

WEST VIRGINIA EDUCATION AND STATE EMPLOYEES

GRIEVANCE BOARD

FIFTEENTH ANNUAL REPORT

TO THE

GOVERNOR AND THE LEGISLATURE

CALENDAR YEAR 2000



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

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**THE HONORABLE BOB WISE
GOVERNOR, STATE OF WEST VIRGINIA**

and

MEMBERS OF THE LEGISLATURE

Dear Governor and Members of the Legislature:

In accordance with W. Va. Code § 18-29-5 (1985), and W. Va. Code § 29-6A-5 (1988), I am pleased to submit the fifteenth Annual Report of the Education and State Employees Grievance Board. The Board is proud of its accomplishments and the work of its staff. This report reviews the significant activities of the Board during calendar year 2000.

Respectfully submitted,


BILLY COFFINDAFFER

CHAIR

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History, Mission and Operations

In 1985 the Legislature created the West Virginia Education Employees Grievance Board and established a grievance procedure for educational employees. W. Va. Code §§ 18-29-1, et seq. The procedure is intended to provide a simple, expeditious and fair process for resolving 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.¹ The purpose of this law is to establish a procedure for the equitable and consistent resolution of employment disputes. This law also changed the agency's name to the West Virginia Education and State Employees Grievance Board (hereinafter Board). W. Va. Code §§ 29-6A-1, et seq.

In 1998, the Legislature made several changes to the law governing state employee grievances.² One of the most significant changes was the inclusion of a default provision by which an employee may prevail in his or her grievance, if the grievance evaluator at Level One, Two or Three fails to respond to the grievance in the time required by law. Another notable change gives the Board jurisdiction over procedural matters at Levels Two

¹ 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. W. Va. Code § 29-6A-2(e). 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).

² House Bill 4314, effective July 1, 1998.

and Three of the grievance procedure in both state and education employee grievances. Until this change in the law, the Board's authority was limited to administering Level Four of the procedure. In addition, the law gave the Board the authority to require mediation at the request of any party in cases involving state agencies. W. Va. Code §29-6A-12 (1998).³

The Board consists of three members appointed by the Governor, with the advice and consent of the Senate, for three year terms. In March 1997, Governor Cecil H. Underwood appointed three new members to the Board. Billy Coffindaffer, from Monongalia County, was appointed for a term ending July 1, 1998, and was subsequently reappointed for a term that expires on July 1, 2001. Roger Smith, II, from Cabell County, was appointed to a term that expired on July 1, 1999, and was reappointed to a term expiring on July 1, 2002. The third new member, Lowell Witters, from Kanawha County, was appointed to a term expiring on July 1, 2000, and was reappointed for a term expiring on July, 1, 2003.

The Board's mission 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 maintained, effective job performance may be enhanced, and the citizens of this State may be better served.

The Board employs attorneys to preside over grievances that reach Level Four of

³ The Board first made this recommendation to the Legislature in 1992. The law was also amended to make it clear that ALJs can require the parties in a state employee grievance to participate in settlement conferences. W. Va. Code §29-6A-6 (1998).

the grievance procedure and to serve as mediators. These employees are designated as "hearing examiners" in the grievance procedure laws, but the Board refers to them as administrative law judges (ALJs) because of the nature of their duties and responsibilities.⁴ The Board requires its ALJs to be licensed to practice law in West Virginia, and does not permit them to have an outside law practice.

The Board employs a Director, an Administrative Officer, six ALJs, and four Secretaries in a flat organizational structure. See Appendix A. The Board's principal office is in Charleston, and it maintains hearing offices in Beckley, Elkins, Westover, and Wheeling.⁵

The Board's primary activities are to: (1) Schedule and conduct Level Four hearings and prehearing conferences in public employee grievances; (2) Issue binding, written decisions with findings of fact and conclusions of law, subject to limited judicial review in the circuit courts; (3) Provide mediation services to actively assist employers and employees in identifying, clarifying and resolving issues anytime before a Level Four hearing; (4) Administer Levels Two, Three and Four of both the education and state employees grievance procedure; and (5) Prepare transcripts and certify records to circuit courts when decisions are appealed.

The Board has identified the following goals and objectives: (1) Issue timely and

⁴ The West Virginia Division of Personnel has placed these positions in the class title of ALJ II in its classified-exempt plan.

⁵ The Director performs administrative duties and functions as the chief administrative law judge.

prompt decisions; (2) Issue decisions within thirty working days after the cases are ready for decision; (3) Process grievances in a fair, objective manner, according respect and courtesy to all parties; (4) Assist the parties in settling grievances through prehearing conferences and mediation; (5) Issue readable decisions based upon a consistent application and interpretation of law and policy; and (6) Promptly publish decisions and case summaries on the Internet for all interested persons.

Both grievance procedure laws contain a broad definition of what can be grieved. Employees may 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 (1985) & 29-6A-2 (1988).⁶ The 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. The Board has issued about four thousand five hundred (4,500) decisions. The most common types of grievances by far are challenges to promotion and selection decisions, dismissal and other disciplinary actions, and

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

"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 not grievable.

classification and compensation matters.

In accordance with the Administrative Procedures Act, the Board adopted new Procedural Rules effective December 1, 2000, governing the practice and procedure for handling grievances at Level Four. The new Procedural Rules substantially amended the prior rules to conform to statutory changes and current practice. The 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 CSR. 1).

Annual Open Meeting and Fourth Customer Satisfaction Survey

The Board, after proper notice, conducted its annual open meeting in Charleston on January 19, 2001, 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 evaluate the functioning of the grievance process, the performance of its ALJs, and to prepare an annual report to the Governor and the Legislature.

The Board mailed more than nine hundred thirty-six (936) notices of the open meeting, the largest number in several years. All Grievants whose cases were completed in 2000 were mailed a notice. State agencies, educational institutions, county superintendents, employee organizations, union representatives, attorneys, and the Director of the West Virginia Division of Personnel (Personnel) were also invited to attend or to submit written comments. A Customer Satisfaction Survey form was mailed with the open meeting notice.

