercer decisions issued, or about twenty-six (26) percent, were appealed to circuit courts. The governing boards of higher education appealed all adverse rulings, and grievants appealed four decisions. The Mercer appeals have been consolidated in the Circuit Court of Kanawha County, and the parties are awaiting a court decision.

To complete the Mercer cases by the end of July, the Board had to devote more ALJs to these cases than originally projected. The result was that other types of grievances were not heard and decided as quickly as would have otherwise been the case. This negative impact on case processing and prompt decisions could be seen throughout 1997.

### **Mediation**

W. Va. Code § 18-29-10 (1992), requires the Board to engage in mediation and other dispute resolution techniques to actively assist the parties in identifying, clarifying and resolving issues prior to the Level Four hearing, to the extent feasible with existing personnel and resources. After the enactment of this provision in 1992, the Board expanded a limited, experimental mediation program it had previously initiated. A report

on the progress of the mediation project was filed with the Legislature on December 23, 1992. The Board recommended the grievance procedure laws be revised to give ALJs the authority to compel the parties to participate in settlement conferences. Currently, ALJs can conduct settlement conferences only with the consent of the parties. W. Va. Code §§ 18-29-6 & 29-6A-6.

Mediation involves a trained, impartial third party who helps two or more parties negotiate to reach a mutually acceptable agreement to resolve their dispute. Mediation emphasizes solutions that satisfy the interests of the parties, rather than litigation to determine which party has the "correct" legal position.

The Board continued to offer mediation services in 1997 in every case in which a hearing is requested. The Board sends a Notice of The Availability of Mediation Services to all parties explaining what mediation is and the circumstances in which the Board will provide a mediator. The ALJs also hold prehearing conferences more frequently, typically by a recorded conference call, in an effort to identify and clarify issues and to encourage settlement discussions.

The ALJs serve as mediators and are generally able to schedule mediation sessions so as not to delay the processing of the case.<sup>13</sup> In the past the Board ordinarily provided mediation services only where all parties had agreed to it and had attempted, without success, to settle the controversy on their own. In a sense, the Board only mediated the

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<sup>13</sup> All ALJs have received either one or two days of intensive mediation training sponsored by the United States District Court for the Northern District of West Virginia and/or the West Virginia State Bar.

difficult cases the parties could not settle on their own.

Given that the grievance process is itself a form of alternative dispute resolution, the Board's experience during the last five years teaches that only a small percentage of its cases will be resolved as a direct result of mediation. Nonetheless, in 1997, the ALJs initiated a project to increase the number of mediation sessions held. The Mediation Notice was revised, and now when any party expresses interest in settlement discussions, the Director contacts the other parties and attempts to arrange a mediation session.

The number of mediation sessions conducted increased to eleven in 1997, compared with five sessions last year (all of which were eventually settled and dismissed from the docket), and four the year before. However, only one case settled immediately, another case settled but the agreement has not yet been implemented, two cases were continued, four did not settle, and the final results are not yet known in the remaining three.

Although mediation services were only provided in a small number of cases, the Board continues to believe mediation is the single, most cost-effective means of resolving grievances. The proper use of mediation promotes equitable settlements to the benefit of all parties. Delay and costly litigation are eliminated. It is clear that public employers can use mediation to save money, make more efficient use of their resources, retain some control over the outcome of grievances, and, perhaps what is most important, preserve the integrity of ongoing working relationships. No negative consequences have been experienced by the Board's utilization of mediation.

#### **Evaluation of Level Four Grievance Process and ALJ Performance**

The present Board has now served about eleven months. Based upon its



observations and experience, and the largely favorably responses received in the Customer Survey, the Board believes the grievance procedure at Level Four is functioning well. Room for improvement exists, however, and the Board will make its primary goal the issuance of decisions more quickly, without sacrificing the quality of decisions. Whether and to what extent the Board can improve decision-making time will depend largely on its success in attracting and retaining well qualified ALJs. The Board currently has three ALJ vacancies and is experiencing hiring difficulties due to the salary structure and compensation practices.

In the Annual Report last year, the Board stated that making further improvements in its adjudication services would be extremely difficult to achieve in 1997, given the increased workload related to the Mercer grievances and significant improvements made in 1995 and 1994. Unfortunately, that prediction proved all too accurate. The Board made progress, nonetheless, and 1998 holds the possibility of being a better year.

