

**WEST VIRGINIA  
PUBLIC EMPLOYEES GRIEVANCE BOARD  
ANNUAL REPORT  
FISCAL YEAR 2019**



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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 2019.

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 2019, 1,765 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 2019, 196 appealable decisions were issued. The average number of days from date of maturity to date of issue was 24.

During Fiscal Year 2019, 50 Level 2 Mediations were closed as Successful and 24 were closed as Unsuccessful but were not appealed to Level 3. With the average total cost of a Level 3 hearing of \$3,308.88, these 74 mediations represent a cost avoidance (of a Level 3 hearing) of more than \$244,857.12.

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								
2017	2018	2019			2017	2018	2019	
4	2	1	Barbour		1	5	5	Mineral
20	7	11	Berkeley		10	9	5	Mingo
444	16	4	Boone		37	12	5	Monongalia
2	2	5	Braxton		1	7	2	Monroe
12	5	13	Brooke		0	0	4	Morgan
10	14	17	Cabell		2	9	10	Nicholas
2	0	0	Calhoun		18	2	3	Ohio
3	1	0	Clay		0	1	2	Pendleton
0	0	1	Doddridge		0	0	0	Pleasants
6	7	13	Fayette		0	0	3	Pocahontas
2	2	2	Gilmer		1	1	1	Preston
0	1	1	Grant		5	9	19	Putnam
2	0	11	Greenbrier		22	13	14	Raleigh
6	8	6	Hampshire		4	3	8	Randolph
4	21	7	Hancock		0	9	0	Ritchie
1	0	14	Hardy		2	6	8	Roane
7	8	22	Harrison		1	1	0	Summers
0	1	1	Jackson		4	1	12	Taylor
16	13	7	Jefferson		1	4	0	Tucker
44	50	39	Kanawha		0	0	1	Tyler
3	18	19	Lewis		6	5	5	Upshur
11	19	4	Lincoln		50	29	57	Wayne
12	5	27	Logan		0	15	3	Webster
8	24	17	Marion		0	7	23	Wetzel
6	0	6	Marshall		2	2	1	Wirt
23	16	22	Mason		59	11	9	Wood
4	3	7	McDowell		0	3	2	Wyoming
19	5	9	Mercer		<b>897</b>	<b>412</b>	<b>488</b>	<b>TOTAL</b>

## NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

STATE EMPLOYERS			
2017	2018	2019	
<b>51</b>	<b>20</b>	<b>12</b>	<b>Administration, Department of</b>
1	1	0	Division of Personnel
48	18	10	General Services Division
0	0	1	Real Estate Division
2	0	1	Office of Technology
0	1	0	Unspecified
<b>0</b>	<b>1</b>	<b>1</b>	<b>Arts, Culture and History, Department of</b>
0	0	1	Educational Broadcasting Authority
0	1	0	Division of Culture and History (Formerly under Dept. of Education and the Arts)
<b>17</b>	<b>16</b>	<b>32</b>	<b>Commerce, Department of</b>
1	2	1	Division of Forestry
2	1	6	Division of Labor
8	9	12	Division of Natural Resources
15	18	8	Division of Rehabilitation Services
1	0	0	Office of Economic Opportunity
2	0	1	Office of Miners' Health, Safety and Training
3	4	4	WorkForce West Virginia
0	0	0	Unspecified
<b>18</b>	<b>6</b>	<b>1</b>	<b>Education, Board of</b>
<b>18</b>	<b>2</b>	<b>10</b>	<b>Education, Department of</b>
<b>8</b>	<b>17</b>	<b>14</b>	<b>Environmental Protection, Department of</b>
0	0	1	Business and Technology Office
0	0	1	Central Office
1	0	1	Division of Air Quality
1	2	1	Division of Land Restoration
4	3	4	Division of Mining and Reclamation
2	8	3	Division of Water and Waste Management
0	0	2	Office of Special Reclamation
0	0	0	Oil and Gas Conservation Commission
0	3	0	Not specified
0	1	0	Solid Waste Management Board