Five people attended the public meeting: (1) an assistant superintendent for a county school board; (2) a higher education employee who serves in a human resource

capacity at West Virginia University; (3) a state employee who had recently begun serving as a grievance evaluator; (4) a state employee who conducts investigations and must testify in grievances; and (5) an attorney who recently began representing two divisions within the Department of Military Affairs and Public Safety. These individuals attended primarily to learn more about the grievance procedure to help them perform their jobs better.

The Board has been using a Customer Satisfaction Survey for four years to help in the evaluative process, to identify areas in which our customers think we need to improve, and to serve as a benchmark for future evaluations. (Appendix B). In designing the survey questions, the Board reviewed customer satisfaction surveys used by agencies in other states that perform similar functions, and customer survey forms used by agencies within the Department of Administration.

Initially, the Board's use of the Customer Satisfaction Survey significantly increased the number of responses from grievance participants. The number of responses has, however, been declining. Seventy-eight (78) customers had responded to the survey by January 31, 2001, compared to one hundred six (106) last year, and one hundred forty-three (143) for the 1997 calendar year.

Customers are grouped into five categories on the form: Grievant, Employer, Employee Representative, Counsel, and Other. The survey results are analyzed based on these customer categories. Ratings for most questions on the Survey are as follows: (5) Excellent; (4) Good; (3) Fair; (2) Poor; (1) Very Poor, or Not Applicable. Appendix C contains two reports showing the survey results for 2000 and 1999. The first report shows

the average rating of the Board's adjudication services, and the second report is the average rating of administrative procedures and staff. A brief summary of customer survey responses is set forth below.

Customers were asked to give their Overall Satisfaction rating of the Board on a scale from 100% to 0%. Grievants gave about a 40% overall satisfaction rating which is comparable to two of the three prior years. Eleven (11), or 30%, of Grievants responding gave the agency an overall satisfaction rating of 0%. A strong correlation exists between whether the grievant lost his or her grievance and negative ratings on the customer survey. All customer types gave a higher overall satisfaction rating than in 1997. And all customer types, except Grievants, reported a higher overall satisfaction level this year than last, ranging from 75% to 94%.

As it did last year, the Board plans to review thoroughly the customer survey results, and the recommendations, suggestions and complaints at its next meeting in April 2001. The Board will meet with staff to discuss the results and to consider goals and projects to improve the agency's overall performance. Undoubtedly, some comments and suggestions will concern matters over which the Board has little or no control, and/or which would require changes in the law. In that regard the Board must emphasize that it does not generally recommend changes in the law or take positions on public policy questions. The reason for this practice is the Board's concern that its role as the neutral third party would be jeopardized if it did so. Nonetheless, the Board and its staff will carefully consider all information submitted in its ongoing efforts to improve its services.

Grievances Filed at Level Four and Adjudication Activities in 2000

The number of grievances filed at Level Four has not fluctuated greatly in recent years. The number of grievances filed in 2000, however, decreased by 25% from 1999. This is the lowest number of grievances filed since 1988, when the state employee grievance procedure statute was enacted. The Division of Correction experienced the most significant decline, dropping 60%, from ninety-four (94) to thirty-eight (48). Other public employers showing a notable decline in grievances are identified in Appendices D and E.⁷ The table below shows the number of grievances filed for nine years by major category of employer.⁸

Grievances filed at Level Four	2000	1999	1998	1997	1996	1995	1994	1993	1992
State	206	281	301	261	200	265	276	252	217
Higher Education	31	56	36	56	57	38	57	48	30
County Boards of Education	174	213	186	269	277	283	277	243	261
Totals	411	550	523	586	534	586	610	543	508

⁷ Appendix D shows the number of grievances filed at Level Four against higher education institutions and county boards of education. Appendix E shows the number of grievances filed at Level Four against state agencies by bureau and department.

⁸ The table does not include five hundred forty-six (546) higher education classification grievances filed in 1994 after the Mercer Project was implemented. For information about those cases, please review the 1997 report which is available on-line at the Board's web page. The number of grievances filed includes cases remanded by circuit courts and claims filed by employees seeking relief by default. 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.

Because of the decline in grievance activity and a corresponding reduced caseload, the Board issued fewer Decisions and Orders than in any year since 1988, as partially reflected in the table below.⁹ The clearance rate in 2000 was about 110 percent, with 451 cases disposed of, and 411 grievances filed. As noted earlier, however, the number of employees whose cases were processed this year was the largest in many years due to the consolidation of grievances by employees into one case and the filing of group grievances.

All Decisions and Orders	2000	1999	1998	1997	1996	1995	1994	1993	1992
Decisions Issued	292	329	366	422	339	349	313	280	274
Dismissal Orders and Default Orders	159	187	181	240	389	266	201	225	198
Totals	451	516	547	662	728	615	514	505	472

In 2000, as shown in the table below, ALJs issued their decisions more quickly than ever before. The law requires decisions to be issued within thirty working days. Average decision-making time was twenty-one working days. Average decision-making time was reduced by 28 percent, following a 26 percent improvement in 1999. Further, 97 percent of all decisions rendered were issued within sixty working days of becoming mature for

⁹ Dismissal orders are often entered when grievances have been prematurely appealed to Level Four without a required lower level hearing having been held, or when cases are settled and the grievant requests that the grievance be dismissed. Occasionally, however, these rulings involve complicated procedural or substantive issues.

decision. The table below shows the average number of working days it took to issue decisions after the cases became mature, average total case processing time at Level Four, the percentage of all cases issued within thirty working days, and the percentage of dismissal cases issued within thirty working days.¹⁰

Average Number of Working Days	2000	1999	1998	1997	1996	1995	1994
Decision-Making Time	21	29	39	69	44	39	67
Total Processing Time	115	168	149	181	145	136	154
Percentage of Cases Decided within 30 Working Days	79%	81%	52%	19%	38%	40%	17%
Dismissal Cases Decided within 30 Working Days	75%	89%	71%	37%	41%	60%	12%

The percentage of decisions appealed to circuit court has not fluctuated much from year to year, as shown in the table below. About 27 percent of all decisions issued by the Board since 1985 have been appealed. The Board has been notified that seventy-four (74) decisions issued in 2000, or 25%, have been appealed to circuit court.¹¹

2000	1999	1998	1997	1996	1995	1994	1993	1992
25%	23%	23%	17%	22%	17%	20%	26%	23%

¹⁰ 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. The law states that ALJs must render their decisions within thirty (30) working days after the Level Four hearing.

