

**WEST VIRGINIA
PUBLIC EMPLOYEES GRIEVANCE BOARD**

**ANNUAL REPORT
FISCAL YEAR 2012**



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DIRECTOR**

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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 2012.

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 2012, 1,831 grievances were filed: 1,248 at Level 1; 6 Level 1 Defaults; 276 at Level 2; and 301 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 30% for mediations and 55% for hearings impede that goal and increase the workload for support staff.

During Fiscal Year 2012, 197 Level 3 evidentiary hearings were conducted; 5 were submitted for review based on the Level 1 hearing record; and 175 decisions were issued.

During Fiscal Year 2012, 314 grievances were closed at Level 2. 56 were closed as Successful and 32 were closed as Unsuccessful but were not appealed to Level 3. With the average cost of a Level 3 hearing of 2,954.84, these 88 mediations represent a potential cost avoidance (of a Level 3 hearing) of more than \$260,025.92.

The Board is pleased to report that cumulatively, from July 1, 2007 to June 30, 2012, 344 mediations were successful and 185 unsuccessful mediations were not appealed. Together, they represent a cost avoidance of \$1,563,110.36.

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

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

COUNTY BOARDS OF EDUCATION								
2010	2011	2012			2010	2011	2012	
0	2	2	Barbour		1	2	0	Mineral
19	20	4	Berkeley		14	12	38	Mingo
15	15	5	Boone		62	37	24	Monongalia
4	6	5	Braxton		38	9	9	Monroe
12	33	6	Brooke		1	0	6	Morgan
37	8	5	Cabell		3	22	4	Nicholas
2	2	0	Calhoun		21	3	6	Ohio
0	0	0	Clay		0	0	0	Pendleton
0	2	2	Doddridge		0	1	0	Pleasants
13	1	7	Fayette		15	0	0	Pocahontas
4	3	0	Gilmer		5	5	3	Preston
6	4	4	Grant		17	4	11	Putnam
5	1	1	Greenbrier		9	11	5	Raleigh
6	20	1	Hampshire		12	2	1	Randolph
4	12	9	Hancock		5	2	1	Ritchie
5	2	1	Hardy		3	0	6	Roane
17	17	24	Harrison		1	0	0	Summers
15	3	5	Jackson		1	2	0	Taylor
8	15	3	Jefferson		0	0	0	Tucker
38	44	32	Kanawha		0	0	0	Tyler
4	3	6	Lewis		54	6	13	Upshur
6	7	11	Lincoln		28	12	11	Wayne
10	8	10	Logan		2	3	1	Webster
9	14	10	Marion		6	14	4	Wetzel
16	28	5	Marshall		0	0	0	Wirt
30	36	43	Mason		12	6	10	Wood
27	7	7	McDowell		3	2	0	Wyoming
9	15	7	Mercer		634	483	368	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

HIGHER EDUCATION POLICY COMMISSION			
2010	2011	2012	
1			Higher Education Policy Commission
			Baccalaureate and Graduate Institutions
9	7	4	Bluefield State College
1	1	6	Concord University
23	1	2	Fairmont State University
63	31	21	Marshall University
3	5	0	Shepherd University
1	5	2	West Liberty University
3		3	West Virginia School of Osteopathic Medicine
1	4	8	West Virginia State University
59	77	72	West Virginia University
2	7	9	West Virginia University Institute of Technology
			Community and Technical Colleges
0	2	0	Blue Ridge Community & Technical College
4	0	2	Kanawha Valley Community & Technical College
0	0	5	Mountwest Community & Technical College
1	0	0	New River Community & Technical College
0	2	0	Pierpont Community & Technical College
1	1	1	Southern West Virginia Community & Technical College
1	1	2	West Virginia Northern Community College
2	6	3	West Virginia University at Parkersburg
175	150	140	TOTAL

