

WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD

ANNUAL REPORT FISCAL YEAR 2016



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www.pegb.wv.gov

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 2016.

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 2016, 1,762 new grievances were filed at either Level One or Level Three. Please note that post-filing consolidation results in fewer proceedings than the number of original grievances.

During Fiscal Year 2016, 187 appealable decisions were issued. The average number of days from date of maturity to date of issue was 30.34.

During Fiscal Year 2016, 53 Level 2 Mediations were closed as Successful and 45 were closed as Unsuccessful but were not appealed to Level 3. With the average total cost of a Level 3 hearing of \$5,326.86, these 98 mediations represent a cost avoidance (of a Level 3 hearing) of more than \$522,032.28.

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								
2014	2015	2016			2014	2015	2016	
0	2	5	Barbour		0	0	2	Mineral
10	8	4	Berkeley		19	43	21	Mingo
6	10	6	Boone		6	5	5	Monongalia
3	4	3	Braxton		6	4	2	Monroe
5	15	8	Brooke		1	55	2	Morgan
4	5	7	Cabell		4	7	6	Nicholas
1	196	9	Calhoun		7	4	4	Ohio
1	1	0	Clay		0	0	0	Pendleton
3	1	2	Doddridge		0	0	0	Pleasants
26	4	5	Fayette		4	0	0	Pocahontas
26	1	6	Gilmer		13	4	2	Preston
0	0	24	Grant		5	4	9	Putnam
0	3	1	Greenbrier		12	9	18	Raleigh
0	2	13	Hampshire		16	2	13	Randolph
77	12	71	Hancock		3	2	2	Ritchie
2	0	3	Hardy		15	1	2	Roane
19	6	10	Harrison		1	3	1	Summers
1	2	3	Jackson		2	3	2	Taylor
1	7	5	Jefferson		1	1	0	Tucker
66	66	53	Kanawha		0	0	0	Tyler
62	31	63	Lewis		12	4	3	Upshur
16	20	12	Lincoln		39	12	20	Wayne
8	23	17	Logan		1	1	0	Webster
40	4	0	Marion		10	17	2	Wetzel
9	3	4	Marshall		0	1	5	Wirt
53	17	18	Mason		30	25	28	Wood
8	4	5	McDowell		0	1	0	Wyoming
13	9	2	Mercer		667	664	508	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

STATE EMPLOYERS			
2014	2015	2016	
8	13	8	Administration, Department of
0	1	0	Aviation Division
0	2	0	Board of Risk and Insurance Management
2	3	2	Division of Personnel
1	4	4	General Services Division
5	0	2	Office of Technology
0	3	0	Public Defender Services
4	1	24	Bureau of Senior Services
36	37	22	Commerce, Department of
5	1	1	Division of Forestry
11	2	4	Division of Labor
11	15	12	Division of Natural Resources
0	1	0	Division of Tourism
2	0	0	Geological and Economic Survey
0	0	1	Office of Economic Opportunity
3	3	0	Office of Miners' Health, Safety and Training,
4	15	3	WorkForce West Virginia
0	0	1	Unspecified
0	0	2	Board of Education
4	9	7	Education, Department of
0	1	0	Cedar Lakes Conference Center
0	1	0	Central Office
3	2	2	Division of Technical, Adult & Institutional Education
0	0	1	Office of Institutional Education Programs
0	2	3	Schools for the Deaf and the Blind
1	3	1	Unspecified
9	12	10	Education and the Arts, Department of
0	1	0	Division of Culture and History
9	11	10	Division of Rehabilitation Services