The Board believes its ALJs performed well in 1997 and, to the extent that performance problems are found to exist in the future, those problems will be addressed in an effective and proper manner. The Board also thinks its ALJs have maintained the neutral and impartial role envisioned by the Legislature and are providing fair hearings and issuing high quality decisions. Grievances are decided based upon the law and the evidence, not based on politics or any other impermissible factor. The percentage of grievances granted or denied reflects the merits of the individual cases. Grievances are denied frequently because employees must meet a high legal standard to prevail. For example, in a case in which the grievant contends he should have been selected for a

position rather than the successful applicant, the grievant cannot prevail, absent legal error, unless he can prove the employer's decision was arbitrary and capricious or there was a significant flaw in the selection process.

Proving an employer abused its discretion is no easy task and is seldom done. Furthermore, it must be remembered that ALJs have a limited role to play under the law. It is not their job to manage the agency or to substitute their judgment or management philosophy for those who have the responsibility to make personnel decisions in the first instance. See Skaff v. Pridemore, 490 S.E.2d 787 (W. Va. 1997).

It is important to understand that this State has an unusual, if not unique, system for resolving public employee grievances. Here, an individual employee has the right to file a grievance and pursue it through Level Four of the grievance procedure. In sharp contrast, in collective bargaining situations the grievance generally belongs to the union, and it alone decides which cases are sufficiently meritorious to pursue to arbitration. As a result, legally marginal grievances that may be difficult or impossible to prove are screened out and are not pursued to arbitration. Although public employee unions and associations undoubtedly screen out grievances here too, there remain distinct differences between the grievance procedure in West Virginia and arbitration in a collective bargaining situation.

The high percentage of decisions affirmed by the Courts is an excellent indicator that the ALJs are properly applying the law to the assorted factual situations presented and are rendering legally sound and fair decisions. Based upon available information, the Board estimates that circuit courts have reversed ALJ decisions in only 15 percent of the appeals,

and some of those circuit court reversals were overturned on appeal.<sup>14</sup> Grievance Board decisions have also fared well in the Supreme Court of Appeals of West Virginia, which has affirmed the ALJs in about 70 percent of the seventy-six (76) cases it has decided on appeal from Board rulings. This percentage does not include the number of appeals the Supreme Court of Appeals has refused to accept, thereby allowing the ALJ's decision to stand.

The Board continues to be concerned about unnecessary delay in the processing of grievances at the lower levels. The Board has limited information available to it about that issue, and only limited options to address delay problems at the lower levels. The Board's statutory responsibility is to administer the grievance process at Level Four, and accordingly, it has directed its efforts primarily to problems at that level. However, the Board has begun allowing grievants to bypass the lower levels of the grievance procedure where employees elect to skip those levels because the employer has not complied with the time limits in the law for holding hearings or issuing rulings. See W. Va. Code § 29-6A-3(a).

The Board will continue to focus its efforts on unreasonable delays at Level Four, and particularly unreasonable delay by its ALJs in issuing decisions after the cases are

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<sup>14</sup> The Board is frequently not notified when circuit court decisions are issued in cases that have been appealed. Although parties and circuit clerks are asked to provide the Board with a copy of the circuit court decision when it is issued, they frequently do not do so. The Board has begun requesting information periodically to determine the status of appeals and to provide that information to ALJs and customers.

ready to be decided.<sup>15</sup> The Board will continue to track the processing of grievances, keep detailed information about decisional delay, and consider such information to be a critical factor in evaluating the performance of its ALJs.

This Board is committed to improving Level Four of the grievance process. It will continue to strive to meet its important statutory duties and responsibilities, and to improve the quality of the adjudication services and all other services and information it provides.

### **Fiscal Summary**

The Board was appropriated \$997,016 for FY 1995-96, and its actual expenditures were \$910,796. The Board's appropriation for FY 1996-97 was increased to \$1,005,836, and actual expenditures were \$960,912.58. The Board does not charge for any of its services and generates no revenue.

### **Recommendations**

Because of its role as the neutral third party and its limited statutory duties and responsibilities in formulating public policy, the Board is severely limited in its ability to take positions on public policy questions. The Board has, therefore, largely confined itself to reporting comments pertaining to Level Four and summarizing suggestions requiring legislative action.