NUMBER OF GRIEVANCES AGAINST EACH EMPLOYER

STATE EMPLOYERS			
2010	2011	2012	
37	21	29	Administration, Department of
	3		Children's Health Insurance Program
4			Consolidated Public Retirement Board
29	12	15	General Services Division
2		1	Personnel Division
		1	Prosecuting Attorneys Institute
		2	Public Employees Insurance Agency
1		1	Purchasing Division
		5	Real Estate Division
		1	Risk and Insurance Management, Board of
1	6	3	Technology, Office of
3		1	Bureau of Senior Services
20	18	22	Commerce, Department of
	2	1	Forestry, Division of
		1	Labor, Division of
2	2		Miners' Health, Safety and Training, Office of
10	7	9	Natural Resources, Division of
		1	Tourism, Division of
8	7	10	WorkForce West Virginia
5	49	5	Education, Department of
2			Regional Education Service Agencies
1			RESA 5
1			RESA 8
1	1		Student Support Services, Division of
			Technical, Adult & Institutional Education, Division of
1	1	3	Institutional Education Programs, Office of
1	3		Unspecified
1	44	2	West Virginia Schools for the Deaf and the Blind

26	33	16	Education and the Arts, Department of
1	3		Culture and History, Division of
23	29	15	Rehabilitation Services, Division of
	1		Unspecified
2		1	West Virginia Public Broadcasting
10	12	31	Environmental Protection, Department of
1			Air Quality, Division of
4	1	3	Mining and Reclamation, Division of
3	6	25	Unspecified
2	5	3	Water and Waste Management, Division of
322	598	296	Health and Human Resources, Department of
150	425	157	Behavioral Health & Health Facilities, Bureau for
15	19	13	Hopemont Hospital
6	16	11	Jackie Withrow Hospital (Pinecrest Hospital)
	1		John Manchin Sr Health Care Center
51	49	10	Lakin Hospital
17	33	48	Mildred Mitchell-Bateman Hospital
28	14	9	Welch Community Hospital
31	293	63	William R. Sharpe, Jr. Hospital
2		3	Unspecified
9	8	3	Boards, Commissions & Authorities
3		1	Barbers and Cosmetologists, Board of
2			Deaf and Hard-of-Hearing, Commission for the
1			Health Care Authority
1	7		Human Rights Commission
1		2	Medicine, Board of
1	1		Women's Commission
33	31	34	Child Support Enforcement, Bureau for
96	106	73	Children and Families, Bureau for
11	15	15	County Health Departments
		1	Cabell-Huntington
1	4	4	Clay
		1	Doddridge
		1	Grafton-Taylor
		1	Greenbrier
1		1	Hampshire
	1	1	Jefferson
		1	Marion
5			Mid-Ohio Valley
		1	Monongalia

4	9	3	Putnam
	1		Upshur-Buckhannon
2	4	6	Inspector General, Office of
1		7	Human Resource Management, Office of
1	1	2	Medical Services, Bureau for
26	23	11	Public Health, Bureau for
4		3	Unspecified
156	139	186	Military Affairs and Public Safety, Department of
		13	Adjutant General/National Guard
53	70	65	Corrections, Division of
4	9	2	Anthony Correctional Center
	4	3	Beckley Correctional Center
2	5	1	Central Office
3	1	1	Denmar Correctional Center
		4	Huntington Work Release
10	2	6	Huttonsville Correctional Center
6	11	2	Lakin Correctional Center
6	6	6	Martinsburg Correctional Center
14	20	17	Mount Olive Correctional Complex
7	6	7	Northern Correctional Facility
1	3	1	Ohio County Correctional Complex
		2	Parole Services
	1	6	Pruntytown Correctional Center
	2	6	Saint Marys Correctional Center
		1	Unspecified
1		1	Fire Commission
		1	Justice and Community Services, Division of
43	33	35	Juvenile Services, Division of
2			Central Office
2	5	2	Donald R. Kuhn Juvenile Diagnostic and Detention Center
		1	Dr. Harriet B. Jones Treatment Center
5	7	4	Gene Spadaro Juvenile Center
6	1	4	James H. "Tiger" Morton Juvenile Center
3	4	3	J. M. "Chick" Buckbee Juvenile Center
		1	Kanawha County Youth Reporting Center
3	2	6	Lorrie Yeager Jr. Juvenile Center
3	7	3	Robert L. Shell Juvenile Center
2			Sam Perdue Juvenile Center
2	1	2	Vicki V. Douglas Juvenile Center
		1	Wood County Youth Reporting Center
14	6	8	WV Industrial Home for Youth