¹¹ Two of the fifteen Default Orders issued were also appealed to circuit court.

The overall percentage of grievances granted has not fluctuated greatly in the past several years, but did decline slightly in 2000, as reflected in the table below.¹²

2000	1999	1998	1997	1996	1995	1994
23%	29%	29%	26%	26%	24%	27%

A breakdown by category for 2000 is set forth in the table below.

2000 DECISIONS	DECISIONS ISSUED	GRIEVANCES GRANTED	PERCENT GRANTED
Higher Education	21	3	14%
State	139	30	22%
Boards of Education - Professional Personnel ¹³	49	10	21%
Boards of Education - Service Personnel	80	22	27%
State Department of Education	3	1	33%
TOTALS	292	66	23%

The Board gives high priority to cases in which employees were dismissed from employment to expedite the disposition of those cases. The number of dismissal

¹² Cases were counted as granted, if the grievance was granted in any part. Cases were counted as denied, if the grievance was dismissed or denied without reaching the merits of the grievance. This would include grievances dismissed on jurisdictional grounds and cases that were denied on procedural grounds, such as being untimely filed. At least thirty cases were denied on those grounds.

¹³ One grievance was filed by both professional and school service personnel of a county board of education. For purposes of this report, that case has been counted as a grievance filed by professional personnel.

grievances received and decided declined significantly in 2000, as shown in the table below.

Dismissal Cases	Cases Filed	Decisions Issued	Grievances Granted
2000	42	28	5
1999	72	45	15
1998	65	41	12
1997	69	34	9
1996	61	21	6

In 2000, the Board disposed of an additional twenty-eight (28) dismissal cases and twenty (20) suspension cases by Dismissal Order, due to such factors as voluntary settlements, withdrawals or failure to appear.

The percentage of cases decided based upon the record made at lower levels of the grievance procedure, without a Level Four hearing, has remained nearly the same the last three years, as shown in the following table.

Submitted on Record (SOR) Cases	2000	1999	1998	1997	1996	1995
Decisions Issued in SOR Cases	48	60	63	82	53	73
Working Days to Issue Decisions	16	11	33	63	31	27
Percentage of All Decisions Issued	16%	18%	17%	23%	18%	21%

The number of hearings scheduled and the number of hearings held decreased in 2000. The Board has tried a number of approaches for setting Level Four hearings. Experience has shown that scheduling the Level Four hearing within fifteen days of the request for a hearing, as required by law, works very poorly. The parties will usually

request a continuance for one or more good reasons, such as they cannot get prepared that quickly or key witnesses cannot be available on the date the hearing is set.

The Board has found that the most effective and efficient approach to setting hearings is to require the parties to confer with each other, and agree on three or four hearing dates. The hearing is then scheduled on the first date when the ALJ and a hearing room are available. Though the hearing date is ordinarily one the parties have agreed upon, the Board receives at least one request for a continuance in a large percentage of the cases. These continuance requests are generally not objected to by the other parties. This is why the number of hearings held, as shown in the table below, has always been so much lower than the number of hearings scheduled.

Hearing Activity	2000	1999	1998	1997	1996	1995	1994
Hearings Scheduled	503	713	758	688	789	988	725
Hearings Held	279	329	337	313	303	386	268

Administrative Support Activities and Increasing Use of the Internet

The Board's secretarial staff assembled and transmitted eighty-nine certified records to circuit clerk's offices, nearly equal to the average number of records transmitted in the last three years.

Records Certified to Circuit Court	2000	1999	1998	1997	1996	1995	1994
	89	93	86	90	82	66	60

The Board's secretarial staff typed the transcripts in most of the cases appealed, but does use a transcription service under contract when its secretarial staff becomes

backlogged and cannot meet court deadlines. Producing transcripts continues to be a substantial task for the Board's limited secretarial staff. Nonetheless, the certified record is generally transmitted to the circuit clerk within thirty (30) days of receipt of the circuit court order requiring submission of the record.¹⁴

Hearings held at the Board's offices are mechanically recorded on four-track audio tapes, but a transcript is not ordinarily prepared, unless the case is appealed to circuit court. The Board, however, has equipped its hearing office with a high-speed tape duplicator reformat and, upon request, promptly gives the parties audio tapes of the hearing, instead of a transcript. In addition, when a case is appealed, the Board does give the parties a copy of the transcript in electronic form upon request.¹⁵ This approach has worked well.

Since 1997 the Board has been using the Internet to provide access to its decisions and to improve its services. The Board's staff created a Home Page, on the State of West Virginia's Home Page, with the assistance of the Information Services and Communications Division of the Department of Administration (IS&C). The address is www.state.wv.us/admin/grievanc/grievanc.htm.

¹⁴ 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.

¹⁵ The Board's staff has devised a method of preparing digital transcripts that enables the parties to cite to the page numbers where testimony appears in the official, paper transcript certified to the circuit court. This innovative technique has been well received by attorneys who handle grievance appeals.

The web site has become the Board's primary method of distributing information, with the full text of all decisions issued since January 1994 on-line and searchable. New decisions are published twice a month. All decisions can be downloaded by year in Rich Text Format, a format compatible with most word-processing software. The Board also publishes selected older decisions on the web. The Secretary of State's office is also provided copies of all decisions in electronic form twice a month.

