

WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

ANNUAL REPORT FISCAL YEAR 2013



**ROBIN B. PERDUE
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Public Employees Grievance Board

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William Burdette
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On behalf of the West Virginia Public Employees Grievance Board and in accordance with *West Virginia Code* § 6C-3-3, I am pleased to submit the Grievance Board's Annual Report for Fiscal Year 2013.

The report provides the following data:

- The number of grievances against each employer;
- The types of grievances, level of resolution and costs;
- The number of grievances granted, denied or resolved by other means; and
- The caseload of each administrative law judge, the type of grievance, the number of grievances resolved and the number of decisions issued.

During Fiscal Year 2013, 2,126 were filed. 1,977 grievances were processed at Level 1; 15 at Level 1 Defaults; 298 at Level 2; and 314 at Level 3. Please note that post-filing consolidation results in fewer proceedings than the number of original grievances.

The Board strives to resolve grievances fairly, consistently and as expeditiously as possible. Continuances at the rates of 29% for mediations and 56% for hearings impede that goal and increase the workload for support staff.

During Fiscal Year 2013, 228 Level 3 evidentiary hearings were conducted; 11 were submitted for review based on the Level 1 hearing record; and 212 decisions were issued.

During Fiscal Year 2013, 316 grievances were closed at Level 2. 59 were closed as Successful and 36 were closed as Unsuccessful but were not appealed to Level 3. With the average cost of a Level 3 hearing of 1,747.03, these 95 mediations represent a potential cost avoidance (of a Level 3 hearing) of more than \$165,967.85.

The Board is pleased to report that cumulatively, from July 1, 2007 to June 30, 2013, 404 mediations were successful and 217 unsuccessful mediations were not appealed. Together, they represent a cost avoidance of \$1,084,905.63.

I hope you find this report informative and welcome your inquiries regarding any of the data it contains.

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NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

COUNTY BOARDS OF EDUCATION							
2011	2012	2013		2011	2012	2013	
2	2	2	BARBOUR	2	0	1	MINERAL
20	4	2	BERKELEY	12	38	10	MINGO
15	5	4	BOONE	37	24	23	MONONGALIA
6	5	1	BRAXTON	9	9	4	MONROE
33	6	9	BROOKE	0	6	23	MORGAN
8	5	6	CABELL	22	4	11	NICHOLAS
2	0	1	CALHOUN	3	6	6	OHIO
0	0	0	CLAY	0	0	0	PENDLETON
2	2	0	DODDRIDGE	1	0	0	PLEASANTS
1	7	9	FAYETTE	0	0	0	POCAHONTAS
3	0	1	GILMER	5	3	20	PRESTON
4	4	2	GRANT	4	11	7	PUTNAM
1	1	6	GREENBRIER	11	5	10	RALEIGH
20	1	14	HAMPSHIRE	2	1	3	RANDOLPH
12	9	6	HANCOCK	2	1	0	RITCHIE
2	1	1	HARDY	0	6	7	ROANE
17	24	39	HARRISON	0	0	2	SUMMERS
3	5	23	JACKSON	2	0	1	TAYLOR
15	3	11	JEFFERSON	0	0	5	TUCKER
44	32	34	KANAWHA	0	0	0	TYLER
3	6	53	LEWIS	6	13	0	UPSHUR
7	11	7	LINCOLN	12	11	16	WAYNE
8	10	11	LOGAN	3	1	3	WEBSTER
14	10	2	MARION	14	4	10	WETZEL
28	5	7	MARSHALL	0	0	0	WIRT
36	43	21	MASON	6	10	140	WOOD
7	7	4	McDowell	2	0	0	WYOMING
15	7	9	MERCER	483	368	587	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

HIGHER EDUCATION POLICY COMMISSION			
2011	2012	2013	
0	0	1	HIGHER EDUCATION POLICY COMMISSION
0	0	1	WVNET
			BACCALAUREATE AND GRADUATE INSTITUTIONS
7	4	10	BLUEFIELD STATE COLLEGE
1	6	3	CONCORD UNIVERSITY
1	2	1	FAIRMONT STATE UNIVERSITY
0	0	1	GLENVILLE STATE COLLEGE
31	21	16	MARSHALL UNIVERSITY
5	0	2	SHEPHERD UNIVERSITY
5	2	9	WEST LIBERTY UNIVERSITY
0	3	2	WEST VIRGINIA SCHOOL OF OSTEOPATHIC MEDICINE
4	8	4	WEST VIRGINIA STATE UNIVERSITY
77	72	61	WEST VIRGINIA UNIVERSITY
7	9	2	WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY
			COMMUNITY AND TECHNICAL COLLEGES
2	0	0	BLUE RIDGE COMMUNITY & TECHNICAL COLLEGE
0	0	0	BRIDGEMONT COMMUNITY & TECHNICAL COLLEGE
0	0	1	EASTERN WEST VIRGINIA COMMUNITY & TECHNICAL COLLEGE
0	2	2	KANAWHA VALLEY COMMUNITY & TECHNICAL COLLEGE
0	5	2	MOUNTWEST COMMUNITY & TECHNICAL COLLEGE
0	0	3	NEW RIVER COMMUNITY & TECHNICAL COLLEGE
2	0	0	PIERPONT COMMUNITY & TECHNICAL COLLEGE
1	1	2	SOUTHERN WEST VIRGINIA COMMUNITY & TECHNICAL COLLEGE
1	2	5	WEST VIRGINIA NORTHERN COMMUNITY COLLEGE
6	3	2	WEST VIRGINIA UNIVERSITY AT PARKERSBURG
150	140	130	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

