

**REPORT OF THE  
DEPARTMENT OF EMPLOYEE RELATIONS COUNSELORS**

**TASK FORCE STUDYING THE  
COMMONWEALTH'S  
GRIEVANCE PROCEDURE  
(SJR NO. 135)**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 16**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1995**

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GRIEVANCE PROCEDURE  
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**PREFACE**

A task force composed of state employees, state agency managers, human resource officers, and directors of local Community Services Boards and Social Services agencies began meeting in 1993 to assess the effectiveness of the grievance procedure for state employees (§ 2.1-114.5:1 et seq) of the *Code of Virginia*. The 1994 session of the General Assembly recognized the work of the Task Force and formalized its efforts in SJR 135. The Task Force conducted hearings and concluded its work on October 20, 1994. Structural changes to the grievance procedure were recommended.

**TASK FORCE MEMBERS**

State Employees:

Damon J. Alonge - VDOT (Chesapeake)  
Rudy Bazzrea - DOC (Craigsville)  
Matilda Beckett - DMHMRSAS (Petersburg)  
Wayne Benschoff - DMHMRSAS (Staunton)  
Joyce Breeden - UVA (Charlottesville)  
H. Dallas Church - VSP (Wytheville)  
Jim Finn - UVA (Charlottesville)  
Itzhak "Ike" Friedlander - DGS (Richmond)  
LaVerne Gentry - VCU (Richmond)  
Emilie Giles - UVA (Charlottesville)  
Gerald F. Gregory - VSP (Culpeper)  
Audrey Harris - DPT (Richmond)  
Glenna Hatcher - DMHMRSAS (Fairfax)  
Mary C. Holliman - Virginia Tech (Blacksburg)  
Karen Ivey - DMHMRSAS (Williamsburg)  
Joseph S. Johnson - ABC (Chesapeake)  
Robert Jorgenson, Jr. - VCU (Richmond)  
Basil Karr - DOC (Craigsville)  
Glen Linthicum - DOC (Craigsville)  
Dan Lipinski - VDOT (Richmond)  
Moses Long - DMHMRSAS (Petersburg)  
Victor Morzark - DOC (Craigsville)  
Frank Mundy - DGIF (Broadway)  
Phyllis Sisk - DSS (Richmond)

State Managers:

Herman Akers - DOC (Jarrett)  
Brydie Jo Baker - VCU (Richmond)  
Gerald Bright - CNU (Newport News)  
Julie R. Brown - VDOT (Richmond)  
Elaine Comeau - VCU (Richmond)  
Rosalyn Dance - DMHMRSAS (Petersburg)  
John Favret - DMHMRSAS (Williamsburg)  
Fred Greene - DOC (Lawrenceville)  
Bob Johns - DMHMRSAS (Petersburg)  
Connie Miles - VCU (Richmond)  
Thomas Reinders - VCU (Richmond)  
Robert Shrewsberry - DMHMRSAS (Chesapeake)  
John Taylor - DOC (Dillwyn)  
Ed Wright - DOC (Chesterfield)

Human Resources Personnel:

Beatrice Anderson - DOC (Richmond)  
R. J. Boyd, Jr. - VDOT (Richmond)  
Jean R. Braxton - VDOT (Richmond)  
Cindy Brown - VCU (Richmond)  
H. J. Crawford - VDOT (Suffolk)  
Linda Harber - VCU (Richmond)  
Anita Jackson - DMHMRSAS (Staunton)  
Catherine Jordan - DOC (State Farm)  
Sandra Lee Kjerulf - DMHMRSAS (Richmond)  
Bennett Nelson - DMHMRSAS (Richmond)  
Barbara Newlin - DMHMRSAS (Petersburg)  
Wil St. John - DMHMRSAS (Lynchburg)  
Shirley D. Williams - VDOT (Culpeper)

Local Agencies:

Linda Bean - Isle of Wight DSS (Isle of Wight)  
Sarah C. Snead - King George DSS (King George)  
J. Thomas Treece - Goochland Powhatan CSB (Goochland)  
David Zigler - Northwestern CSB (Winchester)

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## EXECUTIVE SUMMARY

The Task Force established to assess the effectiveness of the grievance procedure was comprised of individuals who were familiar with the state grievance procedure. These individuals were agency directors or managers, employees, and human resource officers and were either recommended by their agency head, professional association, or the Department of Employee Relations Counselors. After meeting for five months in 1993, the Task Force recommended changes to the grievance statute. These recommendations were incorporated into SB 408 (Ch. 746) 1994 Session. Chapter 746 must be reenacted to become law. Senate Joint Resolution 135 continued the work of the Task Force through 1994 with the primary purposes of providing state employees with the opportunity to comment on the changes.

Twenty hearings were conducted and extensive written comments from the state agencies were received. The Task Force thoroughly reviewed the comments and decided to recommend amendments to Chapter 746. The changes to the grievance procedure include:

1. **Changes in the Management Steps** - Under current law, an employee can initiate a written grievance on any issue, however, only those challenging grievable issues can proceed through the management steps and to a hearing before a grievance panel. Reenactment of Ch. 746 would permit an employee to proceed through the management steps on any written complaint, but would only permit grievable issues to proceed to an independent hearing. The management-step process has been expedited to accommodate management's review of these complaints.
2. **Determination of Grievability** - The Director of the Department of Employee Relations Counselors will continue to rule on the grievability of an employee's written complaint. However, such a determination will not be made until after the employee and management have thoroughly discussed the issue in the management-step process. Unlike existing law, the Director's determination will not be subject to circuit court review.
3. **Independent Hearing** - Under existing law, all grievable issues may proceed to a hearing before a three-member panel. One member is appointed by the grievant, one by the agency and the third selected by the two or the circuit court. For termination grievances, the third panel member is a hearing officer. Reenactment of Chapter 746 will result in all grievances being heard by a hearing officer from the Supreme Court list. (Hearing officers interested in serving will be required to have additional training.)
4. **Powers of the Hearing Officer** - The powers of the hearing officers are those provided under the Administrative Process Act.

