

**WEST VIRGINIA
PUBLIC EMPLOYEES GRIEVANCE BOARD
ANNUAL REPORT
FISCAL YEAR 2018**



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DIRECTOR**

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 2018.

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 2018, 1,411 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 2018, 201 appealable decisions were issued. The average number of days from date of maturity to date of issue was 27.66.

During Fiscal Year 2018, 43 Level 2 Mediations were closed as Successful and 51 were closed as Unsuccessful but were not appealed to Level 3. With the average total cost of a Level 3 hearing of \$2,722.83, these 94 mediations represent a cost avoidance (of a Level 3 hearing) of more than \$255,946.02.

The Board hopes you find this report informative and welcomes your inquiries regarding any of the data it contains.

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NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

COUNTY BOARDS OF EDUCATION								
2016	2017	2018			2016	2017	2018	
5	4	2	Barbour		2	1	5	Mineral
4	20	7	Berkeley		21	10	9	Mingo
6	444	16	Boone		5	37	12	Monongalia
3	2	2	Braxton		2	1	7	Monroe
8	12	5	Brooke		2	0	0	Morgan
7	10	14	Cabell		6	2	9	Nicholas
9	2	0	Calhoun		4	18	2	Ohio
0	3	1	Clay		0	0	1	Pendleton
2	0	0	Doddridge		0	0	0	Pleasants
5	6	7	Fayette		0	0	0	Pocahontas
6	2	2	Gilmer		2	1	1	Preston
24	0	1	Grant		9	5	9	Putnam
1	2	0	Greenbrier		18	22	13	Raleigh
13	6	8	Hampshire		13	4	3	Randolph
71	4	21	Hancock		2	0	9	Ritchie
3	1	0	Hardy		2	2	6	Roane
10	7	8	Harrison		1	1	1	Summers
3	0	1	Jackson		2	4	1	Taylor
5	16	13	Jefferson		0	1	4	Tucker
53	44	50	Kanawha		0	0	0	Tyler
63	3	18	Lewis		3	6	5	Upshur
12	11	19	Lincoln		20	50	29	Wayne
17	12	5	Logan		0	0	15	Webster
0	8	24	Marion		2	0	7	Wetzel
4	6	0	Marshall		5	2	2	Wirt
18	23	16	Mason		28	59	11	Wood
5	4	3	McDowell		0	0	3	Wyoming
2	19	5	Mercer		508	897	412	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

STATE EMPLOYERS			
2016	2017	2018	
8	51	20	Administration, Department of
2	1	1	Division of Personnel
4	48	18	General Services Division
2	2	0	Office of Technology
0	0	1	Unspecified
22	17	16	Commerce, Department of
1	1	2	Division of Forestry
4	2	1	Division of Labor
12	8	9	Division of Natural Resources
1	1	0	Office of Economic Opportunity
0	2	0	Office of Miners' Health, Safety and Training
3	3	4	WorkForce West Virginia
1	0	0	Unspecified
2	18	6	Education, Board of
7	18	2	Education, Department of
10	16	19	Education and the Arts, Department of
0	0	1	Division of Culture and History
10	15	18	Division of Rehabilitation Services
0	1	0	Public Broadcasting
7	8	17	Environmental Protection, Department of
1	1	0	Division of Air Quality
1	1	2	Division of Land Restoration
1	4	3	Division of Mining and Reclamation
3	2	8	Division of Water and Waste Management
1	0	0	Oil and Gas Conservation Commission
0	0	3	Not specified
0	0	1	Solid Waste Management Board
473	476	447	Health and Human Resources, Department of
0	1	0	Administration
281	351	199	Bureau for Behavioral Health & Health Facilities
0	2	0	Central Office