STATE EMPLOYERS			
2011	2012	2013	
21	29	15	Administration, Department of
3	0	0	Children's Health Insurance Program
0	0	2	Finance Division
0	0	1	Fleet Management
12	15	6	General Services Division
0	1	1	Personnel Division
0	1	0	Prosecuting Attorneys Institute
0	2	2	Public Employees Insurance Agency
0	1	0	Purchasing Division
0	5	2	Real Estate Division
0	1	0	Risk and Insurance Management, Board of
6	3	1	Technology, Office of
0	1	0	Bureau of Senior Services
18	22	26	Commerce, Department of
2	1	2	Forestry, Division of
0	1	8	Labor, Division of
2	0	2	Miners' Health, Safety and Training, Office of
7	9	10	Natural Resources, Division of
0	1	0	Tourism, Division of
7	10	4	WorkForce West Virginia
49	5	18	Education, Department of
0	0	3	Regional Education Service Agencies
0	0	3	RESA 1
1	0	0	Student Support Services, Division of
0	0	7	Technical and Learning, Division of
0	0	5	Technical, Adult & Institutional Education, Division of

1	3	0	Institutional Education Programs, Office of
0	0	1	Multi-County Career and Technical Centers
3	0	0	Unspecified
44	2	3	West Virginia Schools for the Deaf and the Blind
33	16	20	Education and the Arts, Department of
3	0	0	Culture and History, Division of
29	15	16	Rehabilitation Services, Division of
1	0	0	Unspecified
0	1	4	West Virginia Public Broadcasting
12	31	4	Environmental Protection, Department of
0	0	2	Air Quality, Division of
1	3	1	Mining and Reclamation, Division of
6	25	0	Unspecified
5	3	1	Water and Waste Management, Division of
598	296	717	Health and Human Resources, Department of
425	157	589	Behavioral Health & Health Facilities, Bureau for
19	13	5	Hopemont Hospital
16	11	6	Jackie Withrow Hospital (Pinecrest Hospital)
1	0	0	John Manchin Sr Health Care Center
49	10	6	Lakin Hospital
33	48	188	Mildred Mitchell-Bateman Hospital
14	9	10	Welch Community Hospital
293	63	374	William R. Sharpe, Jr. Hospital
0	3	0	Unspecified
8	3	1	Boards, Commissions & Authorities
0	1	0	Barbers and Cosmetologists, Board of
7	0	1	Human Rights Commission
0	2	0	Medicine, Board of
1	0	0	Women's Commission
31	34	20	Child Support Enforcement, Bureau for
106	73	97	Children and Families, Bureau for
15	15	9	County Health Departments
0	0	1	Berkeley

0	1	0	Cabell-Huntington
4	4	0	Clay
0	1	0	Doddridge
0	1	0	Grafton-Taylor
0	1	0	Greenbrier
0	1	0	Hampshire
1	1	4	Jefferson
0	1	0	Marion
0	0	1	Mid-Ohio Valley
0	1	0	Monongalia
9	3	2	Putnam
1	0	1	Upshur-Buckhannon
0	7	0	Human Resource Management, Office of
4	6	0	Inspector General, Office of
1	2	0	Medical Services, Bureau for
23	11	0	Public Health, Bureau for
0	0	1	Secretary, Office of
0	3	0	Unspecified
139	186	205	Military Affairs and Public Safety, Department of
0	13	0	Adjutant General/National Guard
70	65	113	Corrections, Division of
9	2	3	Anthony Correctional Center
4	3	6	Beckley Correctional Center
5	1	2	Central Office
1	1	2	Denmar Correctional Center
0	4	28	Huntington Work Release
2	6	29	Huttonsville Correctional Center
11	2	10	Lakin Correctional Center
6	6	1	Martinsburg Correctional Center
20	17	18	Mount Olive Correctional Complex
6	7	4	Northern Correctional Facility
3	1	1	Ohio County Correctional Complex
0	2	4	Parole Services
1	6	3	Pruntytown Correctional Center
2	6	2	Saint Marys Correctional Center