## **BACKGROUND**

The 1994 Session of the General Assembly passed Senate Joint Resolution No. 135 continuing the Task Force Studying the Commonwealth's Grievance Procedure. The Task Force, initially established in August 1993, included 53 employees, managers and human resource officers. Because of increasing concerns expressed by employees and managers that the grievance procedure no longer functioned as originally envisioned by the General Assembly to provide an immediate and fair means of resolving employment disputes, a study of the problem was undertaken.

After its formation in 1993, the Task Force was divided into four subject areas: access to the procedure, management steps, grievance hearings and the role of the Department of Employee Relations Counselors in employee relations. Programs in 30 other states and the private sector were reviewed to determine what might work in Virginia. In addition hundreds of employees and managers who had participated in the grievance process were surveyed.<sup>1</sup> The need for making the process more expeditious and less legalistic became apparent from these efforts.

The four groups met numerous times in 1993 to debate what modifications might be necessary.<sup>2</sup> Revisions to the grievance procedure were proposed to the 1994 General Assembly in Senate Bill 408. Some amendments were made by the General Assembly including a reenactment clause. The General Assembly enacted SJR 135 to continue the Task Force's work during 1994 in order to allow employees to comment on proposed changes.

During the Spring of 1994, the Task Force drafted a grievance procedure to conform to Chapter 746. During June and July 1994, 20 hearings were conducted at 17 different sites. Eight hearings were held in the afternoon and 12 in the evening in an attempt to accommodate work shifts and to encourage attendance. The Secretary of Administration sent a letter to every employee notifying them of the hearings and encouraging attendance. Agencies were directed to distribute the letter to all employees and to post notices of the hearings in the workplaces. All public libraries were sent

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<sup>1</sup> Over 450 employees and managers with direct involvement in a grievance during the past two years were surveyed; 181 responses with extensive comments were received. Employees expressed considerably more dissatisfaction with the grievance procedure process than managers. For example, for participants in the grievance process in 1993, only 25% of the employees perceived the process as fair and 26% perceived the relief to be satisfactory. During the same period, 74% of the managers perceived the process as fair and 93% perceived the relief as satisfactory.

<sup>2</sup> The grievance procedure has not been significantly revised since 1978, the year a comprehensive and uniform grievance procedure was enacted into statute.

hearing notices with a request to post them in the library facilities. Notwithstanding these efforts, employees reported not receiving notice or receiving substantially delayed notice. Accordingly, attendance in some locations was sparse.

An estimated 400 employees attended the hearings. In addition, written comments from employees unable to attend the hearings were received. State agencies were requested to submit written comments; many were received.

## COMMENTS RECEIVED AT HEARINGS

Those attending the hearings expressed a genuine appreciation for the opportunity to speak on this issue. Their comments were generally favorable with respect to the overall changes in the grievance procedure. The following summarizes these comments.

### Access

It was emphasized that other than the grievance procedure there were no mechanisms within the agencies for many legitimate, but not grievable, complaints to be brought to the attention of management. Allowing employees access to the resolution steps<sup>3</sup> of the grievance procedure for all complaints was strongly supported. It was the belief that a thorough management response to employee complaints is needed, even though the issue may not be one which may be qualified for a formal hearing. Because retaliation was a frequently heard complaint, speakers believed that employees should be permitted to bring complaints under the protections of the grievance procedure.

### Resolution Steps

The time consuming and often debilitating process of taking all complaints through three face-to-face meetings was raised. Proposals to expedite the process were particularly well received. For example, there was strong support for permitting terminations or actions involving lost pay to proceed through the resolution steps at an accelerated rate.

### Hearings

The use of hearings officers rather than panels was favored. Hearing officers would be more knowledgeable in the rights at issue and with a single neutral decision maker, the scheduling of hearings would be shortened. However, reservations were expressed about the qualifications, selection, and training of these hearing officers. Concerns also centered on whether neutrality could be maintained if the Department of Employee Relations Counselors, as an executive branch agency, had total control of the hearing officers' selection and training.

### Retaliation

Employees expressed an overall concern regarding retaliation by management when complaints are raised. There is an underlying fear that employment can be jeopardized or career advancement affected if a grievance is filed.

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<sup>3</sup> "Resolution steps" refers to the internal agency process for presenting complaints to management, i.e. the first, second, and third step supervisors.



### Mediation

The increased emphasis on mediation as a means of conflict resolution was supported.

### Monitoring and Agency Accountability

More oversight of agency employee relations programs, especially the conduct of the grievance process, was strongly supported. This view was expressed by a number of speakers who did not believe their agency managers followed the requirements or spirit of the grievance procedure, or that managers were properly trained.

There was also support for requiring agencies to evaluate supervisors on their employee relations efforts. Employees suggested that ways must be developed to make managers and supervisors more accountable for their actions.

### Training

A number of speakers recommended that more efforts be made to provide employees with a greater knowledge and understanding of the grievance procedure. Such knowledge varies widely and the lack thereof can be detrimental in pursuing a complaint. There was also strong support that agencies should be required to have supervisors trained in the grievance procedure and state personnel policies.