The Board, however, has three recommendations to make to the Governor and the

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<sup>15</sup> Parties frequently delay cases for legitimate reasons. Delay caused by the parties' desire to submit findings of fact and conclusions of law is not considered to be unnecessary delay. Numerous circumstances can contribute to delay, including the complexity of the legal and factual issues presented, fluctuating caseloads, turnover in ALJ positions, performance problems, and other human factors present in any agency.

Legislature. First, the Board recommends that the Legislature revise the grievance procedure laws to help insure its complete neutrality. The Board's role is that of an impartial third party to resolve employment disputes. When the Executive Branch of State government was reorganized in 1989, the Board was placed within the Department of Administration, along with the West Virginia Division of Personnel. The Board objected to this immediately and still believes this organizational structure creates a conflict of interest or at least an appearance of impropriety. For example, the Board must hear and decide grievances filed by employees who work for agencies that are within the Department of Administration. Some of these cases involve personnel decisions made by the Secretary of this Department, who has substantial control over the Board budget. Public employees have expressed distrust of this agency partly because of this structural arrangement.

From a structural or organizational standpoint, the Board should be in a more autonomous position. Consequently, the Board favors an amendment to Chapter 5F of the West Virginia Code removing the Board from the Department of Administration, and making it an independent agency within the Executive Branch of government. It should be made clear, however, that no attempt has been made by anyone in authority to exert any influence or to exact any retribution from the Board or its ALJs for rulings that have been made.

Second, the Board hereby reiterates the recommendation it made in 1992: Give ALJs the statutory authority to require public employers and employees to participate in settlement conferences and mediation sessions. This would improve communications and perhaps resolve difficult and/or complex disputes without litigation. It is not likely that this

authority would be exercised frequently, but the selective use of this power in a thoughtful and professional manner could achieve positive benefits.<sup>16</sup>

The Board also again recommends that the Governor and Legislature support efforts to raise ALJs salary levels to assure the recruitment and retention of well qualified and competent attorneys. As noted in several previous annual reports, the Board's experience has demonstrated that most experienced lawyers will not consider full-time ALJ positions at the salary levels offered by this agency. The Board was permitted to increase entry level salaries in late 1997 from \$37,300 to \$42,000. This was a good step in the right direction, but further increases are needed.

ALJ turnover is particularly troublesome because of the time it takes to recruit and train new ALJs. New ALJs typically do not reach full performance level for several months. Meanwhile pending cases must be reassigned and are often delayed as a result. Clearly, the lack of adequate compensation and turnover in ALJ positions has been the most significant negative factor affecting the Board's ability to process public employee grievances in a prompt and efficient manner.

### **Conclusion**

The Board's accomplishments demonstrate the wisdom of the legislation establishing a grievance procedure. The benefits of the procedure far outweigh its cost. The existence

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<sup>16</sup> The Board first made this recommendation in a 1992 Report to the Legislature. The Board was required by law to file a report with the Legislature concerning the results of its mediation efforts by January 1, 1993. W. Va. Code § 18-29-10 (1992). The Board continues to believe this change in the law would constitute good public policy. Under current law ALJs can hold settlement conferences only with the consent of all parties.

of the grievance procedure helps to resolve disputes quickly by offering a channel for communications. The procedure helps to prevent improper actions against public employees involving a broad range of personnel matters, including questions of discipline, reductions in force, promotion, transfer, compensation, discrimination and favoritism. The procedure assists in preventing costly litigation involving current and former employees. Many employment disputes have been resolved fairly and quickly to the benefit of public employers, public employees and the citizens of this State, whom we all serve.