The Board's staff has created and maintains an electronic database, called Boardlaw, containing case summaries and pertinent information on more than four thousand four hundred (4,400) decisions issued since 1985. The database is updated monthly with summaries of the new decisions rendered and with any information received about cases appealed to the courts. All the information in the database is published on the web page and can be searched in a variety of ways. In addition, the database can be downloaded in two database applications in a compressed form. In response to customer requests, the Board now makes the database available in Microsoft Access 97.¹⁶

In response to the customer satisfaction survey results two years ago, the Board's staff created a brochure primarily to help employees in handling or processing a grievance. The brochure has since been replaced with a list of frequently asked questions and other helpful information, which the Board mails to all parties as the first step in processing the grievance. This information is also available on the web site. The Board's staff has also

¹⁶ This database is a valuable research tool for the ALJs and all interested persons who need to be aware of new precedent interpreting and applying personnel laws and regulations applicable to public employees.

designed new grievance forms for both education and state employees. The new forms, now containing instructions about each step in the process, are available on the web site in WordPerfect and Adobe Acrobat (PDF) format. The Board's Procedural Rules are also available on the web site in PDF and HTML format.

Customers have responded very positively to the web site, and they are using it. According to monthly WebTrends reports, the number of user sessions per day has continued to increase. For example, the average number of users sessions reached five hundred sixty-three (563) sessions per day in November 2000, up from one hundred seventy-eight (178) user sessions during November 1999.

As required by W. Va. Code § 18-29-11 (1992), the Board provides a statewide quarterly report to inform the higher education governing boards, the county boards of education and employee organizations of current personnel-related issues. The Board issues the report monthly to disseminate the information more quickly. These reports have been redesigned and are now distributed primarily via the web page.

Beginning with the 1999-2000 school year, and in accordance with W. Va Code § 18-29-11 (2000)(House Bill 4785), the Board also provides an annual report to each county board of education within thirty days of the end of each school year. The report lists the number of grievances granted, denied, or otherwise disposed of during that school year. This report is also posted on the web site.

The Board continued the process of replacing and upgrading equipment and software to provide employees better tools and to promote continued training and education for all staff. The Board is also working to improve its hearing offices. For

example, the Morgantown office was moved to a better facility and location just off the Westover exit of I-79. A toll-free telephone number for the Charleston office was obtained to serve our customers.

The Public Records Management and Preservation Act, W. Va. Code § 5A-8-9, among other things, requires all state agencies to adopt and maintain a continuing program for efficient management of state records. This law requires all agencies to submit schedules for the retention and orderly disposal of each type of state record in their possession. The Board received approval of its proposed retention and disposal plan in 2000, and its oldest records in storage will be destroyed in 2001 according to the plan.

This summary of administrative support activities is hardly comprehensive. It does not include any data on several functions and activities performed by the agency's administrative staff to keep the agency operating effectively and efficiently. For example, the Board's staff answers questions from employers and employees on a daily basis about the grievance process.

Grievance Mediation Services

Mediation can be defined as a process in which a trained, neutral third party helps the parties negotiate a mutually acceptable agreement to resolve their dispute. Mediation emphasizes solutions that satisfy the interests of the parties, rather than litigation to decide which party has the "correct" legal position. Mediation may include problem-solving techniques which may help the parties in resolving future conflicts on their own, thus preventing future grievances.

The Board has been a leader in the use of mediation in state government. It began

an experimental mediation project in 1991. The Legislature endorsed that project and passed W. Va. Code § 18-29-10, which required the Board to engage in mediation and other dispute resolution techniques to actively help 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 law, the Board expanded its mediation program.¹⁷

A report on the progress of the mediation project was filed with the Legislature on December 23, 1992. In that report the Board recommended the grievance procedure laws be revised to give ALJs the authority to compel the parties to participate in settlement conferences. Under the law then, ALJs could conduct settlement conferences only with the consent of the parties. W. Va. Code §§ 18-29-6 & 29-6A-6. In 1998, the Legislature adopted this recommendation for state employee cases by amending W. Va. Code § 29-6A-6.

In 2000, the Board participated in a Legislative Interim Committee Study about mediation and arbitration of grievances. The Board supplied the Interim Committee with a substantial amount of information about its mediation efforts and several other aspects of its operations.

¹⁷ The ALJs serve as mediators and are generally able to schedule mediation sessions so as not to delay the processing of the case. 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. The Board has also held in-house mediation training for its ALJs, focusing on recent trends in workplace mediation. Individual ALJs have pursued additional training in conflict management, problem-solving and mediation.

The Board continued to strongly encourage the use of mediation in 2000, emphasizing it would provide a mediator early in the grievance process, before an evidentiary hearing had been held. The Board publicized this free service in several ways, including speaking at seminars and distributing publications about mediation.

The ALJs hold prehearing conferences frequently, typically by a recorded telephone conference call, to identify and clarify issues, to encourage settlement discussions and explore the possibility of mediation. More than eighty-four prehearing conferences were held in 2000.

Although the number of mediation sessions declined by 22% compared to last year, as shown in the table below, this was neither surprising nor disappointing, given the 25% drop in grievances.

Mediation Sessions Conducted	2000	1999	1998	1997	1996
After Cases Reached Level Four	16	20	13	11	4
Before Cases Reached Level Four	5	7	0	0	0

It is very important to recognize that, although the overall percentage of grievances mediated remains small, the parties frequently settle grievances on their own without using the mediation process, even after the cases are appealed to Level Four. One hundred forty-three (143), or 32%, of the grievances processed in 2000, were concluded by the issuance of a dismissal order. Many of these dismissal orders were issued after the parties settled the matter, and employee(s) exercised their statutory right to withdraw the

grievance at any time.¹⁸ Likewise, some grievances simply should not be settled, while in other cases personnel laws and regulations affording rights to other employees may prevent a lawful settlement.

About 64 percent of the cases mediated in 2000 after reaching Level Four were resolved to the satisfaction of the parties, while 80 percent of the cases mediated before reaching Level Four resulted in settlement. Disciplinary cases were the most frequently mediated type of case.

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. Public employers can clearly 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. The Board also believes that public employees clearly benefit from the use of grievance mediation, and it is not aware of any negative consequences resulting from its use.