2016	2017	2018	
4	7	2	Hopemont Hospital
49	10	24	Jackie Withrow Hospital (Pinecrest Hospital)
1	0	7	John Manchin Sr. Health Care Center
44	21	37	Lakin Hospital
19	20	37	Mildred Mitchell-Bateman Hospital
18	71	17	Welch Community Hospital
146	220	75	William R. Sharpe, Jr. Hospital
11	13	30	Bureau for Child Support Enforcement,
151	83	200	Bureau for Children and Families
0	0	1	Bureau for Medical Services
15	10	15	Bureau for Public Health
7	7	1	County Health Departments
2	1	0	Human Resource Management
2	4	0	Inspector General
1	1	0	Management Information Services
3	5	1	Office of Secretary
211	157	83	Higher Education Policy Commission
200	145	72	Baccalaureate and Graduate Institutions
1	3	1	Bluefield State College
6	3	1	Concord University
0	8	2	Fairmont State University
1	1	3	Glenville State College
6	10	20	Marshall University
6	3	1	Potomac State College of West Virginia University
1	5	3	Shepherd University
3	3	1	West Liberty University
0	5	10	West Virginia State University
168	104	30	West Virginia University
8	0	0	West Virginia University Institute of Technology
10	11	11	Community and Technical Colleges
1	1	2	BlueRidge Community & Technical College
1	3	1	BridgeValley Community & Technical College
0	1	0	Eastern Community & Technical College
3	0	1	Mountwest Community & Technical College
2	3	1	New River Community & Technical College
0	0	2	Pierpont Community & Technical College
0	1	2	Southern West Virginia Community & Technical College
0	0	1	West Virginia Northern Community College
3	2	1	West Virginia University at Parkersburg
0	1	0	West Virginia Network
1	0	0	Not specified

2016	2017	2018	
1	0	0	Housing Development Fund
160	318	135	Military Affairs and Public Safety, Department of
1	0	0	Adjutant General
97	110	76	Division of Corrections
4	4	3	Anthony Correctional Center
1	3	15	Beckley Correctional Center
1	5	3	Central Office
1	3	2	Charleston Correctional Center
2	3	2	Denmar Correctional Center
4	0	0	Huntington Work Release
39	2	11	Huttonsville Correctional Center
1	1	0	Lakin Correctional Center
5	10	1	Martinsburg Correctional Center
31	14	29	Mount Olive Correctional Complex
4	21	1	Northern Correctional Facility
1	3	1	Ohio County Correctional Complex
0	4	2	Parkersburg Correctional Center
1	24	3	Parole Services
0	1	1	Pruntytown Correctional Center
0	7	1	Saint Marys Correctional Center
2	4	1	Salem Correctional Center
0	1	0	WV Corrections Academy
1	1	1	Division of Homeland Security and Emergency Management
6	1	1	Division of Justice and Community Services
23	27	17	Division of Juvenile Services
1	2	1	Central Office
18	23	14	Facilities
2	6	0	Donald R. Kuhn Juvenile Center
1	2	3	Gene Spadaro Juvenile Center
2	4	6	James H. "Tiger" Morton Juvenile Center
4	0	1	Kenneth "Honey" Rubenstein Juvenile Center
2	6	1	Lorrie Yeager Jr. Juvenile Center
2	3	1	Robert L. Shell Juvenile Center
0	2	2	Sam Perdue Juvenile Center
4	2	2	Reporting Centers
0	0	1	Cabell County Youth Reporting Center
1	0	0	Jefferson County Youth Reporting Center
0	1	0	Kanawha County Youth Reporting Center
0	0	1	Putnam County Youth Reporting Center
2	0	0	Tri County Youth Reporting Center
1	1	0	Wood County Youth Reporting Center
0	1	0	Parole Board

