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GRIEVANCE ADJUDICATION IN THE MICHIGAN CIVIL SERVICE

Michigan State University

PH.D.

1979

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GRIEVANCE ADJUDICATION
IN THE
MICHIGAN CIVIL SERVICE

By
Kent Frederick Murrmann

A DISSERTATION

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ABSTRACT

GRIEVANCE ADJUDICATION

IN THE

MICHIGAN CIVIL SERVICE

by

KENT FREDERICK MURRMANN

Formal grievance procedures are intended to facilitate grievance resolution through the provision of a well defined and orderly method of settlement between the employer and the employee or the employee's organization, and, if settlement is not attained, by the provision of adjudication at the final step of the procedure. The availability of adjudication to decide grievances is important since it may be the only way of providing an orderly resolution of disputes that the parties are unable to resolve by mutual adjustment. The efficacy of any method of adjudication depends to a great extent on its acceptability to the grievance parties.

This research evaluates the acceptability of a method of grievance adjudication devised for use in a noncollective bargaining, state civil service setting. The particular system of adjudication examined is that provided in the Michigan Civil Service. Unlike adjudication under collective bargaining, which relies almost universally on private arbitrators that are selected and paid jointly by the parties, the Michigan

system of adjudication relies primarily on Hearing Officers that are selected and employed unilaterally by the state. This study seeks to determine whether this unilaterally administered system of adjudication has attained acceptability in terms of four fundamental factors:

- (1) the impartiality of the adjudicating agents used;
- (2) the qualifications of the adjudicating agents used;
- (3) the timeliness of the adjudication decisions provided; and
- (4) the cost of the adjudication decisions provided.

Method

A literature review was conducted for the purpose of defining the factors that affect acceptability, and determining the types of adjudication agents used in various collective bargaining and noncollective bargaining settings. The literature review revealed a lack of research concerning the types of adjudication used in noncollective bargaining, state civil service settings. Therefore, the author administered a questionnaire survey to state personnel directors to determine how the methods of adjudication used in other states compares to that used in Michigan. In order to examine the administration and structure of the Michigan system of adjudication in terms of the four acceptability factors, the author collected and analyzed extensive archival data including internal memoranda and reports, official policy statements, rules and regulations, minutes of the Michigan Civil Service Commission meetings, records of Hearing Officer and arbitrator grievance decisions, and grievance procedure cost data. The acceptability of the Michigan system to employees, employee representatives, and employer representatives was appraised through the use of interviews and survey

questionnaires designed to measure the parties' satisfaction and dissatisfaction with aspects of the system. Separate interviews were conducted with the members of the Michigan Civil Service Commission to determine their views of the system.

Conclusions

Analysis showed that the Michigan system of adjudication is generally sound in terms of the four acceptability factors examined in this research. However, the research found a need for improvement in some aspects of the system. The author provided recommendations to strengthen the perceived impartiality and competence of Hearing Officers, improve the timeliness of decisions, and promote greater efforts by the parties to settle grievances prior to adjudication.

To

Suzanne,

Sarah,

and Abigail

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TABLE OF CONTENTS

LIST OF TABLES	vii
LIST OF FIGURES	x
CHAPTER ONE - INTRODUCTION AND STATEMENT OF THE PROBLEM	1
Scope	6
Methodology	10
PART ONE	
ACCEPTABILITY IN GRIEVANCE ADJUDICATION	
CHAPTER TWO - FACTORS AFFECTING ACCEPTABILITY	12
The Impartiality of the Adjudication Agent	13
The Qualification of the Adjudicating Agent	19
The Timeliness of the Adjudication Decisions	21
The Cost of the Adjudication Decisions	22
Summary	23
CHAPTER THREE - GRIEVANCE ADJUDICATION IN NONCOLLECTIVE BARGAINING SETTINGS	24
Private Sector Approaches	24
Public Sector Approaches	28
Survey of Grievance Adjudication in State Employment	29
CHAPTER FOUR - THE PARTIES' PERCEPTIONS OF GRIEVANCE ADJUDICATION	37
PART TWO	
THE MICHIGAN SYSTEM OF ADJUDICATION	
CHAPTER FIVE - THE DEVELOPMENT AND OPERATION OF GRIEVANCE ADJUDICATION IN MICHIGAN	44
Organization of the Michigan Civil Service	44
Development of Grievance Adjudication from 1938 to 1971	47
Recent Developments, 1972-1978	52
Current Operations	55