1	1		Parole Board
1			Protective Services, Division of
39	35	70	Regional Jail and Correctional Facilities Authority
1	1	3	Central Office
1			Central Regional Jail
5	3	1	Eastern Regional Jail
2	2	2	North Central Regional Jail
2	2		Northern Regional Jail
5		3	Potomac Highlands Regional Jail
7	8	14	South Central Regional Jail
4	2		Southern Regional Jail
4	12	8	Southwestern Regional Jail
4	2	30	Tygart Valley Regional Jail
4	3	9	Western Regional Jail
2		1	State Police
2	2	21	Public Service Commission
20	43	6	Revenue, Department of
1	1		Alcohol Beverage Control Administration
6	7	2	Insurance Commission
5	26	1	Lottery Commission
	1		Tax Appeals, Office of
8	8	3	Tax Department
254	166	203	Transportation, Department of
	1	2	Administrative Hearings, Office of
186	131	184	Highways, Division of
65	24	16	Motor Vehicles, Division of
1	9	1	Parkways, Economic Development, and Tourism Authority
	1		Public Transit, Division of
1			State Rail Authority
1			Unspecified
16	41	67	Veterans Assistance, Department of
855	1,122	883	TOTAL

TYPE OF GRIEVANCE FILED*			
2010	2011	2012	
402	519	336	Classification And Compensation
12	12	6	Default
288	392	308	Disciplinary
112	83	80	Discrimination
91	60	75	Harassment
124	378	234	Non-Disciplinary Employment Actions **
43	61	25	Reprisal
292	196	207	Selection
641	346	284	Violations Of Federal, State Or Agency Statutes, Rules Or Policies
66	127	37	Other

TYPE OF GRIEVANCE FILED IN FY12			
COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
61	55	220	Classification And Compensation
2	0	4	Default
65	25	218	Disciplinary
15	12	53	Discrimination
22	10	43	Harassment
62	25	147	Non-Disciplinary Employment Actions **
7	6	12	Reprisal
95	11	101	Selection
76	19	189	Violations Of Federal, State Or Agency Statutes, Rules Or Policies
4	2	31	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			
2010	2011	2012	
770	538	557	Level One – Chief Administrator
5	5	2	Default
304	182	159	Level Two – Alternative Dispute Resolution
294	304	280	Level Three – Hearing (Current Procedure)
11	1	2	Level Four – Hearing (Previous Procedure)

LEVEL OF RESOLUTION IN FY12				
County Boards of Education	Higher Education Policy Commission	State Employees		
124	65	368	Level One – Chief Administrator	
0	0	2	Default	
43	12	104	Level Two – Alternative Dispute Resolution	
87	20	173	Level Three – Hearing (Current Procedure)	
2	0	0	Level Four – Hearing (Previous Procedure)	

OUTCOMES OF GRIEVANCES

GRANTED			DENIED			GRANTED/ DENIED			RESOLVED BY OTHER MEANS*			TYPE	
2010	2011	2012	2010	2011	2012	2010	2011	2012	2010	2011	2012		
65	32	39	63	76	68	6	6	4	111	192	127	Classification And Compensation	
0	0	0	0	0	0	0	0	0	5	5	2	Default	
20	13	24	75	83	76	10	8	6	101	161	156	Disciplinary	
2	1	0	20	17	18	0	0	3	30	41	24	Discrimination	
3	1	3	15	11	11	1	1	2	28	35	35	Harassment	
8	4	5	31	37	34	4	2	3	56	98	91	Non-Disciplinary Employment Actions	
0	0	1	6	6	3	1	1	1	11	11	15	Reprisal	
9	18	8	46	54	58	3	3	4	73	89	75	Selection	
12	8	8	44	68	28	6	6	2	115	106	129	Violations Of Federal, State Or Agency Statutes, Rules Or Policies	
1	1	1	10	11	10	1	2	0	30	42	0	Other	
120			310			32			560			1022	2010 TOTAL
	78			363			29			780		1250	2011 TOTAL
		89			306			25			654	1074	2012 TOTAL