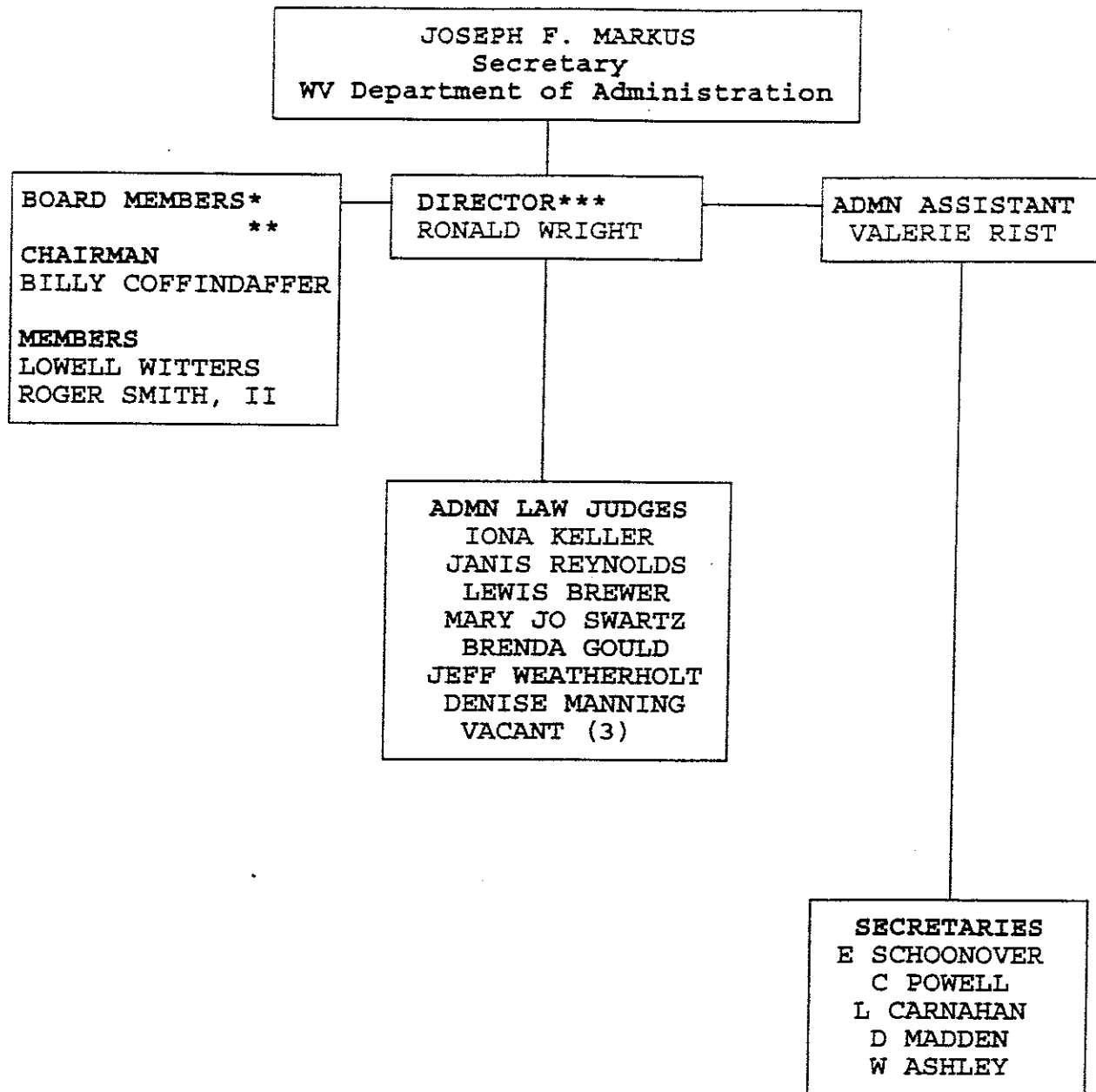
The Board, through its decisions, has established a body of employment law that should serve to improve public personnel management. Public employers frequently look to Board decisions for guidance in making personnel decisions, and employee organizations likewise consult the decisions in advising employees about whether to file and/or to pursue grievances to higher levels in the process.

The West Virginia Education and State Employees Grievance Board, therefore, respectfully submits its Twelfth Annual Report to Governor Cecil H. Underwood and the Legislature.

Appendix A

ORGANIZATIONAL CHART

WEST VIRGINIA EDUCATION AND  
STATE EMPLOYEES GRIEVANCE BOARD



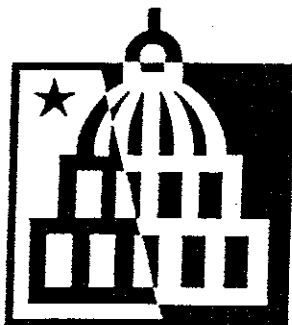
\* Board appointed by Governor  
18-29-5

\*\* Board part of Department of Administration  
SF-2-1(a) (7)

\*\*\* No statutory provision for a Director

Prepared: February 11, 1998





# State of West Virginia Education and State Employees Grievance Board

## Customer Satisfaction Survey

We would appreciate your help in telling us how we can improve the services provided by the Education and State Employees Grievance Board. Please respond to the questions below and mail your completed survey to: Customer Survey; 808 Greenbrier Street, Charleston, WV 25311. All surveys must be postmarked no later than January 5, 1998. You may also fax this information by that date to (304) 558-1106. If you have any questions regarding this survey, please feel free to contact Ron Wright of the Grievance Board at (304) 558-3361.