## WRITTEN COMMENTS

- A. Extensive written comments were received from agencies of the Commonwealth.

### Access And Resolution Steps

Strong concerns were voiced with allowing all complaints to advance through the resolution steps. The basis for this concern is the belief that this could be seriously abused by employees and that it would use an inordinate amount of supervisory time. Agencies wanted the determination of grievability to occur during the resolution steps. There was strong support for requiring that a grievance be initiated by an oral presentation. Agencies favored the current structure.

### Hearings

There was considerable support for the use of hearing officers rather than panels. Some concern was expressed with the additional costs to the agencies for this change as well as with giving the hearing officers the authority to issue subpoenas and take testimony under oath. The agencies with the most grievances favored the use of hearing officers.

### Qualifications for a Hearing

Some opposition was expressed on permitting an employee to appeal a determination that a complaint does not qualify for a hearing to the circuit court.

### Administration Of The Grievance Procedure

Agencies have expressed objections to the requirement that their employee relations efforts be reviewed and monitored by the Department of Employee Relations Counselors.

- B. Several written comments were received from hearing officers on the need to ensure that hearing officers be attorneys and that they come exclusively from the list maintained by the Executive Secretary of the Supreme Court. While there was support for the use of a single hearing officer, it was recommended that employees and managers have input into the appointment of the hearing officer, such as having three names provided and allowing each to strike one name.

## TASK FORCE RECOMMENDATIONS

The comments received during the public comment period were thoroughly discussed by the Task Force. The following is the recommendations of the Task Force.

### A. Provisions in Chapter 746 which should be reenacted:

1. **Any complaint which is unresolved through informal discussion may be submitted as a formal written grievance and proceed through the resolution steps.**

This action is intended to provide that employee concerns and complaints will be thoroughly reviewed and that a substantive written response to the concerns will be given by management. Under the current grievance procedure, an employee who initiates a grievance on a legitimate but "not grievable" concern often receives no answer to the problem raised; the procedural response "this complaint is not grievable" is the norm. This action does not expand the issues which are grievable nor allow issues traditionally not grievable to proceed to a grievance hearing.

2. **The grievability of the complaint cannot be raised until after the last resolution step.**

The effect of this change will be to promote the resolution of a complaint through internal agency actions rather than mandating the Department of Employee Relations Counselors to enter into a determination of grievability prior to a thorough dialogue between the employee and management on the issue presented.

3. **Monitoring of employee relations activities in the state agencies will be a responsibility of the Department of Employee Relations Counselors.**

A frequent criticism expressed at the hearings was within the various state agencies there is a lack of accountability for the administration of the grievance procedure and personnel policies. Agencies have expressed concerns that monitoring would increase their reporting workload and thus would be unduly intrusive and burdensome. The Task Force concurred in the viewpoint that only through the monitoring by both the Department of Employee Relations Counselors and the Department of Personnel and Training could employees have greater confidence in the personnel system. Although the Task Force initially leaned toward having the Department of Employee Relations Counselors serve as a compliance officer, it was recommended that the Department of Employee Relations Counselors provide general oversight and the agencies conduct comprehensive annual self audits.

4. **Grievance hearings should be conducted with the same degree of due process as other administrative hearings.**

Although some agencies objected to granting hearing officers the power to issue subpoenas and to take testimony under oath, employees desired such changes. Employees have great difficulty in getting necessary documents and in obtaining witnesses because of their reluctance to testify against the agency. Although these changes will make the hearings more formal, the Task Force believed that these powers will enhance the fairness of the process.

**B. Chapter 746 should be amended to include the following provisions:**

1. **There will be a requirement for at least one face-to-face meeting during the resolution steps.**

This proposal addresses the concern by agencies that meetings required at each resolution step could be highly time consuming, particularly for those issues which heretofore were not allowed to proceed to management for review. To accommodate agency concerns, the proposed resolution-step process has been abbreviated: first step is the submission of a written complaint and the receipt of a written answer; second step is a meeting where witnesses may be called and representation permitted; the last step is a review of the record and a determination on grievability. This would balance the employee's need to have legitimate complaints addressed through a process for which there is protection against retaliation and management's valid concern that the opening of the process may become unduly burdensome.

2. **At the one required face-to-face meeting in the resolution steps both the employee and the appropriate manager may select a representative of their choice to be present, and witnesses may be called.**

In response to comments from the agencies, the Task Force recognized that employees and managers should both be permitted to have representation. Because representation at all steps could create an unnecessary adversarial relationship, representation would only be permitted at one step. The current grievance process allows representation at only one step.

3. **A written notice of noncompliance will be required prior to a determination of noncompliance.**

This change brings Chapter 746 into conformity with current law. There will be a five work day period to correct the noncompliance after receipt of written notice.

- 4. The consequences for violations of a substantial requirement of the grievance procedure will be the same for the employee and the agency on any qualified grievance.**

This recommendation provides for comparable treatment of both the employee and the agency and embodies what is in current law.

- 5. Hearings officers shall be selected from a list of administrative hearings officers maintained by the Supreme Court of Virginia and be required annually to complete additional training in employment law and state personal policies.**

This process will provide a reasonable degree of neutrality in the selection of hearing officers and require a minimum training standard. This is in response to the suggestion that the Department of Employee Relations Counselors should not have total control in the selection and training of hearing officers.