2014	2015	2016	
58	8	7	Environmental Protection, Department of
3	1	1	Division of Air Quality,
0	0	1	Division of Land Restoration
3	2	1	Division of Mining and Reclamation
0	1	3	Division of Water and Waste Management
14	0	1	Oil and Gas Conservation Commission
38	4	0	Unspecified
383	353	473	Health and Human Resources, Department of
219	206	281	Bureau for Behavioral Health & Health Facilities
0	7	0	Central Office
2	4	4	Hopemont Hospital
20	13	49	Jackie Withrow Hospital (Pinecrest Hospital)
0	0	1	John Manchin Sr. Health Care Center
5	44	44	Lakin Hospital
7	25	19	Mildred Mitchell-Bateman Hospital
5	10	18	Welch Community Hospital
180	103	146	William R. Sharpe, Jr. Hospital
10	11	11	Bureau for Child Support Enforcement,
88	98	151	Bureau for Children and Families
2	3	0	Bureau for Medical Services
47	13	15	Bureau for Public Health
2	0	0	Human Rights Commission
9	5	7	County Health Departments
0	2	2	Human Resource Management
5	1	2	Inspector General
0	0	1	Management Information Services
1	6	3	Office of Secretary
100	107	211	Higher Education Policy Commission
88	95	200	Baccalaureate and Graduate Institutions
0	4	1	Bluefield State College
1	6	6	Concord University
4	3	0	Fairmont State University
0	0	1	Glenville State College
3	8	6	Marshall University
3	2	6	Potomac State College Of West Virginia University
2	1	1	Shepherd University
6	7	3	West Liberty University
3	2	0	West Virginia School of Osteopathic Medicine
1	2	0	West Virginia State University
59	59	168	West Virginia University
6	1	8	West Virginia University Institute Of Technology

12	12	10	Community and Technical Colleges
1	0	1	BlueRidge Community & Technical College
0	0	1	BridgeValley Community & Technical College
1	0	0	Eastern West Virginia Community & Technical College
2	3	3	Mountwest Community & Technical College
0	4	2	New River Community & Technical College
2	1	0	Pierpont Community & Technical College
1	2	0	Southern West Virginia Community & Technical College
4	0	0	West Virginia Northern Community College
1	2	3	West Virginia University At Parkersburg
0	0	1	Unspecified
1	1	1	Housing Development Fund
191	116	160	Military Affairs and Public Safety, Department of
1	0	1	Adjutant General
61	65	97	Corrections, Division of
7	3	4	Anthony Correctional Center
2	6	1	Beckley Correctional Center
7	3	1	Central Office
1	0	0	Corrections Academy, WV
0	0	1	Charleston Correctional Center
0	2	0	Charleston Work Release Center
0	0	2	Denmar Correctional Center
0	0	4	Huntington Work Release
8	9	39	Huttonsville Correctional Center
8	2	1	Lakin Correctional Center
1	2	5	Martinsburg Correctional Center
10	21	31	Mount Olive Correctional Complex
8	4	4	Northern Correctional Facility
4	0	1	Ohio County Correctional Complex
1	0	0	Parkersburg Correctional Center
1	5	1	Parole Services
2	2	0	Pruntytown Correctional Center
0	2	0	Saint Marys Correctional Center
0	4	2	Salem Correctional Center
1	0	0	Unspecified
2	0	1	Division of Homeland Security and Emergency Management
4	4	6	Division of Justice and Community Services
78	16	23	Division of Juvenile Services
0	0	1	Central Office
77	14	18	Facilities
30	0	2	Donald R. Kuhn Juvenile Center
1	3	1	Gene Spadaro Juvenile Center

2	1	0	J. M. "Chick" Buckbee Juvenile Center
14	0	4	Kenneth "Honey" Rubenstein Juvenile Center
24	6	2	Lorrie Yeager Jr. Juvenile Center
2	0	2	Robert L. Shell Juvenile Diagnostic and Intake Center
0	1	0	Sam Perdue Juvenile Center
2	3	2	Tiger Morton Juvenile Center
1	0	5	Vicki V. Douglas Juvenile Center
1	0	0	WV Industrial Home for Youth
1	2	4	Reporting Centers
0	0	1	Jefferson County Youth Reporting Center
0	1	0	Kanawha County Youth Reporting Center
0	0	0	Marion County Youth Reporting Center
0	0	2	Tri County Youth Reporting Center
1	1	1	Wood County Youth Reporting Center
1	0	0	Division of Protective Services
40	30	30	Regional Jail and Correctional Facilities Authority
2	1	0	Central Office
2	4	3	Central Regional Jail
0	1	0	Eastern Regional Jail
6	6	3	North Central Regional Jail
5	1	2	Northern Regional Jail
1	5	6	Potomac Highlands Regional Jail
8	2	1	South Central Regional Jail
4	5	1	Southern Regional Jail
3	3	5	Southwestern Regional Jail
3	0	3	Tygart Valley Regional Jail
6	2	6	Western Regional Jail
2	0	2	State Fire Commission
2	1	0	State Police
2	15	3	Miscellaneous Boards and Commissions
0	8	0	Board of Barbers and Cosmetologists
2	7	1	Public Service Commission
0	0	2	Water Development Authority
19	18	18	Revenue, Department of
4	3	3	Alcohol Beverage Control Administration
1	5	6	Insurance Commission
1	0	0	Lottery Commission
13	10	9	Tax Division
179	261	293	Transportation, Department of
165	202	257	Division of Highways
13	33	33	Division of Motor Vehicles