### I. Adjudication Services: Administrative Law Judge Performance

	Excellent	Good	Fair	Poor	Very Poor	Not Applicable
1. Promptness in deciding cases	5	4	3	2	1	N/A
2. Quality of written decisions, e.g., readability, proper discussion of legal and factual issues	5	4	3	2	1	N/A
3. Ability to conduct orderly and fair hearings	5	4	3	2	1	N/A
4. Knowledge of law applicable to the hearing	5	4	3	2	1	N/A
5. Conscientiousness in finding facts and interpreting the law without regard to public criticism	5	4	3	2	1	N/A
6. Courtesy to parties and witnesses	5	4	3	2	1	N/A
7. Please rank the top three (3) qualities, by question number listed above, which you find most important. For example, if promptness in deciding cases is the most important, you would place a "1" in the first blank space. (most important) _____ (second most important) _____ (third most important) _____						

### II. Level Four of Grievance Procedure: Administrative and Secretarial Staff

8. Simplicity of forms utilized to file grievance	5	4	3	2	1	N/A
9. Simplicity of procedure	5	4	3	2	1	N/A
10. Promptness in obtaining a hearing date	5	4	3	2	1	N/A
11. Promptness in responding to requests for information about the grievance procedure	5	4	3	2	1	N/A
12. Accuracy of information provided	5	4	3	2	1	N/A
13. Courtesy of staff	5	4	3	2	1	N/A

See Reverse Side for Continuation of Customer Survey

### **III. General Comments:**

14. Circle the percentage of your overall satisfaction in doing business with the Grievance Board      100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%
15. During 1997, has your overall satisfaction with the Grievance Board:  
☐ Increased      ☐ Decreased      ☐ Remained the Same      ☐ Not Applicable
16. What are your top three (3) recommendations to improve the services provided by the Grievance Board?
- 
- 
- 
- 
- 
- 
- 
- 
- 
- 
17. Is there anything else you want to tell us?

### **IV. Customer Information**

Please check the box that best describes your role in the grievance procedure:

- |  |                                   |
|--|-----------------------------------|
| <input type="checkbox"/> Grievant                | <input type="checkbox"/> Employer |
| <input type="checkbox"/> Employee Representative | <input type="checkbox"/> Counsel  |
| <input type="checkbox"/> Other _____             |                                   |

*(Completing the information below is optional, although it may assist us in following up on your comments or complaints)*

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

***Thank You for Your Response***

## Average Rating by Customer of Adjudication Services

Customer Type	# of Responses	Overall Satisfaction	Prompt Decision	Quality Decision	Orderly Hearing	Know Law re Hearing	Public Criticism	Courtesy
COUNSEL	15	80.00	3.93	4.29	4.43	3.93	4.31	4.60
EMPLOYEE REP	13	75.38	2.69	3.62	4.23	4.17	3.58	4.69
EMPLOYER	34	82.58	2.97	4.21	4.44	4.45	4.29	4.59
GRIEVANT	77	39.89	2.23	2.84	3.29	3.33	2.74	3.80
OTHER	4	70.00	3.25	4.00	4.00	4.25	5.00	4.33

## Average Rating by Customer of Administrative Procedures and Staff

Customer Type	# of Responses	Overall Satisfaction	Forms Simple	Procedure Simple	Prompt Hearing Date	Prompt Info Response	Info Accuracy	Staff Courtesy
COUNSEL	15	80.00	4.07	4.13	4.13	4.69	4.54	4.47
EMPLOYEE REP	13	75.38	4.38	3.92	4.08	4.00	4.00	4.85
EMPLOYER	34	82.58	4.09	3.85	3.65	4.06	4.24	4.53
GRIEVANT	77	39.89	3.44	3.14	2.51	3.09	3.19	4.10
OTHER	4	70.00	3.50	4.00	3.25	4.33	4.33	4.25