The Board's mediation efforts have fostered a climate in which the parties discuss problems, consider possible solutions to problems and engage in settlement activity more frequently. Nonetheless, the Board's experience with mediation shows that only a relatively small percentage of its cases will be resolved through mediation. This is partly because the grievance procedure is itself a form of alternative dispute resolution, and

¹⁸ See W. Va. Code §§ 18-29-3(d) & 29-6A-3(d).

therefore the incentives for settlement are not as great as in civil litigation. Moreover, settling workplace grievances in the public sector is more difficult and time consuming than in the private sector for many reasons.¹⁹

Evaluation of Level Four Grievance Process and ALJ Performance

Based upon its observations and all available information, including the responses to the Customer Survey, the Board believes the grievance procedure at Level Four continued to function well in 2000. By any objective measure, the Board's overall performance continued to improve. The ALJs were successful in reducing decision-making time, as discussed earlier, while the quality of decisions remained high. The Board believes the continuing efforts made to encourage the use of mediation early in the grievance process produced significant, beneficial results, to all parties and the public. The Board also believes it should continue promoting mediation in 2001, and it will do so.

The Board believes its ALJs performed well. They adhered to the neutral and impartial role envisioned by the Legislature, provided fair hearings to all parties, and issued prompt high-quality decisions. Grievances were decided based upon the law and the evidence, not on politics or any other impermissible factor. The percentage of grievances granted or denied simply reflects the merits of the individual cases. ALJs deny grievances 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 unless he can

¹⁹ One reason is that public employers have fewer settlement options in certain types of cases due to statutory and personnel policy requirements.

prove the employer's decision was in violation of a statute, was arbitrary and capricious, or the selection process was significantly flawed.²⁰ Proving an employer abused its discretion is a heavy burden and it is infrequently done. Similarly, certain types of employees, such as at-will or probationary employees, have only limited rights to continued employment and, therefore, grievances by these employees concerning the termination of their employment must frequently be denied.

Likewise, many compensation and classification grievances filed by state employees, and other types of cases as well, the real dispute concerns the correctness of a determination made by the Division of Personnel that adversely affects an employee, rather than a dispute between the employee and his or her employer. Personnel's determinations are ordinarily not subject to reversal, unless the determination was clearly wrong. See W. Va. Dept. of Health and Human Resources v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

In addition, ALJs have a limited role under the law. It is not the job of an ALJ to manage the agency or to substitute their judgment or management philosophy for agency personnel who have the responsibility to make personnel decisions. See Skaff v. Pridemore, 200 W. Va. 700, 709, 490 S.E.2d 787,796 (1997)(ALJ exceeded his authority in ordering employer to adopt a specific personnel policy).²¹

²⁰ See, Syl. pt. 3, Dillon v. Wyoming County Board of Education, 177 W. Va. 145, 351 S.E.2d 58 (1986).

²¹ The Board's staff made a comparison of the rate it grants grievances with two other government agencies performing similar functions: the federal Merit Systems Protection
(continued...)

The low percentage of decisions reversed by the Courts is a good indicator that the ALJs are properly applying the law to diverse factual situations and are rendering legally sound and fair decisions. By December 31, 2000, the Board had issued final decisions in four thousand four hundred and seventy-eight (4,478) grievances. One thousand two-hundred fifteen (1,215), or 27%, of those decisions were appealed to circuit court. The Board's records contain the following known results of judicial review: the courts have reversed only about one hundred sixty-three (163), or 13%, of the cases appealed.

The Board continues to be concerned, however, about lengthy delay in the processing of grievances at the lower levels. This problem appears to be limited to a small number of employers and to stem from recruitment and retention problems regarding grievance evaluators, rather than an absence of good faith by management. The Board believes it vital for public employers to devote the time and resources necessary to address employee grievances in an expeditious manner.²²

Fiscal Summary

The Board was appropriated \$1,050,347 for fiscal year (FY) 2000, and its actual expenditures were \$920,468, including transfers by the Department of Administration

²¹(...continued)

Board and the Ohio State Personnel Board of Review. This limited comparison revealed the Board granted grievances more frequently than either of these agencies.

²² The Legislative has put short time periods for the completion of every step in the grievance process. In addition, employees have the right to bypass or skip steps in the grievance procedure where the employer has not complied with the time limits for holding hearings. See W. Va. Code § 29-6A-3(a). Employees may also seek to prevail by default on the grounds the employer failed to comply with the time limits for holding hearings and issuing decisions. W. Va. Code §§ 18-29-3(a) & 29-6A-3(a)(2).

Secretary. The Board's actual expenditures have not fluctuated greatly in recent years, as shown in the table below.

Actual Expenditures FY 1999	\$938,611
Actual Expenditures FY 1998	\$913,483
Actual Expenditures FY 1997	\$960,913

The Board does not charge for its services and generates no revenue.

Recommendations

Because of its role as the neutral third party, and its limited statutory duties and responsibilities, the Board, as noted earlier, generally does not take positions on public policy questions or make legislative suggestions.²³ The Board, however, has two recommendations to make to the Governor and the Legislature. First, the Board recommends, as it has done several times before, that the Legislature revise the grievance procedure laws to help insure its complete neutrality. 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 change at the time. The Board continues to believe this organizational structure creates a conflict of interest, and creates 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

²³ The Board does not have statutory authority to employ staff to make studies or recommendations relating to this state's employment policies.

made by the Secretary of this Department, who has substantial control over the Board's budget. Public employees have expressed, and continue to express, a distrust of this agency partly because of this structural arrangement. It should be made clear, however, that no attempt has been made by anyone in authority to exert any influence or penalize the Board or its ALJs for performing their duties.

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.

Second, the Board repeats last years recommendation that the grievance procedure for education employees be amended to give it the authority to require mediation when one party requests it. The Board was provided that power in state employee grievances in 1998,²⁴ and the Legislature should extend this change to education employee grievances to make the laws uniform. In addition, both grievance procedure laws should be amended to give ALJs the authority to compel the parties to participate in mediation, even without a request from a party. This authority might not need to be exercised frequently, but the selective use of compulsory mediation may achieve significant benefits in individual cases.