0	0	1	Division of Public Transit
1	26	1	Office of Administrative Hearings
0	0	1	Parkways Authority
17	33	14	Veterans Assistance, Department of
0	0	1	Miscellaneous
0	0	1	Lewis County Senior Citizens Center, Inc.
1,011	976	1254	TOTAL

TYPES OF GRIEVANCES FILED IN FY16, BY GROUP*

2014	2015	2016	
699	663	855	Classification and Compensation
5	10	9	Level One - Default
311	346	232	Disciplinary
127	121	105	Discrimination
51	75	78	Harassment
289	258	360	Non-Disciplinary Employment Actions **
24	50	54	Reprisal
187	189	206	Selection
303	284	325	Violations of Federal, State or Agency Statutes, Rules or Policies
49	46	37	Other

TYPES OF GRIEVANCES FILED IN FY16, BY GROUP

COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
185	142	528	Classification and Compensation
1	7	1	Level One - Default
52	21	159	Disciplinary
52	13	40	Discrimination
21	14	43	Harassment
113	104	143	Non-Disciplinary Employment Actions **
15	15	24	Reprisal
148	5	53	Selection
90	19	216	Violations of Federal, State or Agency Statutes, Rules or Policies
4	3	30	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				
2014	2015	2016	Percent of Level Total for FY16	Level
793	546	586	57%	Level One – Chief Administrator
3	2	2	0%	Level One - Default
128	146	136	13%	Level Two – Alternative Dispute Resolution
322	323	312	30%	Level Three – Hearing (Current Procedure)

LEVEL OF RESOLUTION IN FY16, BY GROUP			
County Boards of Education	Higher Education Policy Commission	State Employees	
199 58%	47 57%	340 56%	Level One – Chief Administrator Percent of Group Total
1 0%	0 0%	1 0%	Level One - Default Percent of Group Total
41 12%	13 16%	82 13%	Level Two – Alternative Dispute Resolution Percent of Group Total
101 30%	22 27%	189 31%	Level Three – Hearing Percent of Group Total

OUTCOMES OF GRIEVANCES IN FY16

TYPE	Classification and Compensation	Disciplinary	Discrimination	Harassment	Non-Disciplinary Employment Actions	Reprisal	Selection	Violations of Federal, State or Agency Statutes, Rules or Policies	Other	TOTAL	Percentage
Denied	73	66	18	13	40	3	34	31	8	286	23%
Failure to Pursue	20	24	5	1	9	1	8	9	4	81	6%
Failure to State a Claim	0	0	0	0	1	0	1	1	0	3	0%
Granted	18	23	2	2	6	2	16	5	0	74	6%
Granted/Denied	9	9	3	1	6	0	4	3	3	38	3%
Lack of Jurisdiction	8	0	1	0	0	0	0	0	2	11	1%
Moot	9	12	1	2	7	1	2	10	1	45	4%
No Grievable Event	0	0	0	0	0	0	0	1	0	1	0%
No Standing	3	2	0	0	0	0	1	0	1	7	1%
Other	1	0	0	0	0	0	0	0	1	2	0%
Remedy Wholly Unavailable	2	2	0	0	1	0	1	4	1	11	1%
Res Judicata	1	0	0	1	0	0	0	1	0	3	0%
Settled	65	63	19	8	35	12	24	38	4	268	21%
Unsuccessful	20	5	5	2	11	2	4	5	1	55	4%
Untimely	6	2	1	0	1	0	2	0	1	13	1%
Withdrawn	109	66	21	17	64	9	34	38	9	367	29%
Total	344	274	76	47	181	30	131	146	36	1,265	100%
Percent of Total in Category											
Withdrawn - % of Total	32%	24%	28%	36%	35%	30%	26%	26%	25%		
Denied - % of Total	21%	24%	24%	28%	22%	10%	26%	21%	22%		
Settled - % of Total	19%	23%	25%	17%	19%	40%	18%	26%	11%		
	72%	71%	76%	81%	77%	80%	70%	73%	58%		