2017	2018	2019	
<b>476</b>	<b>447</b>	<b>454</b>	<b>Health and Human Resources, Department of</b>
<b>1</b>	<b>0</b>	<b>0</b>	<b>Administration</b>
<b>351</b>	<b>199</b>	<b>343</b>	<b>Bureau for Behavioral Health &amp; Health Facilities</b>
2	0	0	Central Office
7	2	2	Hopemont Hospital
10	24	21	Jackie Withrow Hospital (Pinecrest Hospital)
0	7	1	John Manchin Sr. Health Care Center
21	37	3	Lakin Hospital
20	37	82	Mildred Mitchell-Bateman Hospital
71	17	7	Welch Community Hospital
220	75	227	William R. Sharpe, Jr. Hospital
<b>13</b>	<b>30</b>	<b>8</b>	<b>Bureau for Child Support Enforcement</b>
<b>83</b>	<b>200</b>	<b>83</b>	<b>Bureau for Children and Families</b>
<b>0</b>	<b>1</b>	<b>1</b>	<b>Bureau for Medical Services</b>
<b>10</b>	<b>15</b>	<b>8</b>	<b>Bureau for Public Health</b>
<b>7</b>	<b>1</b>	<b>4</b>	<b>County Health Departments</b>
<b>1</b>	<b>0</b>	<b>0</b>	<b>Human Resource Management</b>
<b>4</b>	<b>0</b>	<b>6</b>	<b>Inspector General</b>
<b>1</b>	<b>0</b>	<b>1</b>	<b>Management Information Services</b>
<b>5</b>	<b>1</b>	<b>0</b>	<b>Office of Secretary</b>
<b>157</b>	<b>83</b>	<b>77</b>	<b>Higher Education Policy Commission</b>
<b>145</b>	<b>72</b>	<b>68</b>	<b>Baccalaureate and Graduate Institutions</b>
3	1	3	Bluefield State College
3	1	1	Concord University
8	2	0	Fairmont State University
1	3	0	Glenville State College
10	20	11	Marshall University
3	1	3	Potomac State College of West Virginia University
5	3	2	Shepherd University
3	1	2	West Liberty University
0	0	1	West Virginia School of Osteopathic Medicine
5	10	3	West Virginia State University
104	30	41	West Virginia University
2	1	0	West Virginia University at Parkersburg
0	0	1	West Virginia University Institute of Technology
<b>11</b>	<b>11</b>	<b>9</b>	<b>Community and Technical Colleges</b>
1	2	0	BlueRidge Community & Technical College
3	1	0	BridgeValley Community & Technical College
1	0	0	Eastern Community & Technical College
0	1	0	Mountwest Community & Technical College
3	1	0	New River Community & Technical College
0	2	1	Pierpont Community & Technical College



2017	2018	2019	
0	0	1	Roane-Jackson Technical Center
1	2	0	Southern West Virginia Community & Technical College
0	0	1	United Technical Center
0	1	6	West Virginia Northern Community College
1	0	0	<b>West Virginia Network</b>
0	0	0	<b>Not specified</b>
0	0	2	<b>Housing Development Fund</b>
<b>318</b>	<b>135</b>	<b>120</b>	<b>Military Affairs and Public Safety, Department of</b>
0	0	0	<b>Adjutant General</b>
0	0	4	<b>Division of Administrative Services</b>
<b>110</b>	<b>76</b>	<b>49</b>	<b>Division of Corrections</b>
4	3	0	Anthony Correctional Center
3	15	1	Beckley Correctional Center
5	3	4	Central Office
3	2	2	Charleston Correctional Center
3	2	0	Denmar Correctional Center
0	0	0	Huntington Work Release
2	11	6	Huttonsville Correctional Center
1	0	2	Lakin Correctional Center
10	1	0	Martinsburg Correctional Center
14	29	14	Mount Olive Correctional Complex
21	1	3	Northern Correctional Facility
3	1	1	Ohio County Correctional Complex
4	2	9	Parkersburg Correctional Center
24	3	0	Parole Services
1	1	3	Pruntytown Correctional Center
7	1	2	Saint Marys Correctional Center
4	1	0	Salem Correctional Center
1	0	2	WV Corrections Academy
1	1	0	<b>Division of Homeland Security and Emergency Management</b>
1	1	1	<b>Division of Justice and Community Services</b>
<b>27</b>	<b>17</b>	<b>13</b>	<b>Division of Juvenile Services</b>
2	1	1	<b>Central Office</b>
<b>23</b>	<b>14</b>	<b>10</b>	<b>Facilities</b>
6	0	1	Donald R. Kuhn Juvenile Center
2	3	0	Gene Spadaro Juvenile Center
4	6	3	James H. "Tiger" Morton Juvenile Center
0	1	2	Kenneth "Honey" Rubenstein Juvenile Center
6	1	0	Lorrie Yeager Jr. Juvenile Center
3	1	2	Robert L. Shell Juvenile Center
2	2	1	Sam Perdue Juvenile Center