# Customer Ranking of Adjudication Service Qualities

Customer Type	Count Of Forms	Rank 1st	Rank 2nd	Rank 3rd
---------------	----------------	----------	----------	----------

COUNSEL

2			
1	2.00	1.00	5.00
1	2.00	3.00	1.00
1	2.00	5.00	1.00
1	3.00	4.00	6.00
2	4.00	2.00	1.00
1	4.00	2.00	3.00
1	4.00	2.00	5.00
1	4.00	5.00	2.00
1	5.00	2.00	3.00
1	5.00	4.00	1.00
1	5.00	4.00	3.00
1	6.00	1.00	3.00

EMPLOYEE REP

1	1.00	2.00	5.00
1	1.00	4.00	2.00
1	1.00	5.00	4.00
1	2.00	1.00	5.00
1	2.00	5.00	1.00
1	3.00	2.00	1.00
1	3.00	5.00	6.00
3	4.00	1.00	2.00
1	4.00	3.00	2.00
1	5.00	2.00	4.00
1	6.00	3.00	2.00

EMPLOYER

1	1.00		
3	1.00	2.00	4.00
1	1.00	3.00	
1	1.00	4.00	2.00
2	1.00	4.00	5.00
1	1.00	5.00	6.00
1	2.00	1.00	4.00
3	2.00	4.00	1.00

Customer Type	Count Of Forms	Rank 1st	Rank 2nd	Rank 3rd
	3	2.00	4.00	5.00
	1	2.00	5.00	1.00
	1	2.00	5.00	4.00
	2	3.00	1.00	4.00
	1	3.00	4.00	1.00
	2	3.00	4.00	2.00
	2	3.00	4.00	5.00
	1	3.00	5.00	4.00
	1	4.00	2.00	1.00
	1	4.00	5.00	2.00
	1	4.00	5.00	3.00
	1	5.00	1.00	4.00
	2	5.00	2.00	4.00
	1	5.00	3.00	4.00
	1	5.00	4.00	2.00
GRIEVANT				
	3			
	3	1.00		
	2	1.00	2.00	3.00
	2	1.00	2.00	5.00
	1	1.00	3.00	2.00
	3	1.00	3.00	4.00
	2	1.00	3.00	5.00
	1	1.00	4.00	2.00
	1	1.00	4.00	3.00
	2	1.00	4.00	5.00
	3	1.00	5.00	2.00
	1	1.00	5.00	3.00
	4	1.00	5.00	4.00
	1	1.00	6.00	3.00
	1	1.00	6.00	4.00
	1	1.00	6.00	5.00
	2	2.00	1.00	4.00
	1	2.00	1.00	5.00
	3	2.00	4.00	1.00
	1	2.00	4.00	3.00
	1	2.00	5.00	1.00
	1	2.00	5.00	6.00

Customer Type	Count Of Forms	Rank 1st	Rank 2nd	Rank 3rd
---------------	----------------	----------	----------	----------

1	3.00	2.00	1.00
2	3.00	2.00	5.00
2	3.00	5.00	2.00
1	3.00	5.00	6.00
4	4.00	1.00	2.00
1	4.00	3.00	1.00
2	4.00	3.00	5.00
1	4.00	5.00	1.00
1	4.00	5.00	2.00
3	4.00	5.00	3.00
2	4.00	5.00	6.00
1	5.00	1.00	4.00
2	5.00	2.00	1.00
1	5.00	2.00	6.00
2	5.00	3.00	1.00
1	5.00	3.00	2.00
1	5.00	3.00	4.00
3	5.00	4.00	1.00
1	5.00	4.00	2.00
2	5.00	4.00	3.00
1	5.00	6.00	3.00
1	6.00	1.00	2.00
1	6.00	2.00	3.00

OTHER

1	1.00	2.00	3.00
1	2.00	5.00	1.00
1	4.00	5.00	1.00
1	6.00	4.00	2.00

# Satisfaction Change by Customer Type

Customer Type	# of Responses	Satisfaction Change
COUNSEL		
	3	DECREASED
	2	INCREASED
	10	SAME
EMPLOYEE REP		
	1	
	3	DECREASED
	1	INCREASED
	2	N/A
	6	SAME
EMPLOYER		
	4	DECREASED
	6	INCREASED
	2	N/A
	22	SAME
GRIEVANT		
	1	
	40	DECREASED
	5	INCREASED
	6	N/A
	25	SAME
OTHER		
	1	DECREASED
	1	INCREASED
	2	SAME