- 6. The Department of Employee Relations Counselors shall be the final authority on whether a grievance qualifies for a grievance hearing.**

Recognizing that the Circuit Courts concur with over 80% of the grievability rulings of the Department of Employee Relations Counselors, the Task Force rejected the appealability of the decisions of the Department of Employee Relations Counselors.

- 7. When an employee or agency petitions the circuit court to issue an order implementing a hearing officer's decision, the court may award attorney's fees to either party.**

The Task Force concluded that neither party should be obligated to bear the cost of litigation because the other party failed to carry out a binding decision of the hearing officer.

**APPENDICES**

**SJR 135  
Amended SB 408  
Hearings Schedule**

## APPENDIX A

### SENATE JOINT RESOLUTION NO. 135

*Requesting the continuance of the task force established by the Department of Employee Relations Counselors to study the effectiveness of the Commonwealth's grievance procedure.*

Agreed to by the Senate, February 8, 1994

Agreed to by the House of Delegates, February 25, 1994

WHEREAS, the Department of Employee Relations Counselors (DERC) established a task force in 1993 to study the effectiveness of the Commonwealth's grievance procedure; and

WHEREAS, the task force has divided its 50 members into four committees which are assessing access to the grievance procedure, management of the grievance process, grievance panels, and the role of DERC; and

WHEREAS, the committee studying access to the procedure is reviewing which employees have rights to the grievance procedure and what issues should be "grievable"; and

WHEREAS, the committee on management of the grievance process is studying how to improve the management of the grievance procedure within agencies; and

WHEREAS, the committee examining grievance panels is considering improvements to the panel hearing process and the alternatives to its current structure; and

WHEREAS, the committee is looking into the role of DERC providing employee-relations training and conflict resolution for supervisors and managers; and

WHEREAS, the task force plans to review other states' grievance procedures to look at alternative models; and

WHEREAS, the areas which the four committees are examining are important and should be studied thoroughly; and

WHEREAS, in order for the task force to complete its work, and at the same time do an extensive study, another year should provide it with sufficient time; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the DERC Task Force Studying the Commonwealth's Grievance Procedure be requested to continue its work during 1994.

The Task Force shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

APPENDIX B

SB408 Department of Employee Relations Counselors; state grievance.

CHAPTER 746

*An Act to amend and reenact §§ 8.01-418.2, 15.1-7.2, 15.1-687.16, 30-34.2:1, and 63.1-26 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 10.01, consisting of sections numbered 2.1-116.01 through 2.1-116.013; and to repeal §§ 2.1-114.5:1 through 2.1-114.5:6 of the Code of Virginia, relating to the Department of Employee Relations Counselors.*

{S 408}

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-418.2, 15.1-7.2, 15.1-687.16, 30-34.2:1, and 63.1-26 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 10.01, consisting of sections numbered 2.1-116.01 through 2.1-116.013, as follows:

CHAPTER 10.01.

THE DEPARTMENT OF EMPLOYEE RELATIONS COUNSELORS.

§ 2.1-116.01. *Office of Employee Relations Counselors continued as Department of Employee Relations Counselors.*

*The Office of Employee Relations Counselors is continued and shall hereafter be known as the Department of Employee Relations Counselors (the "Department"). The Department shall be under the direct control and supervision of the Governor. Wherever the term "Office of Employee Relations Counselors" is used in any law of the Commonwealth, it shall mean the Department of Employee Relations Counselors.*

§ 2.1-116.02. *Appointment of Director.*

*The Department of Employee Relations Counselors shall be headed by a Director who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.*

§ 2.1-116.03. *Director to administer Department; powers and duties.*

*The Director shall, under the direction and control of the Governor, administer and supervise the Department and shall:*

- 1. Establish a comprehensive program of employee relations management which includes alternative processes for resolving employment disputes;*
- 2. Establish the grievance procedure and a statewide mediation program;*
- 3. Promulgate rules ~~and regulations~~ for conducting grievance hearings;*
- 4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the proper use of the grievance procedure, (ii) direct full compliance with the grievance procedure process, (iii) investigate allegations of retaliation as the result of use of the grievance procedure and advise the agency head of such findings, and (iv) rule on the qualification of a*



*grievance or the question of access to the grievance procedure;*

*5. Render final decisions on (i) all matters related to procedural compliance with the grievance procedure and (ii) appeals from decisions by agency heads that deny employees access to grievance hearings;*

*6. **In conjunction with the Office of the Executive Secretary of the Supreme Court,** Establish a process to select, train, and evaluate individuals to serve as hearing officers and assign such hearing officers to conduct grievance hearings;*

*7. Carry out those responsibilities assigned to the Department pursuant to ~~§§~~ 15.1-7.2 and 15.1-687.16;*

*8. For local social service departments, social service boards, and community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 **which elect to come under the state grievance procedure** review and ~~(i) authorize appropriate modifications to the grievance procedure established pursuant to this chapter and (ii) approve appropriate alternative grievance procedures submitted to the Department;~~*

*9. Establish, in conjunction with the Department of Personnel and Training, a training program for human resources personnel on employee relations management and employment rights and responsibilities;*

*10. Implement a comprehensive training and instructional program for all supervisory personnel which includes the role of the grievance procedure in harmonious employee-~~management~~ relations **management**. The training program shall also include methods for supervisors to instruct nonsupervisory personnel in the use of the grievance procedure. Use of the grievance procedure to resolve disputes shall be encouraged. In-house resources shall be developed to allow the Department and its personnel to conduct on-site training of this nature for units and agencies of state government throughout Virginia. The Department shall assist agencies in establishing performance criteria for such supervisory personnel;*