COSTS OF GRIEVANCES				
Cost Category	Level One	Level One - Default	Level Two	Level Three
Average Estimated Cost of Employee Time to Handle the Grievance	177.90	586.49	266.92	615.55
Actual Cost of Legal Time paid in the Resolution of the Grievance	277,066.40	29,601.49	172,224.66	712,301.97
Actual Cost of Any Damages Paid in the Resolution of the Grievance	50,468.73	0.00	66,888.50	204,300.19
Miscellaneous Costs Incurred by the Employer	135,296.46	1,000.00	16,427.23	33,693.31
Average Total Cost of Handling the Grievance	695.53	5,690.57	1,287.77	5,326.86
Number of Files Closed at the Level	944	8	342	311
Number of Files Reporting Costs	874	6	241	212
Percent of Files Reporting Costs	93%	75%	70%	68%

ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS						HEARINGS					
	LRB	BTC	BLG	CHL	WBM	RLR	LRB	BTC	BLG	CHL	WBM	RLR
Assigned (as of 6-30-2015)	9	11	2	9	10	11	21	29	29	29	20	42
Number Closed	60	64	10	39	52	32	32	55	55	43	41	51
Mediations Settled	13	7	1	3	7	8						
Decisions Issued							19	31	37	24	26	28
Classification/ Compensation	28	29	5	11	25	13	9	10	17	9	9	14
Default	NA	NA	NA	NA	NA	NA	0	0	0	0	0	0
Disciplinary	9	8	3	3	6	6	14	25	27	25	23	29
Discrimination	8	5	0	7	3	4	2	8	1	1	3	2
Harassment	2	2	0	2	3	2	0	1	2	0	2	0
Non-disciplinary employment actions	13	12	2	10	5	6	4	10	6	6	4	4
Reprisal	2	4	0	2	1	2	0	3	0	0	0	1
Selection	8	15	1	10	8	4	8	6	3	3	4	2
Violations of Federal, State or Agency Statutes, Rules or Policies	7	8	0	5	9	3	1	8	5	2	3	5
Other	2	0	1	0	2	0	0	2	0	1	0	1

CONTRACT ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS				HEARINGS			
	LGB	SLB	HDS	MJS	LGB	SLB	HDS	MJS
Assigned (as of 6-30-2016)	1	0	9	0	7	4	0	2
Number Closed	2	8	71	0	19	7	0	8
Mediations Settled	0	1	13	0				
Decisions Issued								
Classification/Compensation	1	1	22	0	12	5	0	5
Default	NA	NA	NA	NA	6	2	0	3
Disciplinary	0	0	12	0	0	0	0	0
Discrimination	0	2	9	0	8	3	0	4
Harassment	0	0	4	0	0	0	0	0
Non-disciplinary employment actions	1	4	12	0	0	0	0	0
Reprisal	0	1	7	0	6	2	0	0
Selection	0	2	14	0	0	0	0	0
Violations of Federal, State or Agency Statutes, Rules or Policies	0	2	14	0	1	0	0	1
Other	0	0	5	0	2	1	0	0
	0	0	5	0	0	0	0	0

MEDIATIONS IN FY16

Successful versus Unsuccessful, by Category of Grievance

Successful	Unsuccessful	Percentage Successful	Type	Category
15	24	63%	2	Disciplinary
6	12	50%	5	Reprisal
10	32	31%	7	Violations of Federal, State or Agency Statutes, Rules or Policies
2	7	29%	8	Other
7	29	24%	3	Discrimination
8	47	17%	9	Non-disciplinary employment actions
7	49	14%	6	Selection
12	102	12%	1	Classification/ Compensation
1	13	8%	4	Harassment

Successful versus Unsuccessful, by Administrative Law Judge

8	18	44%		RLR
13	44	30%		LRB
13	51	25%		HDS
8	40	20%		BTC
7	41	17%		WBM
1	6	17%		BLG
1	7	14%		SLB
3	34	9%		CHL
0	2	0%		LGB