**APPENDIX D**  
**GRIEVANCES FILED AT LEVEL FOUR AGAINST GOVERNING BOARDS OF**  
**HIGHER EDUCATION AND COUNTY BOARDS OF EDUCATION**  
**CALENDAR YEAR 1997 THROUGH 1992**

<b>Board of Directors:</b>	<b>1997</b>	<b>1996</b>	<b>1995</b>	<b>1994</b>	<b>1993</b>	<b>1992</b>
Bluefield State College	2	1	0	1	6	2
College of Graduate Studies	0	1	0	0	3	0
Concord State College	1	2	2	4	0	2
Fairmont State College	2	2	1	0	3	3
Glenville State College	0	0	1	2	0	0
Potomac State College	1	1	0	1	0	1
Shepherd College	7	4	3	6	7	2
West Liberty State College	4	3	5	0	5	1
W. Va. Institute of Technology	0	0	0	4	1	2
W. Va. Northern Community College	2	3	2	4	1	2
W. Va. Southern Community & Technical College	6	2	2	1	2	1
W. Va. State College	3	2	4	3	2	1
<b>Board of Trustees:</b>						
Marshall University	8	6	5	11	10	4
W. Va. Graduate College	0	1	0	0	0	0
W. Va. University	18	27	13	19	8	8
W. Va. University Hospitals	0	0	0	0	0	1
W. Va. University/Charleston	0	0	0	0	0	0
W. Va. School of Osteopathic Med.	2	1	0	1	0	0
<b>Totals</b>	<b>56</b>	<b>56</b>	<b>38</b>	<b>57</b>	<b>48</b>	<b>30</b>



<b><u>County Boards of Education:</u></b>						
Barbour County Board	0	2	3	12	5	3
Berkeley County Board	7	5	1	3	2	2
Boone County Board	1	5	10	4	7	1
Braxton County Board	1	1	1	0	1	2
Brooke County Board	0	3	4	2	7	7
Cabell County Board	11	9	9	4	7	11
Calhoun County Board	0	0	0	0	0	1
Clay County Board	1	1	0	0	0	1
Doddridge County Board	0	0	0	0	0	0
Fayette County Board	7	8	5	4	9	4
Gilmer County Board	0	0	4	0	1	2
Grant County Board	3	2	2	1	0	1
Greenbrier County Board	5	7	5	3	0	1
Hampshire County Board	3	1	1	0	2	2
Hancock County Board	12	11	10	15	16	6
Hardy County Board	0	1	1	0	0	2
Harrison County Board	4	5	4	1	1	1
Jackson County Board	3	2	3	1	1	1
Jefferson County Board	2	2	3	1	2	2
Kanawha County Board	17	19	17	33	25	28
Lewis County Board	4	3	0	0	4	6
Lincoln County Board	33	7	9	9	15	10
Logan County Board	18	15	21	12	13	12
Marion County Board	2	5	5	7	22	10
Marshall County Board	3	0	0	0	5	2

Mason County Board	5	9	7	19	8	4
McDowell County Board	2	5	7	4	6	10
Mercer County Board	10	3	8	25	8	16
Mineral County Board	3	2	3	2	6	5
Mingo County Board	40	49	67	20	16	12
Monongalia County Board	0	8	4	10	5	10
Monroe County Board	2	6	5	4	1	9
Morgan County Board	3	4	1	1	2	2
Nicholas County Board	3	3	2	0	4	2
Ohio County Board	2	3	3	1	4	5
Pendleton County Board	1	0	4	1	2	1
Pocahontas County Board	2	0	0	0	1	1
Preston County Board	0	0	4	3	2	4
Putnam County Board	12	3	4	4	4	4
Raleigh County Board	10	12	9	29	4	9
Randolph County Board	3	7	4	6	2	2
Ritchie County Board	1	1	0	0	1	0
Roane County Board	0	0	0	0	2	0
Summers County Board	2	6	5	8	3	9
Taylor County Board	0	1	2	0	0	0
Tucker County Board	1	3	0	2	0	4
Tyler County Board	0	3	0	2	3	1
Upshur County Board	1	2	1	2	0	0
Wayne County Board	6	5	4	3	2	4
Webster County Board	3	4	2	3	3	11
Wetzel County Board	3	6	2	5	1	2