*11. Provide information upon the request of any employee concerning personnel policies, rules and regulations, and statutes applicable to the grievance procedure and counsel employees in the resolution of conflict in the workplace;*

*12. Establish and maintain a toll-free telephone number to facilitate access by employees to the services of the Department;*

*13. Monitor and collect information and statistical data in regard to the use of the grievance procedure and the effectiveness of employee relations management in the various state agencies;*

*14. Make recommendations to the Governor and the General Assembly to improve the grievance procedure and employee relations management;*

*15. Exercise such other powers and perform such other duties as may be requested by the Governor; and*

*16. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry out the provisions of this chapter.*

*§ 2.1-116.04. Responsibilities of state agencies under this chapter.*

*~~A.~~ To fully achieve the objectives of this chapter and to create uniformity, each executive branch agency or department listed in Title 2.1 shall:*

*1. Require supervisory personnel to be trained in the grievance procedure, personnel policies, and conflict resolution;*

*2. Familiarize employees with their grievance rights and promote the services of the Department of Employee Relations Counselors;*

*3. **Cooperate with investigations conducted pursuant to the authority granted by § 2.1-***

**116.03.4(iii):**

- 4.** Participate in the mediation program; and
  - 5.** Evaluate supervisors on the effectiveness of employee relations management, including, but not limited to, their handling of grievances.
- ~~**B.** The Department shall evaluate agencies' activities under this section.~~

**§ 2.1-116.05. Grievance procedure generally.**

**A.** It shall be the policy of the Commonwealth, as an employer, to encourage the resolution of employee problems and complaints. To that end, employees must be able to freely, and without retaliation, discuss their concerns with their immediate supervisors and management. To the extent that such concerns cannot be resolved informally, the grievance procedure shall afford an immediate and fair method for the resolution of employment disputes which may arise between state agencies and ~~their~~ **those employees who have access to the procedure under § 2.1-116.09.**

**B.** As part of the Commonwealth's program of employee relations management, the Department shall develop a grievance procedure that includes not more than three successively higher grievance resolution steps and a formal hearing as provided in this chapter.

**C.** Prior to initiating a written grievance, the employee shall be encouraged to pursue an informal complaint with his immediate supervisor. The supervisor shall have authority to resolve the complaint if it involves actions within his control.

**D.** An employee may pursue a formal written grievance through the grievance resolution steps if the complaint has been presented to management within thirty calendar days of the employee's knowledge of the event that gave rise to the complaint. Employees' rights to pursue grievances shall not be used to harass or otherwise impede the efficient operations of government.

**E.** Upon receipt of a timely written complaint, management shall review the grievance and respond to the merits thereof. Each level of management review shall have the authority to provide the employee with a remedy. **At least one face-to-face meetings between the employee and management shall be required. The persons who may be present at this meeting are the employee, the appropriate manager, an individual selected by the employee, and an individual selected by the manager; witnesses may be called by either party.**

~~**F.** The only persons who may be present at grievance meetings are the employee, the appropriate manager at the level at which the grievance is being heard, and witnesses. The employee may be accompanied in the meeting by anyone of his choosing.~~

**FG.** Pursuant to § 2.1-342 B 3 of the Virginia Freedom of Information Act and § 2.1-382 of the Virginia Privacy Protection Act of 1976, all information relating to the actions grieved shall be made available to the employee by the agency, except as otherwise provided by law. Information pertaining to other employees that is relevant to the grievance shall be produced in such a manner as to preserve the privacy of the individuals not personally involved in the complaint or dispute.

**GH.** All time limitations prescribed in the grievance procedure, including, but not limited to, submission of an initial complaint and employee appeal of management decisions, shall be reasonable, specific, and equally applicable to the agency and the employee. Expedited grievance procedures shall be established for terminations, demotions, suspensions, and lost wages or salaries.

**HI.** **Within five work days of receipt of written notice of noncompliance, After an initial written grievance is filed,** failure of the employee or the agency to substantially comply with the a substantial procedural requirements of the grievance procedure without just cause may result in a decision against the noncomplying party on any qualified issue. The Director shall render all decisions related to procedural compliance and such decisions shall be final.

**IJ.** Qualifying grievances that are not resolved through the grievance resolution steps shall

*advance to a hearing which shall be the final step in the grievance procedure.*

**§ 2.1-116.06. Grievances qualifying for a grievance hearing; grievance hearing generally.**

*A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including but not limited to: (i) formal disciplinary actions, including suspensions, demotions, disciplinary transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin or sex; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or who has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.*

*B. Management reserves the exclusive right to manage the affairs and operations of state government. Management shall exercise its powers with the highest degree of trust. In any employment matter that management precludes from proceeding to a grievance hearing, management's response, including any appropriate remedial actions, shall be prompt, complete, and fair.*

*C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by the employee as a condition of employment or which may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes or established personnel policies, procedures, and rules and regulations; (iv) the methods, means, and personnel by which work activities are to be carried on; (v) termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vi) the hiring, promotion, transfer, assignment, and retention of employees within the agency; and (vii) the relief of employees from duties of the agency in emergencies.*

*D. Decisions regarding whether a grievance qualifies for a hearing shall be made in writing by the agency head or his designee within five work days of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The employee may appeal the denial of a hearing by the agency head to the Director. Upon receipt of an appeal, the agency shall transmit the entire grievance record to the Department within five work days. The Director shall render a **final** decision on whether the employee is entitled to a hearing upon the grievance record and other probative evidence.*