Final Comments about Level Four and Observations about the Lower Levels

The Board has handled many disputes fairly and quickly to the mutual benefit of public employers, public employees and the citizens of this State during the last fifteen

²⁴ W. Va. Code §29-6A-12 (1998).

years. It has earned a good reputation. The Board expects its ALJs to be fair and impartial in the performance of their duties.²⁵ Its ALJs and staff, of course, cannot please everyone. We know that as well as anybody. In most instances, the ALJs must rule for one party and against the other, in matters frequently of great importance, particularly to employees.

The Board believes a properly functioning employee grievance procedure is vital to any organization, and it may be especially important in the public sector. This State has good grievance laws designed to facilitate the settlement of grievances as soon as possible after they arise. This is important because grievances become magnified in importance and increasingly difficult to settle as they progress through the steps in the process.²⁶ Good grievance procedures are important but they alone do not insure the goals of these procedures will be achieved. The good faith attitude of everyone handling grievances is of paramount importance. The Legislature has recognized this by expressly requiring both employers and employees to act in good faith at all times and make every possible effort to resolve disputes at the lowest level. W. Va. Code § 29-6A-7.

The Board has no control and little information about grievances at the lower levels that never reach the Board. For the grievance procedure to be effective at the lower levels, however, the Board believes public employers, employees, unions, and employee

²⁵ For several years the Board has required its ALJs to adhere to the general principles contained in the Code of Judicial Conduct, although this code, by its terms, applies only to the judicial branch, not ALJs in the executive branch.

²⁶ See F. Elkouri, How Arbitration Works 157 (4th ed. 1985)

organizations should keep certain guiding principles firmly in mind. First, it should be emphasized that the basic objective of the grievance procedure is not "winning" grievances, but resolving disputes in a fair and equitable manner. Second, supervisors and managers at all levels should consider grievances as aids to discovering and eliminating or reducing the underlying causes of discontent whenever possible. Third, when wrong decisions have been made, these mistakes should be acknowledged and corrected promptly. Fourth, everyone involved must be willing to devote adequate resources, time and attention to the handling and disposition of grievances. Fifth, if grievances are to be handled properly everyone must be thoroughly familiar with the governing personnel laws and regulations and Board decisions. See F. Elkouri, *How Arbitration Works* 154-155 (4th ed. 1985)(outlining recommendations made by the President's National Labor-Management Conference of 1945).

The Board does not know whether grievances will continue to decline, level off or increase in 2001. The Board can only speculate as to the actual reasons for the decline, but mentioning a few possible causal factors may be useful.²⁷ The Board has created a body of law or precedent concerning many of the personnel laws and regulations governing public employment by issuing decisions in about four thousand five hundred (4,500) cases. This information is now readily available on the Internet and is being increasingly used by public employers and employees, as noted earlier in this report. These two factors acting together may have contributed to an aura of predictability helping

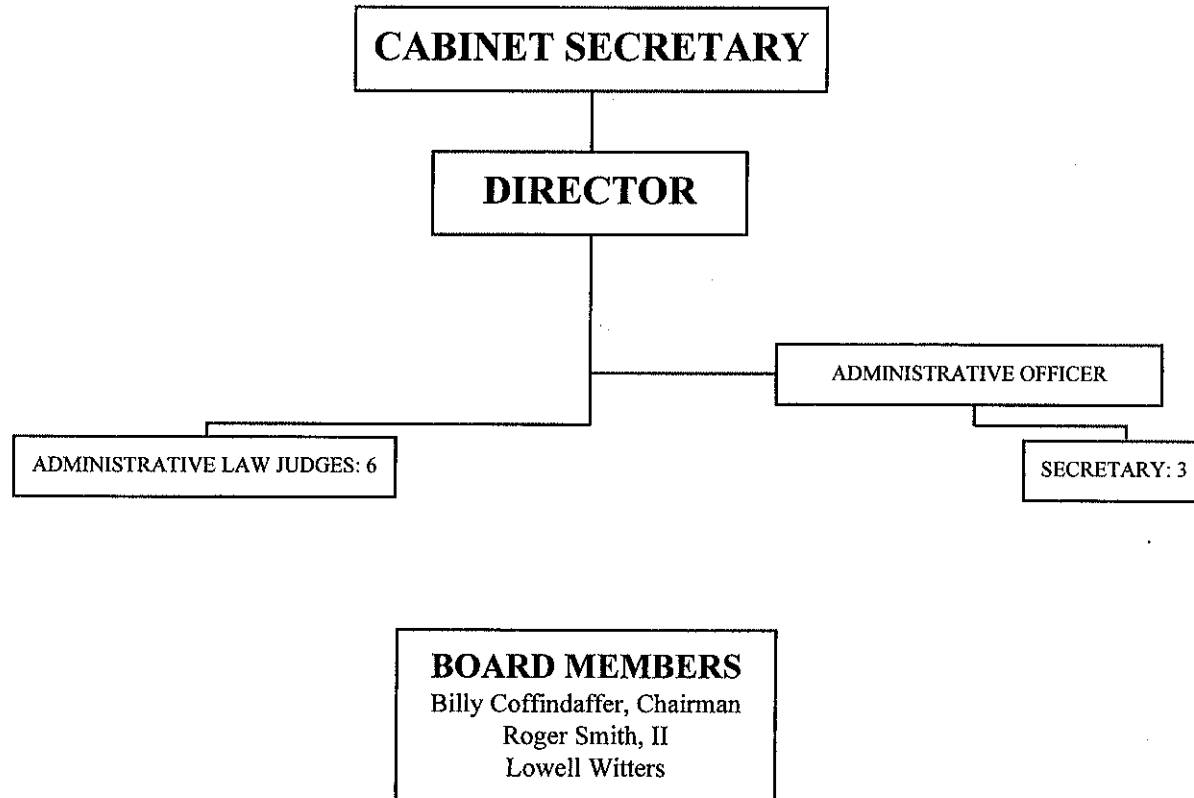
²⁷ The Board has not been charged with the responsibility or given resources for the purpose of conducting studies or writing reports on personnel issues.