Wirt County Board	1	0	0	0	0	0
Wood County Board	5	6	4	1	1	6
Wyoming County Board	4	2	5	4	5	10
<b>Multi-County Vocational Centers</b>		2	3	1	2	0
James Rumsey Technical Inst. (2)	0					
Regional Educ. Serv. Agencies	2	1	0	1	0	1
W. Va. Board of Education (previously reported as a state agency)	5	6	4	4	3	1
	<b>268</b>	<b>276</b>	<b>283</b>	<b>277</b>	<b>246</b>	<b>262</b>

## APPENDIX E

### GRIEVANCES FILED AT LEVEL FOUR AGAINST STATE AGENCIES CALENDAR YEARS 1997 THROUGH 1992

	1997	1996	1995	1994	1993	1992
Adjutant General	4	0	2	0	0	0
Department of Administration	5	2	5	1	5	4
Agriculture	0	2	0	0	0	0
Alcohol Beverage Control Comm'n	5	0	0	1	1	1
Bd. of Examiners for Reg. Nurses	0	0	1	0	1	0
Clarksburg Public Library	0	0	1	0	0	0
Commerce, Labor, Econ. Resources	0	0	1	0	3	4
Consol. Public Retirement Bd. (formerly Public Employees Retirement Bd)	0	4	0	1	0	0
Corrections	48	46	34	29	13	18
Culloden Public Serv. Dt.	0	0	1	0	0	0
Culture and History	2	0	1	0	3	1
Development Office	0	0	0	1	0	0
Economic Development Authority	0	0	0	0	1	0
Educational Broadcasting Authority	0	3	0	1	2	0
Bureau of Employment Programs	13	8	6	10	20	20
Energy	0	0	0	0	0	1
Environmental Protection	6	7	12	3	3	0

Farm Management Comm'n	0	0	0	0	1	0
Fire Commission	0	0	1	0	1	0
Forestry	1	0	3	0	0	0
Health and Human Resources	67	42	85	100	130	83
Highways	62	41	52	44	24	35
Housing Development Fund	2	0	0	0	0	0
Human Rights Commission	0	0	0	0	0	1
Labor	4	0	0	0	2	1
Library Commission	0	0	0	1	0	0
Lottery Commission	0	0	0	1	0	0
Miners' Health, Safety & Training	2	0	0	1	2	0
Motor Vehicles	4	1	1	19	7	1
Natural Resources	2	2	6	5	0	6
Parkways, Economic Dev. & Tourism	14	9	3	5	1	4
Personnel	0	1	3	4	1	1
Public Safety	1	4	6	2	1	1
Public Service Commission	1	5	4	6	2	5
Racing Commission	0	0	1	0	0	0
Railroad Maintenance Authority	0	0	1	0	0	0
Real Estate Commission	0	0	0	1	0	0
Regional Jail Authority	7	6	14	13	3	8
Rehabilitation Services	3	6	6	10	11	7
Solid Waste Management Bd.	0	1	0	0	0	1
Tax & Revenue	0	3	8	10	3	5
Tourism & Parks	0	0	1	5	4	2

Veterans' Affairs	2	0	0	2	0	0
<b>County Health Departments</b>						
Barbour County Health Dept.	0	0	1	0	0	1
Boone County Health Dept.	1	0	1	0	0	2
Clay County Health Dept.	1	0	0	0	0	0
Fayette County Health Dept.	1	0	0	0	0	0
Grant County Health Dept.	0	0	0	0	0	2
Hampshire County Health Dept.	1	0	0	0	0	0
Jackson County Health Dept.	0	0	0	0	1	0
Kanawha-Charleston Health Dept.	0	1	0	0	0	0
Mason County Health Dept.	0	0	1	0	0	0
Mid-Ohio Valley Health Dept.	0	1	0	0	0	0
Monongalia County Health Dept.	0	6	2	0	1	0
Morgan County Health Dept.	0	0	1	0	0	0
Randolph County Health Dept.	2	1	0	0	0	0
<b>Totals</b>	<b>262</b>	<b>202</b>	<b>265</b>	<b>276</b>	<b>247</b>	<b>215</b>