~~*E. Proceedings for review of the decision of the Director denying grievability shall be made by filing a notice of appeal with the Director within five work days of receipt of the decision. Within five work days thereafter, the Director shall transmit to the clerk of the circuit court in the jurisdiction in which the grievance arose a copy of the grievance record. The court, on motion of the grievant, may issue a writ of certiorari requiring the Director to transmit the record on or before a certain date. Within thirty days of receipt of such records, the court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the Director or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from*~~

~~the date of the conclusion of the hearing. The decision of the court is final and is not appealable.~~

~~F. The hearing shall be held in the locality in which the employee is employed or in any other locality agreed to by the employee, employer, and hearing officer. The employee and the agency may be represented by legal counsel or a lay advocate, the provisions of § 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and be cross-examined.~~

§ 2.1-116.07. Hearing officers; duties; decisions; costs.

A. The Director shall assign a hearing officer to conduct the grievance hearing. ~~Hearing officers shall:~~

**1. Eligibility to serve as hearing officer.**

**a. All hearing officers must be selected from the list of administrative hearing officers maintained by the Supreme Court of Virginia pursuant to § 9-6.14:14.1.**

**b. In addition to the training requirements imposed by the Supreme Court of Virginia, each hearing officer must attend annually at least one day of training on employment law or state personnel policies and organization. Such training shall be conducted by the Department of Employee Relations Counselors or an organization approved by the Virginia State Bar for continuing legal education.**

**2. Power and duties of hearing officer:**

**a1. Hold conferences for the settlement or simplification of issues;**

**b2. Dispose of procedural requests;**

**c3. Issue subpoenas requiring testimony or the production of evidence;**

**d4. Administer oaths and affirmations;**

**e5. Receive probative evidence; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive proofs, rebuttals, or cross-examinations; rule upon offers of proof; and oversee an accurate verbatim recording of the evidence;**

**f6. Order appropriate remedies; and**

**g7. Take other actions as necessary or specified in the grievance procedure.**

B. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the material issues in a case and the basis for those findings, and (iii) be final and binding if consistent with law and policy. **In grievances initiated by state employees, the Director of the Department of Personnel and Training shall determine whether the decision is consistent with policy.** ~~An award is subject to being vacated only under provisions of § 8.01-581.010. The hearing officer's decision is effective from the date issued and shall be implemented immediately unless circumstances beyond the control of the agency delay such implementation.~~

~~C. Except for the employee's counsel or advocate fees, the agency from which the grievance arises shall bear the costs **for the hearing officer and other associated hearing expenses of the hearing.**~~

~~D. Either party may petition the circuit court having jurisdiction in the locality in which the employee is employed for an order requiring implementation of the hearing officer's decision. **The court may award attorney's fees to either party.**~~

§ 2.1-116.08. Certain employees of the Departments of Corrections and Youth and Family Services.

A. Employees of the Departments of Corrections and Youth and Family services who work in institutions or learning centers or have client, inmate, or resident contact and who are terminated on the grounds of client, inmate, or resident abuse, criminal conviction, or as a result of being placed on probation under the provisions of § 18.2-251, may appeal their termination only through the

*grievance resolution steps.*

*B. If no resolution is reached by the conclusion of the last grievance step, the employee may advance the grievance to the circuit court of the jurisdiction in which the grievance occurred for a de novo hearing on the merits. In its discretion, the court may refer the matter to a commissioner in chancery to take such evidence as may be proper and to make a report to the court. Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives before the court or the commissioner in chancery. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the court or commissioner in chancery without being in violation of the provisions of § 54.1-3904.*

*C. A termination shall be upheld unless shown to have been unwarranted by the facts or contrary to law or policy. The decision of the court shall be final and binding.*

**§ 2.1-116.09. State employees.**

*A. Unless exempted under § 2.1-116 or other provisions of the Code, all classified nonprobationary state employees shall be included in the grievance procedure established pursuant to this chapter and any regulations promulgated pursuant thereto. Employees not covered by such grievance procedure may be covered by ~~a~~ an alternative grievance procedure established and administered by the Department which is consistent with the provisions of this chapter and any regulations promulgated pursuant thereto.*

*B. Every legislative and judicial agency which is not subject to the state grievance procedure shall promulgate and administer a grievance procedure ~~which is consistent with the provisions of this chapter and any regulations promulgated pursuant thereto.~~*

**§ 2.1-116.010. Employees of local social service departments, social service boards, and community services boards.**

*Employees of local social service departments, social service boards, and community services boards shall be included in (i) the grievance procedure established pursuant to this chapter and any regulations promulgated pursuant thereto, (ii) a local governing body's grievance procedure or personnel system if agreed to by the local department or board and the local governing body, or (iii) a grievance procedure established and administered by the local department or board which is consistent with the provisions of this chapter and any regulations promulgated pursuant thereto and approved by the Director. The Director may authorize modifications in the grievance procedure for such local departments or boards.*

**§ 2.1-116.011. Employees of housing authorities.**

*A. Employees of redevelopment and housing authorities created pursuant to § 36-4 shall be included in (i) the grievance procedure established pursuant to this chapter and any regulations promulgated pursuant thereto, (ii) a local governing body's grievance procedure or personnel system if agreed to by the authority and the locality, or (iii) a grievance procedure established and administered by the housing authority which is consistent with the provisions of this chapter and any regulations promulgated pursuant thereto and approved by the Director.*

*B. Employees of regional housing authorities created pursuant to § 36-40 shall be included in (i) the grievance procedure established pursuant to this chapter and any regulations promulgated pursuant thereto, (ii) the grievance procedure or personnel system of a local governing body that contributes financially to the operation of the authority if agreed to by the authority and the locality, or (iii) a grievance procedure established and administered by the housing authority which is consistent with the provisions of this chapter and any regulations promulgated pursuant thereto and*

approved by the Director.