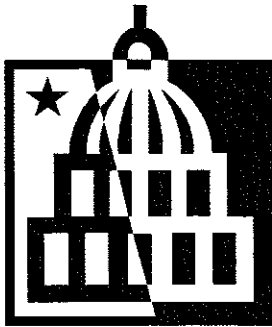
the parties settle grievances and disputes shortly after they arise. The Board's active promotion of mediation for resolving grievances may be a factor. Public employers may also be doing a better job in preventing grievances in the first place or resolving them before the disputes reach the Board.

The Board intends to continue focusing on prompt decision making and avoiding unreasonable delay at Level Four, particularly unreasonable delay by ALJs in issuing decisions.²⁸ It will continue to promote the use of mediation and to provide mediators early in the grievance process. Finally, the Board will strive to continue improving the grievance process and meeting all of its statutory duties and responsibilities.

²⁸ 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.

**DEPARTMENT OF ADMINISTRATION
WEST VIRGINIA EDUCATION AND
STATE EMPLOYEES GRIEVANCE BOARD**





State of West Virginia

Education and State Employees Grievance Board

www.state.wv.us/admin/grievanc/grievanc.htm

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 12, 2001.** 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 or toll-free at 866-747-6743.

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 2000, 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 for 2000

Customer Type	# of Responses	Overall Satisfaction	Prompt Decision	Quality Decision	Orderly Hearing	Know Law re Hearing	Public Criticism	Courtesy
COUNSEL	15	94.00	4.27	4.40	4.47	4.53	4.53	4.87
EMPLOYEE REP	3	93.33	5.00	5.00	5.00	4.67	5.00	4.67
EMPLOYER	19	82.63	3.84	4.22	4.68	4.58	4.50	4.68
GRIEVANT	37	40.23	3.08	2.95	2.94	3.20	2.71	3.83
OTHER	4	75.00	3.33	4.33	4.33	4.33	4.33	4.67

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Average Rating by Customer of Adjudication Services for 1999

Customer Type	Responses	Overall Satisfaction	Prompt Decision	Quality Decision	Orderly Hearing	Know Law re Hearing	Public Criticism	Courtesy
COUNSEL	11	81.82	3.82	4.18	4.64	4.36	4.27	4.73
EMPLOYEE REP	11	58.50	3.00	3.30	3.20	3.33	2.60	3.90
EMPLOYER	23	74.35	3.43	3.91	3.91	4.17	3.83	4.26
GRIEVANT	56	41.00	2.75	2.87	3.13	3.15	2.60	3.71
OTHER	5	67.50	3.25	3.75	3.25	4.25	4.00	3.75

Average Rating by Customer of Administrative Procedures and Staff For 2000

Customer Type	# of Responses	Overall Satisfaction	Forms Simple	Procedure Simple	Prompt Hearing Date	Prompt Info Response	Info Accuracy	Staff Courtesy
COUNSEL	15	94.00	4.60	4.47	4.93	4.93	4.60	4.53
EMPLOYEE REP	3	93.33	4.33	4.00	4.50	4.67	4.67	4.67
EMPLOYER	19	82.63	4.11	4.00	4.22	4.29	4.26	4.21
GRIEVANT	37	40.23	3.53	3.32	2.92	3.09	3.22	3.97
OTHER	4	75.00	3.33	3.33	3.50	3.75	4.00	4.50

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Average Rating by Customer of Administrative Procedures and Staff for 1999

Customer Type	Responses	Overall Satisfaction	Forms Simple	Procedure Simple	Prompt Hearing Date	Prompt Info Response	Info Accuracy	Staff Courtesy
COUNSEL	11	81.82	4.10	4.30	4.45	4.27	4.45	4.27
EMPLOYEE REP	11	58.50	4.10	3.40	3.90	4.11	4.44	4.40
EMPLOYER	23	74.35	3.78	3.52	3.43	3.86	3.86	4.26
GRIEVANT	56	41.00	3.53	3.20	3.04	3.36	3.13	3.76
OTHER	5	67.50	3.75	3.50	3.67	4.00	3.67	4.00

APPENDIX D

GRIEVANCES FILED AT LEVEL FOUR AGAINST GOVERNING BOARDS OF HIGHER EDUCATION AND COUNTY BOARDS OF EDUCATION CALENDAR YEAR 2000 THROUGH 1994

Board of Directors:	2000	1999	1998	1997	1996	1995	1994
Bluefield State College	0	0	1	2	1	0	1
College of Graduate Studies	0	0	0	0	1	0	0
Concord State College	0	0	2	1	2	2	4
Fairmont State College	2	1	0	2	2	1	0
Glenville State College	0	0	0	0	0	1	2
Potomac State College	0	0	0	1	1	0	1
Shepherd College	2	4	1	7	4	3	6
West Liberty State College	1	3	4	4	3	5	0
W. Va. Univ. Institute of Technology	0	0	0	0	0	0	4
W. Va. Northern Community College	3	0	2	2	3	2	4
W. Va. Southern Community & Technical College	1	1	1	6	2	2	1
W. Va. State College**	1	8	2	3	2	4	3
Board of Trustees:							
Marshall University	10	11	10	8	6	5	11

W. Va. Graduate College	0	0	0	0	1	0	0
W. Va. University**	10	28	13	18	27	13	19
W. Va. University Hospitals	0	0	0	0	0	0	0
W. Va. University/Charleston	0	0	0	0	0	0	0
W. Va. School of Osteopathic Med.	0	0	0	2	1	0	1
WVNET	1	0	0	0	0	0	0
Totals	31	56	36	56	56	38	57
County Boards of Education:							
Barbour County Board	0	2	0	0	2	3	12
Berkeley County Board	4	2	1	7	5	1	3
Boone County Board	6	6	6	1	5	10	4
Braxton County Board	2	0	2	1	1	1	0
Brooke County Board	1	2	1	0	3	4	2
Cabell County Board	9	7	0	11	9	9	4
Calhoun County Board	1	1	3	0	0	0	0
Clay County Board	0	2	0	1	1	0	0
Doddridge County Board	0	2	0	0	0	0	0
Fayette County Board	1	1	3	7	8	5	4
Gilmer County Board	0	0	1	0	0	4	0
Grant County Board	1	2	1	3	2	2	1