2016	2017	2018	
30	178	39	Regional Jail and Correctional Facilities Authority
0	0	1	Central Office
3	13	0	Central Regional Jail
0	5	0	Eastern Regional Jail
3	4	0	North Central Regional Jail
2	2	2	Northern Regional Jail
6	17	3	Potomac Highlands Regional Jail
1	5	6	South Central Regional Jail
1	73	15	Southern Regional Jail
5	26	11	Southwestern Regional Jail
3	7	1	Tygart Valley Regional Jail
6	26	0	Western Regional Jail
2	0	0	State Fire Commission
0	0	1	West Virginia State Police
1	4	3	Miscellaneous
0	1	0	AFL-CIO Appalachian Council Head Start
0	1	0	Berkeley County Public Service Water District
0	0	1	Hammond Public Service District
0	1	0	Lewis County Senior Citizens Center, Inc.
0	1	1	State Auditor's Office
0	0	1	United Hospital Center
3	10	1	Miscellaneous Boards and Commissions
0	1	1	Board of Social Work
1	2	0	Public Service Commission
2	7	0	Water Development Authority
0	0	1	Public Service Commission
18	6	25	Revenue, Department of
3	0	0	Alcohol Beverage Control Administration
6	2	19	Offices of the Insurance Commissioner
0	1	0	Lottery Commission
0	0	1	Racing Commission
9	3	5	Tax Department
293	280	220	Transportation, Department of
257	260	202	Division of Highways
33	16	17	Division of Motor Vehicles
1	0	0	Division of Public Transit
1	3	0	Office of Administrative Hearings
1	1	1	Parkways Authority

2016	2017	2018	
14	13	4	Veterans Assistance, Department of
1254	1392	999	TOTAL

TYPES OF GRIEVANCES FILED IN FY18, BY GROUP*			
2016	2017	2018	
855	1,274	620	Classification and Compensation
9	15	18	Level One - Default
232	298	273	Disciplinary
105	117	99	Discrimination
78	80	84	Harassment
360	327	228	Non-Disciplinary Employment Actions **
54	68	70	Reprisal
206	198	233	Selection
325	367	288	Violations of Federal, State or Agency Statutes, Rules or Policies
37	484	55	Other

TYPES OF GRIEVANCES FILED IN FY18, BY GROUP			
COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
98	24	498	Classification and Compensation
15	1	2	Level One - Default
47	35	189	Disciplinary
38	7	54	Discrimination
30	5	49	Harassment
100	12	116	Non-Disciplinary Employment Actions **
17	7	46	Reprisal
156	4	73	Selection
48	12	228	Violations of Federal, State or Agency Statutes, Rules or Policies
9	6	39	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				
2016	2017	2018	Percent of Level Total for FY18	Level
586	572	438	48%	Level One – Chief Administrator
2	5	7	1%	Level One - Default
136	137	153	17%	Level Two – Alternative Dispute Resolution
312	327	310	34%	Level Three – Hearing

LEVEL OF RESOLUTION IN FY18, BY GROUP			
County Boards of Education	Higher Education Policy Commission	State Employees	
150 54%	31 48%	256 45%	Level One – Chief Administrator Percent of Group Total
3 1%	0 0%	4 1%	Level One - Default Percent of Group Total
38 14%	7 11%	108 19%	Level Two – Alternative Dispute Resolution Percent of Group Total
87 31%	26 41%	196 35%	Level Three – Hearing Percent of Group Total

OUTCOMES OF GRIEVANCES IN FY18

TYPE																							
	Classification and Compensation		Default		Disciplinary		Discrimination		Harassment		Non-Disciplinary Employment Actions		Reprisal		Selection		Violations of Federal, State or Agency Statutes, Rules or Policies		Other		TOTAL		Percentage
Denied	70	1	65	19	18	45	2	42	24	7	293	26%											
Dismissal - Other	17	0	28	5	4	14	6	7	19	67	167	15%											
Granted	14	0	14	1	1	5	1	9	5	1	51	5%											
Granted/Denied	3	0	7	3	3	4	1	4	4	1	30	3%											
Settled	80	3	39	16	12	30	5	26	13	4	228	20%											
Unsuccessful*	29	0	6	4	1	4	0	10	6	1	61	5%											
Withdrawn	68	1	43	19	12	55	11	57	31	6	303	27%											
Total	281	5	202	67	51	157	26	155	102	87	1133	100%											

*No settlement was reached at Level 2 but the grievance was not appealed to Level 3.