0	1	0	Unspecified
0	1	5	Fire Commission
0	0	1	Homeland Security and Emergency Management, Division of
0	1	1	Justice and Community Services, Division of
33	35	26	Juvenile Services, Division of
0	0	1	Cabell County Youth Reporting Center
5	2	1	Donald R. Kuhn Juvenile Diagnostic and Detention Center
0	1	2	Dr. Harriet B. Jones Treatment Center
7	4	2	Gene Spadaro Juvenile Center
1	4	2	James H. "Tiger" Morton Juvenile Center
4	3	0	J. M. "Chick" Buckbee Juvenile Center
0	1	3	Kanawha County Youth Reporting Center
2	6	3	Lorrie Yeager Jr. Juvenile Center
0	0	1	Marion County Youth Reporting Center
7	3	2	Robert L. Shell Juvenile Center
0	0	1	Sam Perdue Juvenile Center
1	2	1	Vicki V. Douglas Juvenile Center
0	1	5	Wood County Youth Reporting Center
6	8	2	WV Industrial Home for Youth
1	0	0	Parole Board
35	70	57	Regional Jail and Correctional Facilities Authority
1	3	0	Central Office
0	0	1	Central Regional Jail
3	1	0	Eastern Regional Jail
2	2	5	North Central Regional Jail
2	0	1	Northern Regional Jail
0	3	3	Potomac Highlands Regional Jail
8	14	3	South Central Regional Jail
2	0	3	Southern Regional Jail
12	8	17	Southwestern Regional Jail
2	30	9	Tygart Valley Regional Jail
3	9	15	Western Regional Jail
0	1	2	State Police
2	21	1	Public Service Commission

43	6	10	Revenue, Department of
1	0	1	Alcohol Beverage Control Administration
7	2	1	Insurance Commission
26	1	2	Lottery Commission
1	0	0	Tax Appeals, Office of
8	3	6	Tax Department
0	0	1	Supreme Court of Appeals
166	203	221	Transportation, Department of
1	2	10	Administrative Hearings, Office of
131	184	196	Highways, Division of
24	16	15	Motor Vehicles, Division of
9	1	0	Parkways, Economic Development, and Tourism Authority
1	0	0	Public Transit, Division of
41	67	134	Veterans Assistance, Department of
1,122	883	1,409	TOTAL

TYPE OF GRIEVANCE FILED*			
2011	2012	2013	
519	336	836	CLASSIFICATION AND COMPENSATION
12	6	19	DEFAULT
392	308	349	DISCIPLINARY
83	80	92	DISCRIMINATION
60	75	129	HARASSMENT
378	234	367	NON-DISCIPLINARY EMPLOYMENT ACTIONS **
61	25	28	REPRISAL
196	207	171	SELECTION
346	284	487	VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES
127	37	45	OTHER

TYPE OF GRIEVANCE FILED IN FY13			
COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
185	23	628	CLASSIFICATION AND COMPENSATION
10		9	DEFAULT
61	28	260	DISCIPLINARY
42	6	44	DISCRIMINATION
28	15	86	HARASSMENT
165	40	162	NON-DISCIPLINARY EMPLOYMENT ACTIONS **
6	6	16	REPRISAL
103	15	53	SELECTION
124	22	341	VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES
15	6	24	OTHER

* Grievances frequently involve more than one type of issue.

** This includes transfers, reductions in force, bumping, non-renewal of contracts, counseling, and probationary dismissal for unsatisfactory performance.

LEVEL OF RESOLUTION			
2011	2012	2013	
538	557	584	Level One – Chief Administrator
5	2	7	Default
182	159	150	Level Two – Alternative Dispute Resolution
304	280	330	Level Three – Hearing (Current Procedure)
1	2	0	Level Four – Hearing (Previous Procedure)

LEVEL OF RESOLUTION IN FY13			
County Boards of Education	Higher Education Policy Commission	State Employees	
146	85	353	Level One – Chief Administrator
3	0	4	Default
54	13	83	Level Two – Alternative Dispute Resolution
84	21	225	Level Three – Hearing (Current Procedure)
0	0	0	Level Four – Hearing (Previous Procedure)