C. Any housing authority that wishes to establish and administer its own grievance procedure shall submit such procedure to the Director for prior approval. The Director may allow modifications in the procedure; however, the grievance procedure shall provide for a hearing before an administrative hearing officer, who shall be appointed by the Executive Secretary of the Supreme Court from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 9-6.14:14.1 and shall be made from the appropriate geographical region on a rotating basis. The decision of the administrative hearing officer shall be final and binding. The housing authority shall bear the per diem expenses and other costs of the administrative hearing officer.

**§ 2.1-116.012. Employees of constitutional officers.**

The employees of constitutional officers shall not be required to be covered by a grievance procedure; however, such employees may be accepted in a local governing body's grievance procedure or personnel system if agreed to by the employees, the constitutional officer, and the local governing body.

**§ 2.1-116.013. Exemptions from chapter.**

The provisions of this chapter shall not apply to:

1. Appointees of elected groups or individuals;
2. Agency heads or chief executive officers of government agencies and institutions of higher education appointed by boards and commissions;
3. Law-enforcement officers as defined in § 2.1-116.1 whose grievances are subject to § 2.1-116.1 et seq. and who have elected to resolve such grievances under those provisions; and
4. Employees in positions designated in § 2.1-116 as exempt from the Virginia Personnel Act (§ 2.1-110 et seq.).

**§ 8.01-418.2. Evidence of polygraph examination inadmissible in any proceeding.**

The analysis of any polygraph test charts produced during any polygraph examination administered to a party or witness shall not be admissible in any proceeding conducted pursuant to ~~§ 2.1-114.5-4~~ Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1 or conducted by any county, city or town over the objection of any party except as to disciplinary or other actions taken against a polygrapher.

**§ 15.1-7.2. Provision of grievance procedure; training programs.**

If a local governing body fails to adopt a grievance procedure required by § 15.1-7.1, or fails to certify it as provided in this section, the state grievance procedure shall be applicable for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. A copy of the certification of each such procedure and amendment thereto, attested by the clerk of the circuit court, shall be thereafter filed with the Director of the Department of Employee Relations Counselors. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for ninety days thereafter, unless certified and filed as provided above within a shorter time period.

*Each grievance procedure shall include the following components and features:*

*1. Definition of grievance. - A grievance shall be a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in subdivision 2. (iii) below; (iii) acts of retaliation as the result of utilization of the grievance procedure or participation in the grievance of another local government employee; (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, age, disability, national origin or sex; and (v) acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly.*

*2. Local government responsibilities. - Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to provision (vi) of this subdivision, the action shall be upheld upon a showing by the local government that: (i) there was a valid business reason for the action, and (ii) the employee was notified of the reason in writing prior to the effective date of the action.*

*3. Coverage of personnel.*

*a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:*

*(1) Appointees of elected groups or individuals;*

*(2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;*

*(3) Deputies and executive assistants to the chief administrative officer of a locality;*

*(4) Agency heads or chief executive officers of government operations;*

*(5) Employees whose terms of employment are limited by law;*

*(6) Temporary, limited term and seasonal employees;*

*(7) Law-enforcement officers as defined in Chapter 10.1 (§ 2.1-116.1 et seq.) of Title 2.q whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.*

*b. Notwithstanding the exceptions set forth in subdivision a above, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.*

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of local social service departments and boards, community services boards, constitutional officers, redevelopment and housing authorities, and regional housing authorities. - Employees of local social service departments and boards, community services boards, constitutional officers, redevelopment and housing authorities created pursuant to § 2-114, and regional housing authorities created pursuant to § 36-40 shall be included within and covered by a grievance procedure to the extent and in the manner provided by ~~§ 2-114.5-1~~ Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management, and a final step providing for a panel hearing.

b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.

a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.

b. The time for submitting an initial complaint shall not be less than twenty calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time which is allowed for local government response in each comparable situation.

d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.

a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within thirty days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on



forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

#### 9. Qualification for panel hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within ten calendar days of the request. No city, town, or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within ten calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within ten calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within thirty days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

#### 10. Panel hearings.

a. Qualifying grievances shall advance to the final step as described below:

(1) With the exception of those local governments covered by subdivision a (2) of this subsection, the final step shall provide for a hearing before an impartial panel, consisting of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the

subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) Local governments may retain the panel composition method previously approved by the Department of Employee Relations Counselors and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) Local governments shall not be required to have an administrative hearing officer in any case, but may do so in employee termination or retaliation cases at their option. When a local government elects to use an administrative hearing officer as the third panel member in an employee termination or retaliation case, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 9-6.14:14.1 and shall be made from the appropriate geographical region on a rotating basis. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) In all cases there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the panel hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

*b. Rules for panel hearings.*

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules which are promulgated shall include, but need not be limited to the following provisions:

(1) That panels do not have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel and the grievant and his attorney, at least ten days prior to the scheduled panel hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties in advance of the hearing;

(7) That the majority decision of the panel, acting within the scope of its authority, be final, subject to existing policies, procedures and law;

(8) That the panel decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

**11. Implementation of panel decisions.**

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the panel decision.