COSTS OF GRIEVANCES				
Cost Category	Level One*	Level One - Default	Level Two	Level Three
Average Estimated Cost of Employee Time to Handle the Grievance	\$208.41	\$672.34	\$206.94	\$391.44
Actual Cost of Legal Time paid in the Resolution of the Grievance	\$168,339.62	\$7,715.25	\$114,054.95	\$255,187.12
Actual Cost of Any Damages Paid in the Resolution of the Grievance	\$27,416.10	\$0	\$10,574.95	\$50,870.00
Miscellaneous Costs Incurred by the Employer	\$84,711.83	\$22.47	\$15,275.94	\$12,770.59
Average Total Cost of Handling the Grievance	\$606.84	\$2,425.83	\$935.34	\$2,722.83

* The numbers do not include grievances that were filed by employees of entities over which the Grievance Board has no jurisdiction.

ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS							HEARINGS						
	LRB	BLG	BTC	CHL	JSF	WBM	RLR	LRB	BLG	BTC	CHL	JSF	WBM	RLR
Assigned (as of 6-30-2018)	9	0	15	7	10	13	3	24	0	32	24	18	30	32
Number Closed	19	15	40	21	1	19	13	51	43	59	43	4	45	55
Mediations Settled	3	6	10	12	1	2	1							
Decisions Issued								28	25	36	28	0	28	40
Classification/ Compensation	8	11	11	6	1	11	5	10	18	13	6	3	5	9
Default	0	0	0	0	0	0	0	2	1	3	0	0	0	1
Disciplinary	1	2	8	5	0	0	3	15	11	25	18	1	28	20
Discrimination	2	1	2	3	0	0	3	3	1	2	3	0	0	1
Harassment	0	1	0	3	0	0	4	1	4	0	2	0	0	1
Non-disciplinary employment actions	4	5	10	4	0	2	0	4	7	5	7	0	3	10
Reprisal	0	1	1	2	0	0	1	1	2	2	2	0	1	1
Selection	7	1	6	5	0	5	3	18	5	8	6	0	7	7
Violations of Federal, State or Agency Statutes, Rules or Policies	1	2	4	3	0	2	2	2	5	2	5	0	2	6
Other	0	0	4	1	0	1	1	4	1	14	8	0	8	10

CONTRACT ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS				HEARINGS			
	LGB	SLB	HDS	MJS	LGB	SLB	HDS	MJS
Assigned (as of 6-30-2018)	0	1	5	0	3	0	0	1
Number Closed	0	1	4	0	8	6	0	4
Mediations Settled	0	0	8	0				
Decisions Issued					8	5	0	3
Classification/Compensation	0	1	14	0	0	2	0	1
Default	0	0	0	0	0	0	0	0
Disciplinary	0	0	3	0	5	0	0	2
Discrimination	0	0	0	0	6	0	0	0
Harassment	0	0	0	0	0	0	0	0
Non-disciplinary employment actions	0	0	0	0	0	3	0	1
Reprisal	0	0	0	0	0	0	0	0
Selection	0	0	6	0	1	1	0	0
Violations of Federal, State or Agency Statutes, Rules or Policies	0	0	0	0	1	0	0	1
Other	0	0	1	0	2	1	0	2

MEDIATIONS IN FY18

Successful versus Unsuccessful, by Category of Grievance

Successful	Unsuccessful	Percentage Successful	Category
19	86	22%	Classification/Compensation
11	30	37%	Disciplinary
5	13	38%	Discrimination
3	13	23%	Harassment
7	39	18%	Non-disciplinary employment actions
2	11	18%	Reprisal
10	51	20%	Selection
2	26	8%	Violations of Federal, State or Agency Statutes, Rules or Policies
0	26	0%	Other

Successful versus Unsuccessful, by Administrative Law Judge

3	42	7%	LRB
6	18	33%	BLG
10	36	28%	BTC
12	34	35%	CHL
1	3	33%	JSF
2	46	4%	WBM
1	24	4%	RLR

Successful versus Unsuccessful, by Contract Administrative Law Judge

0	0	0%	LGB
0	3	0%	SLB
8	37	22%	HDS
0	0	0%	MJS