WEST VIRGINIA CODE CHAPTER 6c ARTICLE 3

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§6C-3-1. West Virginia Public Employees Grievance Board.

(a) Effective June 30, 2007, the Education and State Employees Grievance Board, and the employment of the hearing examiners and administrative law judges under the board, terminate.

(b) Effective July 1, 2007, the West Virginia Public Employees Grievance Board is created as an independent entity under the Department of Administration and all references to the Education and State Employees Grievance Board in the code shall be considered to refer to the West Virginia Public Employees Grievance Board.

(c) On or before July 1, 2007, the Governor, by and with the advice and consent of the Senate, shall appoint the following five members to the board for the following terms:

(1) One person representing the largest labor organization in the state for a term of three years;

(2) One person representing an education employee organization in the state for a term of two years;

(3) One employer representative from the executive branch for a term of two years;

(4) One employer representative from secondary or higher education for a term of three years; and

(5) One citizen member, who is not a current employee, employer, or a representative of employees in a workplace in the public, educational, or higher educational sector of this state, for a term of one year.

(d) After the initial appointment, the board term shall be three years.

(e) No member may serve more than two consecutive full terms and any member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

(f) A vacancy on the board shall be filled by the Governor by appointment of a like member for the unexpired term of the member whose office is vacant.

(g) The membership of the board shall represent each congressional district, with no more than three members from any one district and no more than three members may be from the same political party.

(h) Each member of the board, at the time of his or her appointment, must have been a resident of this state for a period of not less than one year immediately preceding the appointment and each member of the board shall remain a resident of this state during the

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appointment term.

(i) The Governor may remove any member from the board for neglect of duty, incompetency, criminal convictions, or official misconduct.

(j) Any member of the board immediately and automatically forfeits his or her membership if he or she is convicted of a felony under the laws of any state or the United States, or becomes a nonresident of this state.

(k) The board shall hold at least four meetings per year. Other meetings shall be held at the call of the chairperson or upon the written request of two members, at such time and place as designated in the call or request.

(l) The board shall designate one of its members as chairperson and one member as secretary-treasurer who shall serve at the will of the board.

(m) A majority of the members of the board constitute a quorum.

(n) Each member of the board is entitled to receive compensation and expense reimbursement as is accorded legislators in the performance of their duties.

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§6C-3-2. Powers and duties of the board.

The board shall:

(1) Maintain jurisdiction over procedural matters in the grievance process;

(2) Employ competent administrative law judges and a chief administrative law judge and pay them commensurately with other administrative law judges in the state, who shall be:

(A) Residents of the State of West Virginia;

(B) Members in good standing of the West Virginia State Bar; and

(C) Persons who have knowledge and legal experience regarding public and education employment law and alternative dispute resolution;

(3) Provide suitable office space for the board and the administrative law judges separate from any workplace in the public, educational and higher educational sectors, so that the administrative law judges are accessible statewide;

(4) Hire, discharge, set the job requirements for and fix the compensation of the director, employees and administrative law judges, who serve at the will and pleasure of the board, necessary to enforce the provisions of this article and article two of this chapter;

(5) Prepare and submit an annual budget;

(6) Establish and provide all forms necessary for the grievance process and make them easily accessible;

(7) Establish procedures to obtain and maintain records, outcomes and costs at each level of the grievance process;

(8) Keep accurate and complete records of its proceedings and hearings and certify the records as may be appropriate;

(9) Evaluate, on an annual basis, the grievance process, including written comment from employers, employees and employee organizations that participate in the process;

(10) Submit an annual report to the Joint Committee on Government and Finance, the Legislature and the Governor that includes a compilation of all data received regarding outcomes and costs at each level of the grievance process;

(11) File a mandamus proceeding against any employer failing to comply with the reporting requirements of this article; and

(12) Take all other actions necessary and proper to effectuate the purposes of this article.

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§6C-3-3. Data collection and reporting requirements.

(a) Each employer involved in a grievance matter shall maintain the forms and all records created in the grievance process, and shall provide this information to the board in the form and manner prescribed by the board.

(b) The board shall obtain and maintain all records of grievance matters.

(c) The board shall annually report to the Joint Committee on Government and Finance, the Legislature and the Governor. The report shall contain the following:

(1) An overview of grievance-related issues;

(2) The number of grievances against each employer;

(3) Identification of each grievance by type of grievance, level of resolution and cost of the grievance, including the estimated cost of employee time to handle the grievance and actual cost of any legal time or damages paid in the resolution of the grievance;

(4) The number and type of grievances granted, denied or resolved by other means, including informal resolutions and alternative dispute resolution, and the actual or estimated cost of handling the grievance at each level of the grievance process;

(5) Any legislative recommendations for changes to the grievance process as a result of the data collected; and

(6) The caseload of each administrative law judge, the type of grievance, the number of grievances resolved and the number of decisions issued.

(d) Nothing contained in the annual report may breach the confidentiality of a party to the dispute, nor may any matter be disclosed if the disclosure may violate any provision of law.

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§6C-3-4. Rule-making authority.

(a) The rules established by the Education and State Employees Grievance Board in effect on the effective date of this article that are consistent with the provisions of this article and article two of this chapter remain in effect until they are amended, modified or repealed.

(b) The board may adopt, modify, amend and repeal procedural rules promulgated in accordance with article three, chapter twenty-nine-a of this code, necessary to effectuate the provisions of this article and article two of this chapter including, but not limited to, procedures to create and distribute forms, obtain and maintain records and collect and report data.

(c) The board shall adopt, modify, amend, repeal and enforce rules for legislative approval necessary to effectuate the provisions of this article and article two of this chapter, including any emergency rules, pursuant to article three, chapter twenty-nine-a of this code.

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§6C-3-5.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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§6C-3-6. Review of the grievance procedure.

On or before January 1, 2010, the Joint Committee on Government and Finance shall review the grievance procedure and the board, evaluate its usefulness and make recommendations concerning its continuation or termination.

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