OUTCOMES OF GRIEVANCES														
GRANTED			DENIED			GRANTED/ DENIED			RESOLVED BY OTHER MEANS*			TYPE		
2011	2012	2013	2011	2012	2013	2011	2012	2013	2011	2012	2013			
32	39	26	76	68	72	6	4	12	192	127	147	Classification And Compensation		
0	0	0	0	0	2	0	0	0	5	2	5	Default		
13	24	26	83	76	107	8	6	12	161	156	145	Disciplinary		
1	0	5	17	18	9	0	3	1	41	24	30	Discrimination		
1	3	6	11	11	18	1	2	1	35	35	61	Harassment		
4	5	9	37	34	52	2	3	5	98	91	96	Non-Disciplinary Employment Actions		
0	1	1	6	3	6	1	1	0	11	15	15	Reprisal		
18	8	11	54	58	44	3	4	1	89	75	88	Selection		
8	8	11	68	28	39	6	2	5	106	129	106	Violations Of Federal, State Or Agency Statutes, Rules Or Policies		
1	1	1	11	10	11	2	0	0	42	0	38	Other		
78			363			29			780			1250	2011 TOTAL	
												1074	2012 TOTAL	
		89				306			25			654		
		96						360			37	731	1224	2013 TOTAL

* This includes grievances that are settled, withdrawn, and dismissed.

COSTS OF GRIEVANCES			
2011	2012	2013	
327.36	290.75	270.19	Average Estimated Cost of Employee Time to Handle the Grievance
478,383.07	425,540.46	721,001.28	Actual Cost of Legal Time or Damages Paid in Resolution of Grievance
793.47	706.27	944.85	Average Estimated Cost of Handling the Grievance at:
126.12	333.07	535.03	Level 1
840.03	983.17	888.79	Default
2,534.59	2,954.84	1,747.03	Level 2
			Level 3

COSTS OF GRIEVANCES IN FY13			
COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
355.86	645.83	158.36	Average Estimated Cost of Employee Time to Handle the Grievance
331,705.16	133,635.25	255,660.87	Actual Cost of Legal Time or Damages Paid in Resolution of Grievance
1,337.85	1,831.42	560.65	Average Estimated Cost of Handling the Grievance at:
277.72	0.00	586.49	Level 1
2,059.65	388.79	547.72	Default
3,925.70	1,264.68	1,195.07	Level 2
			Level 3

ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS						HEARINGS					
	LRB	BTC	BLG	CHL	WBM	RLR	LRB	BTC	BLG	CHL	WBM	RLR
ASSIGNED (AS OF 6-30-2013)	11	12	3	9	12	6	21	31	25	23	29	56
NUMBER RESOLVED	26	14	11	11	38	18	39	39	54	30	44	65
MEDIATIONS SETTLED	10	3	4	3	17	7						
DECISIONS ISSUED							26	25	31	22	25	39
CLASSIFICATION/ COMPENSATION	7	3	3	3	9	5	6	9	8	2	6	12
DEFAULT	0	0	0	0	0	0	1	0	1	0	3	1
DISCIPLINARY	5	3	2	2	7	3	27	13	30	12	25	29
DISCRIMINATION	5	0	0	0	1	1	1	0	2	1	0	2
HARASSMENT	4	2	1	0	4	3	1	1	3	0	2	2
NON-DISCIPLINARY EMPLOYMENT ACTIONS	3	3	1	4	7	1	4	7	5	3	4	6
REPRISAL	3	1	0	0	1	0	0	2	0	1	1	0
SELECTION	7	1	1	0	10	6	3	7	7	5	3	6
VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES	2	2	2	1	6	3	0	6	1	1	5	6
OTHER	1	1	2	1	1	0	1	1	2	6	3	12

CONTRACT ADMINISTRATIVE LAW JUDGE CASELOAD									
	MEDIATIONS			HEARINGS					
	SLB	SLO	HDS	SLB	LGB	HFk	SLO	HDS	
ASSIGNED (AS OF 6-30-2013)	4	0	35	14	17	0	7	0	
NUMBER RESOLVED	3	1	30	16	27	5	2	8	
MEDIATIONS SETTLED	1	0	11						
DECISIONS ISSUED				10	21	4	2	6	
CLASSIFICATION/ COMPENSATION	1	1	10	5	1	1	1	1	
DEFAULT	0	0	0	0	0	1	0	0	
DISCIPLINARY	2	0	5	8	16	4	2	3	
DISCRIMINATION	0	0	3	0	0	0	0	0	
HARASSMENT	0	0	1	0	1	0	0	0	
NON-DISCIPLINARY EMPLOYMENT ACTIONS	0	0	4	2	1	0	1	0	
REPRISAL	0	0	1	0	0	0	0	0	
SELECTION	0	0	5	1	4	0	0	4	
VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES	0	0	7	0	3	0	0	0	
OTHER	0	0	1	0	2	0	0	1	