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

COSTS OF GRIEVANCES			
2010	2011	2012	
303.14	327.36	290.75	Average Estimated Cost of Employee Time to Handle the Grievance
388,601.14	478,383.07	425,540.46	Actual Cost of Legal Time or Damages Paid in Resolution of Grievance
			Average Estimated Cost of Handling the Grievance at:
765.30	793.47	706.27	Level 1
285.50	126.12	333.07	Default
1,006.06	840.03	983.17	Level 2
2,265.77	2,534.59	2,954.84	Level 3

COSTS OF GRIEVANCES IN FY12			
COUNTY BOARDS OF EDUCATION	HIGHER EDUCATION POLICY COMMISSION	STATE EMPLOYEES	
336.13	744.20	202.93	Average Estimated Cost of Employee Time to Handle the Grievance
220,608.76	2,545.88	202,385.82	Actual Cost of Legal Time or Damages Paid in Resolution of Grievance
			Average Estimated Cost of Handling the Grievance at:
1,294.85	794.06	534.35	Level 1
0.00	0.00	337.07	Default
1,838.17	1,886.33	532.22	Level 2
4,208.00	4,660.22	2,216.92	Level 3

ADMINISTRATIVE LAW JUDGE CASELOAD

	MEDIATIONS						HEARINGS					
	LRB	BLG	CHL	WBM	RLR	JLS*	LRB	BLG	CHL	WBM	RLR	JLS*
ASSIGNED (AS OF 6-30-2012)	15	8	13	21	16	0	38	35	36	42	54	0
NUMBER RESOLVED	28	17	9	46	26	10	36	57	37	51	57	44
	MEDIATIONS SETTLED						DECISIONS ISSUED					
	11	7	3	14	7	3	21	40	18	25	44	27
CLASSIFICATION/COMPENSATION	2	0	2	6	6	0	4	8	2	5	12	5
DEFAULT	0	0	0	0	0	0	0	0	0	0	0	1
DISCIPLINARY	2	1	0	4	1	0	10	12	8	14	9	10
DISCRIMINATION	0	1	0	0	0	0	2	1	2	0	1	0
HARASSMENT	1	0	0	1	0	0	0	1	1	0	0	0
NON-DISCIPLINARY EMPLOYMENT ACTIONS	3	4	0	1	0	2	1	1	1	1	3	1
REPRISAL	0	1	0	0	0	0	0	0	1	0	0	1
SELECTION	1	0	0	1	1	1	3	11	2	1	5	7
VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES	2	3	1	4	1	0	2	1	1	0	3	0
OTHER	1	0	0	0	0	0	2	7	3	5	11	3

* Resigned April 16, 2012.

CONTRACT ADMINISTRATIVE LAW JUDGE CASELOAD				
	MEDIATIONS	HEARINGS		
		SLB	LGB	HDS
	HDS			
ASSIGNED (AS OF 6-30-2012)	24	9	8	10
NUMBER RESOLVED	20	3	1	0
	MEDIATIONS SETTLED	DECISIONS ISSUED		
	11	0	0	0
CLASSIFICATION/COMPENSATION	3			
DEFAULT	0			
DISCIPLINARY	3			
DISCRIMINATION	0			
HARASSMENT	0			
NON-DISCIPLINARY EMPLOYMENT ACTIONS	2			
REPRISAL	1			
SELECTION	2			
VIOLATIONS OF FEDERAL, STATE OR AGENCY STATUTES, RULES OR POLICIES	0			
OTHER	1			