0	0	1	Vicki V. Douglas Juvenile Center
<b>2017</b>	<b>2018</b>	<b>2019</b>	
<b>2</b>	<b>2</b>	<b>2</b>	<b>Reporting Centers</b>
0	1	0	Cabell County Youth Reporting Center
0	0	0	Jefferson County Youth Reporting Center
1	0	0	Kanawha County Youth Reporting Center
0	1	1	Putnam County Youth Reporting Center
0	0	0	Tri County Youth Reporting Center
0	0	1	Wetzel Tyler Youth Reporting Center
1	0	0	Wood County Youth Reporting Center
<b>1</b>	<b>0</b>	<b>0</b>	<b>Parole Board</b>
<b>178</b>	<b>39</b>	<b>45</b>	<b>Regional Jail and Correctional Facilities Authority</b>
0	1	1	Central Office
13	0	3	Central Regional Jail
5	0	5	Eastern Regional Jail
4	0	7	North Central Regional Jail
2	2	2	Northern Regional Jail
17	3	11	Potomac Highlands Regional Jail
5	6	0	South Central Regional Jail
73	15	2	Southern Regional Jail
26	11	4	Southwestern Regional Jail
7	1	1	Tygart Valley Regional Jail
26	0	9	Western Regional Jail
<b>0</b>	<b>0</b>	<b>1</b>	<b>State Fire Commission</b>
<b>0</b>	<b>1</b>	<b>5</b>	<b>West Virginia State Police</b>
<b>0</b>	<b>0</b>	<b>2</b>	<b>West Virginia Military Authority</b>
<b>4</b>	<b>3</b>	<b>7</b>	<b>Miscellaneous</b>
1	0	0	AFL-CIO Appalachian Council Head Start
1	0	0	Berkeley County Public Service Water District
0	0	1	Central WV Aging Service
0	0	1	Central WV Regional Airport Authority
0	0	2	Days Inn
0	1	0	Hammond Public Service District
1	0	0	Lewis County Senior Citizens Center, Inc.
0	0	1	Orbital ATK
1	1	1	State Auditor's Office
0	0	1	Summers County Council on Aging
0	1	0	United Hospital Center
<b>10</b>	<b>1</b>	<b>0</b>	<b>Miscellaneous Boards and Commissions</b>
1	1	0	Board of Social Work
7	0	0	Water Development Authority



<b>2</b>	<b>1</b>	<b>1</b>	<b>Public Service Commission</b>
<b>2017</b>	<b>2018</b>	<b>2019</b>	
<b>6</b>	<b>25</b>	<b>15</b>	<b>Revenue, Department of</b>
0	0	6	Alcohol Beverage Control Administration
2	19	4	Offices of the Insurance Commissioner
1	0	3	Lottery Commission
0	1	0	Racing Commission
3	5	2	Tax Department
<b>280</b>	<b>220</b>	<b>514</b>	<b>Transportation, Department of</b>
260	202	507	Division of Highways
16	17	7	Division of Motor Vehicles
0	0	0	Division of Public Transit
3	0	0	Office of Administrative Hearings
1	1	0	Parkways Authority
<b>13</b>	<b>4</b>	<b>17</b>	<b>Veterans Assistance, Department of</b>
<b>1392</b>	<b>999</b>	<b>1277</b>	<b>TOTAL</b>

### TYPES OF GRIEVANCES FILED IN FY 2019, BY GROUP\*

2017	2018	2019	
1,274	620	756	Classification and Compensation
15	18	15	Level One - Default
298	273	290	Disciplinary
117	99	116	Discrimination
80	84	114	Harassment
327	228	399	Non-Disciplinary Employment Actions **
68	70	77	Reprisal
198	233	249	Selection
367	288	326	Violations of Federal, State or Agency Statutes, Rules or Policies
484	55	59	Other

### TYPES OF GRIEVANCES FILED IN FY 2019, BY GROUP

COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
154	34	568	Classification and Compensation
6	1	8	Level One - Default
49	26	213	Disciplinary
47	9	60	Discrimination
67	11	36	Harassment
119	23	256	Non-Disciplinary Employment Actions **
37	5	34	Reprisal
138	3	108	Selection
110	14	198	Violations of Federal, State or Agency Statutes, Rules or Policies
19	5	35	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

2017	2018	2019	Percent of Level Total for FY 2019	Level
572	438	463	52%	Level One – Chief Administrator
5	7	5	1%	Level One - Default
137	153	112	12%	Level Two – Alternative Dispute Resolution
327	310	311	35%	Level Three – Hearing