**§ 15.1-687.16. Modification of grievance procedure.**

Notwithstanding the provisions in ~~§§ 2.1-114.5-1~~, Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1, and ~~§§ 15.1-7.1~~; and 15.1-7.2 to the contrary, in any county which has the county manager plan of government provided for in this chapter, a grievance procedure may be established which permits an Equal Employment Opportunity officer to be present at any step of a grievance procedure established under § 15.1-7.1. Such officer shall not be an advocate or representative on behalf of either the grievant or management.

**§ 30-34.2:1. Powers, duties and functions of Capitol Police.**

The Capitol Police may exercise within the limits of the Capitol Square and, when assigned to any other property owned or controlled by the Commonwealth or any agency, department, institution or commission thereof, all the powers, duties and functions which are exercised by the police of the city, or the police or sheriff of the county within which said property is located. The jurisdiction of the Capitol Police shall further extend 300 feet beyond the boundary of any property they are required to protect, such jurisdiction to be concurrent with that of other law-enforcement officers of the locality in which such property is located. Additionally, the Capitol Police shall have concurrent jurisdiction with law-enforcement officers of the City of Richmond and of any county contiguous thereto in any case involving the theft or misappropriation of the personal property of any member or employee of the General Assembly. Members of the Capitol Police, when assigned to accompany the Governor, members of the Governor's family, the Lieutenant Governor, the Attorney General, members of the General Assembly, or members of the Virginia Supreme Court, shall be vested with all the powers and authority of a law-enforcement officer of any city or county in which they are required to be. All members of the Capitol Police shall be subject to the provisions of Chapter 10.1 (§ 2.1-116.1 et seq.) of Title 2.1 and to the provisions of ~~§ 2.1-114.5-1~~ Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1.

**§ 63.1-26. Establishment of entrance and performance standards.**

The Board shall establish minimum entrance and performance standards for the personnel employed by the Commissioner, local boards and local superintendents in the administration of the succeeding chapters of this title and make necessary regulations to maintain such entrance and performance standards, including such regulations as may be embraced in the development of a system of personnel administration meeting requirements of the federal Department of Health and Human Services under appropriate federal legislation relating to programs administered by the

*Board. However, the state grievance procedure promulgated pursuant to ~~§ 2.1-114.5:1~~ Chapter 10.01 (~~§ 2.1-116.01 et seq.~~) of Title 2.1 shall apply to the personnel employed by the Commissioner and employees, including local superintendents or directors of the local boards and local departments, unless the local governing body elects to include employees of local welfare departments and local welfare boards under the grievance procedure adopted pursuant to § 15.1-7.1.*

*2. That §§ 2.1-114.5:1 through 2.1-114.5:6 of the Code of Virginia are repealed.*

*3. That the provisions of this act shall become effective on July 1, 1995.*

*4. That the provisions of this act shall not become effective unless reenacted by the 1995 Session of the General Assembly.*

**APPENDIX C**

**STATEWIDE PUBLIC HEARING SCHEDULE - 1994  
REVISIONS TO THE EMPLOYEE GRIEVANCE PROCEDURE**

Date (1994)	Time(s)	Location	Facility
June 8 (Wednesday)	2 Sessions 1 - 4 p.m. 7 - 10 p.m.	Lynchburg	Central Virginia Community College Amherst Bldg, Room 2123
June 9 (Thursday)	1 - 4 p.m.	Richmond	General Assembly Building Senate Room B
June 14 (Tuesday)	7 - 10 p.m.	Roanoke	Virginia Western Community College Whitman Auditorium
June 15 (Wednesday)	1 - 4 p.m.	Virginia Beach	Tidewater Community College Virginia Beach Campus Bayside Building (B-100)
June 15 (Wednesday)	7 - 10 p.m.	Newport News	Christopher Newport University Cafeteria
June 21 (Tuesday)	1 - 4 p.m.	Claypool (Richlands)	Southwestern Virginia Community College Russell Hall Rooms 206-07
June 21 (Tuesday)	7 - 10 p.m.	Abingdon	Virginia Highlands Community College, Learning Resources/Business Technology Bldg. - Lot #1
June 22 (Wednesday)	1 - 4 p.m.	Northern Virginia	Northern Virginia Community College Woodbridge Campus
June 22 (Wednesday)	7 - 10 p.m.	Northern Virginia	Northern Virginia Community College Annandale Campus-Ernest Community Cultural Center
June 22 (Wednesday)	2 Sessions 1 - 4 p.m. 7 - 10 p.m.	Dublin	New River Community College Auditorium
June 23 (Thursday)	7 - 10 p.m.	Fredericksburg	Mary Washington College Monroe Hall
June 23 (Thursday)	7 - 10 p.m.	Charlottesville	Piedmont Virginia Community College Auditorium
June 28 (Tuesday)	7 - 10 p.m.	Henrico County	J. Sargeant Reynolds Community College Parham Road Campus Bldg. B-101
June 29 (Wednesday)	7 - 10 p.m.	Chester	John Tyler Community College Bird Hall, Room B-8 (Auditorium)
June 30 (Thursday)	1 - 4 p.m.	Warrenton	Warrenton Junior High School Auditorium
June 30 (Thursday)	7 - 10 p.m.	Fort Defiance	S. Gordon Stewart Middle School Auditorium
July 12 (Tuesday)	2 Sessions 1 - 4 p.m. 7 - 10 p.m.	Alberta	Southside Virginia Community College Room B-13

EMPLOYEES ATTENDING DURING THEIR SCHEDULED WORK PERIOD MUST USE  
PERSONAL LEAVE (not administrative leave)