Greenbrier County Board	2	2	1	5	7	5	3
Hampshire County Board	1	1	0	3	1	1	0
Hancock County Board	5	7	9	12	11	10	15
Hardy County Board	0	1	0	0	1	1	0
Harrison County Board	4	8	4	4	5	4	1
Jackson County Board	1	4	1	3	2	3	1
Jefferson County Board	3	1	4	2	2	3	1
Kanawha County Board	22	25	13	17	19	17	33
Lewis County Board	0	4	2	4	3	0	0
Lincoln County Board**	7	20	30	33	7	9	9
Logan County Board	8	7	7	18	15	21	12
Marion County Board	4	1	3	2	5	5	7
Marshall County Board	1	2	1	3	0	0	0
Mason County Board	3	5	4	5	9	7	19
McDowell County Board	1	5	0	2	5	7	4
Mercer County Board	1	1	2	10	3	8	25
Mineral County Board	4	3	5	3	2	3	2
Mingo County Board	5	6	15	40	49	67	20
Monongalia County Board	20	14	11	0	8	4	10
Monroe County Board	1	5	3	2	6	5	4

Morgan County Board	0	1	3	3	4	1	1
Nicholas County Board	1	5	4	3	3	2	0
Ohio County Board	1	2	1	2	3	3	1
Pendleton County Board	0	0	2	1	0	4	1
Pleasants County Board	0	0	1	0	0	0	0
Pocahontas County Board	4	0	0	2	0	0	0
Preston County Board	8	4	1	0	0	4	3
Putnam County Board**	7	13	6	12	3	4	4
Raleigh County Board	5	3	2	10	12	9	29
Randolph County Board	7	3	5	3	7	4	6
Ritchie County Board	0	0	2	1	1	0	0
Roane County Board	0	0	0	0	0	0	0
Summers County Board	1	1	3	2	6	5	8
Taylor County Board	0	0	0	0	1	2	0
Tucker County Board	0	1	1	1	3	0	2
Tyler County Board	1	0	0	0	3	0	2
Upshur County Board	2	1	2	1	2	1	2
Wayne County Board**	6	11	6	6	5	4	3
Webster County Board	2	1	0	3	4	2	3
Wetzel County Board	2	1	2	3	6	2	5

Wirt County Board	0	0	1	1	0	0	0
Wood County Board	0	5	3	5	6	4	1
Wyoming County Board	2	4	1	4	2	5	4
Multi-County Vocational Centers	0	1	0	0	2	3	1
Regional Educ. Serv. Agencies	0	0	1	2	1	0	1
W. Va. Department of Education	7	7	6	5	6	4	4
Totals	174	213	186	268	276	283	277

** The double asterisks identify those public employers which had at least five fewer grievances filed against them in 2000 than in 1999.

APPENDIX E

GRIEVANCES FILED AT LEVEL FOUR AGAINST STATE AGENCIES CALENDAR YEARS 2000 THROUGH 1996

	2000	1999	1998	1997	1996
Administration, Department of					
Consolidated Public Retirement Bd.	1	0	0	0	0
General Services	0	3	1	4	1
Grievance Board	0	0	0	0	1
Personnel	0	0	3	0	0
Public Employees Insurance Agency	3	0	0	0	0
Purchasing	0	0	1	0	0
Risk & Insurance Management	0	0	0	1	0
Agriculture, Department of	0	0	0	0	2
Attorney General's Office	1	0	0	0	0
Auditor's Office	0	1	0	0	0
Commerce, Bureau of					
Forestry	0	0	0	1	0
Labor	3	3	1	4	0
Miners' Health, Safety & Training	0	0	0	2	0
Natural Resources	4	2	6	2	2

Tourism & Parks	2	0	0	0	0
Education & the Arts, Department of					
Culture and History	0	0	2	2	0
Educational Broadcasting Authority	0	1	1	0	3
Library Commission	1	0	0	0	0
Rehabilitation Services	6	5	13	3	6
Employment Programs, Bureau of	9	6	14	13	8
Environment, Bureau of					
Environmental Protection	2	2	3	6	7
Solid Waste Management Bd.	0	0	0	0	1
Health and Human Resources, Department of	76	77	70	67	42
Housing Development Fund	0	1	2	2	0
Human Rights Commission	0	0	1	0	0
Military Affairs & Public Safety, Department of					
Adjutant General	0	1	0	4	0
Corrections**	40	94	65	48	46
Juvenile Services**	3	8	15	NA	NA
Public Safety	1	2	12	1	4
Regional Jail Authority	5	4	11	7	6
Veteran's Affairs	3	3	1	2	0

Public Service Commission	0	1	3	1	5
Senior Services, Bureau of	1	0	2	NA	NA
Tax & Revenue, Department of**	3	7	5	0	3
Alcohol Beverage Control Administration	1	0	2	5	0
Transportation, Department of					
Highways**	24	32	40	62	41
Motor Vehicles**	0	5	4	4	1
Parkways, Economic Dev. & Tourism Authority	15	14	19	14	9
County Health Departments**	2	9	4	6	9
Preston County	1				
Morgan County	1				
Totals	206	281	301	262	202

This year's table was revised to reflect the current organizational structure of State government. Please note that although employees of constitutional officers occasionally file grievances, the Board does not have jurisdiction over grievances filed by such employees. See Footnote 1 of this report. Please also note that the table does not identify the division or organizational unit from which the grievances arose for the Bureau of Employment Programs, the Department of Health and Human Resources and the Department of Tax & Revenue. If the organizational unit was readily available in the database used to manage the Board's docket, however, we did the unit from which the grievance arose. Beginning this year, we will list the individual county health departments with grievances filed at Level Four.

** The double asterisks identify those public employers which had at least five fewer grievances filed against them in 2000 than in 1999.