## LEVEL OF RESOLUTION IN FY 2019, BY GROUP

County Boards of Education	Higher Education Policy Commission	State Employees	
134 52%	38 50%	285 52%	Level One – Chief Administrator Percent of Group Total
3 1%	0 0%	2 1%	Level One - Default Percent of Group Total
33 13%	14 18%	65 12%	Level Two – Alternative Dispute Resolution Percent of Group Total
89 34%	24 32%	198 36%	Level Three – Hearing Percent of Group Total

## OUTCOMES OF GRIEVANCES IN FY 2019

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	77	1	68	14	14	45	3	48	32	10	312	27%
Dismissal - Other	16	5	18	4	5	12	3	11	41	32	147	13%
Granted	15	1	22	2	3	10	5	8	5	0	71	6%
Granted/Denied	4	0	4	3	2	4	0	6	3	2	28	2%
Settled	56	3	53	11	17	39	11	26	24	5	245	21%
Unsuccessful*	13	0	5	3	1	1	2	4	3	2	34	3%
Withdrawn	52	4	49	17	15	75	13	51	32	9	317	27%
<b>Total</b>	<b>233</b>	<b>14</b>	<b>219</b>	<b>54</b>	<b>57</b>	<b>186</b>	<b>37</b>	<b>154</b>	<b>140</b>	<b>60</b>	<b>1154</b>	<b>100%</b>

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

## COSTS OF GRIEVANCES

<b>Cost Category</b>	<b>Level One*</b>	<b>Level One - Default</b>	<b>Level Two</b>	<b>Level Three</b>
Average Estimated Cost of Employee Time to Handle the Grievance	\$231.29	\$16.67	\$270.35	\$625.86
Actual Cost of Legal Time paid in the Resolution of the Grievance	\$229,978.12	\$0	\$119,635.91	\$307,468.33
Actual Cost of Any Damages Paid in the Resolution of the Grievance	\$44,135.41	\$0	\$17,017.31	\$115,541.31
Miscellaneous Costs Incurred by the Employer	\$101,472.40	\$0	\$14,178.96	\$10,433.06
Average Total Cost of Handling the Grievance	\$826.58	\$850.61	\$1152.95	\$3,626.54

\* 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	BTC	CHL	JSF	WBM	RLR	LRB	BTC	CHL	JSF	WBM	RLR
Assigned (as of 6-30-2019)	12	17	16	17	18	17	34	42	36	38	41	35
Number Closed	18	33	9	16	19	14	44	149	42	44	54	63
Mediations Settled	4	14	7	8	10	6						
Decisions Issued							18	50	24	27	36	38
Classification/ Compensation	6	12	3	6	7	3	7	14	12	9	13	15
Default							0	3	1	0	1	0
Disciplinary	2	6	2	4	4	2	15	36	17	19	23	31
Discrimination	0	1	0	2	1	1	4	0	2	1	2	2
Harassment	0	1	0	1	2	1	3	4	3	1	0	2
Non-disciplinary employment actions	3	7	1	2	3	4	9	10	9	4	8	12
Reprisal	1	3	0	0	1	1	2	0	3	2	3	3
Selection	7	4	3	2	2	5	6	8	6	7	9	9
Violations of Federal, State or Agency Statutes, Rules or Policies	0	4	0	1	4	2	1	7	6	6	3	3
Other	0	5	0	1	2	1	2	16	2	5	3	5



## CONTRACT ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS		HEARINGS	
	LGB	HDS	LGB	HDS
Assigned (as of 6-30-2019)			1	
Number Closed	5	3		
Mediations Settled		1		
Decisions Issued			3	
Classification/Compensation		3	1	
Default				
Disciplinary				
Discrimination		1	2	
Harassment				
Non-disciplinary employment actions		1		
Reprisal				
Selection			2	
Violations of Federal, State or Agency Statutes, Rules or Policies		1		
Other				

## MEDIATIONS IN FY 2019

### Successful versus Unsuccessful, by Category of Grievance

Successful	Unsuccessful	Percentage Successful	Category
19	21	48%	Classification/Compensation
12	8	60%	Disciplinary
2	4	33%	Discrimination
3	2	60%	Harassment
10	11	48%	Non-disciplinary employment actions
3	3	50%	Reprisal
11	12	48%	Selection
4	8	33%	Violations of Federal, State or Agency Statutes, Rules or Policies
1	8	11%	Other

### Successful versus Unsuccessful, by Administrative Law Judge

4	14	22%	LRB
14	19	42%	BTC
7	2	78%	CHL
8	8	50%	JSF
10	9	53%	WBM
6	8	43%	RLR

### Successful versus Unsuccessful, by Contract Administrative Law Judge

1	2	33%	HDS
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