CHAPTER SIX - THE CIVIL SERVICE HEARING OFFICER	60
Knowledge, Abilities, and Responsibilities	61
On The Job Training	63
Compensation and Qualifications	63
Conflict of Interest	65
CHAPTER SEVEN - GRIEVANCE AND TECHNICAL APPEAL DECISIONS	69
Step 4 Grievance Decisions	70
Decisions by the Department Involved	71
Decisions by Type of Representation	73
Decisions by Classification Level	74
Decisions by Action Grievied	76
Step 4 Decisions Classified in Terms of Outcome	77
Timeliness of Step 4 Grievance Hearings and Decisions	79
Hearing Officer Decisions Appealed to the Commission	80
Expedited versus Regular Hearings	81
Ad Hoc versus Regular Hearing Officer Decisions	83
Decisions by Arbitrators	84
Decisions of Technical Hearing Officers	86
CHAPTER EIGHT - GRIEVANCE PROCEDURE COSTS	91
The Cost of Commission Appeals	93
Hearing Division Costs	94
Arbitration Costs	96
CHAPTER NINE - DEPARTMENT AND EMPLOYEE ORGANIZATION	
PERCEPTIONS OF THE GRIEVANCE AND APPEAL PROCEDURE	98
CHAPTER TEN - EMPLOYEE PERCEPTIONS OF THE ADJUDICATION	
PROCESS	114
Survey Results	116
CHAPTER ELEVEN - VIEWS OF CIVIL SERVICE COMMISSION MEMBERS	128
PART THREE	
CHAPTER TWELVE - SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS	131
Summary	131
Conclusions	133
Impartiality	134
Qualifications	140
Timeliness	141
Costs	142
Commission Review	143
Summary	144
Recommendations	145

APPENDICES

Appendix

A.	Questionnaire to Other States	149
B.	Results of the Questionnaire to Other States	152
C.	The Grievance and Appeals Procedure for Employees in the State Civil Service	157
D.	Questionnaire to Civil Service Hearing Officers	161
E.	Civil Service Hearing Officer and Arbitrator Decisions	170
F.	Data on Employment and Employee Organization Membership	198
G.	Occupations and Salary Ranges of State Employees	202
H.	Index of Personnel Actions	203
I.	Cost Survey Questionnaire	204
J.	Aggregate Results of Department and Employee Organization Survey	208
K.	Critical Comments Provided by Department and Employee Organization Representatives	228
L.	Questionnaire to Employees, Group A	242
M.	Questionnaire to Employees, Group B	245
N.	Follow-up Questionnaire Cover Letter	250
BIBLIOGRAPHY		251

LIST OF TABLES

Table 1	DISTRIBUTION OF DECISIONS BY DEPARTMENT, 1973-1977 . . .	71
Table 2	DISTRIBUTION OF DECISIONS AND DECISION RATES BY DEPARTMENT, 1977	72
Table 3	DISTRIBUTION OF DECISIONS BY REPRESENTATION TYPE, 1977	73
Table 4	DISTRIBUTION OF DECISIONS BY EMPLOYEE CLASSIFICATION LEVEL, 1977	75
Table 5	DISTRIBUTION OF DECISIONS BY ACTION-GRIEVED, 1977 . . .	77
Table 6	DISTRIBUTION OF DECISIONS BY OUTCOME, 1977	78
Table 7	ADJUDICATION-COSTS FISCAL YEAR 1978	92
Table 8	EVALUATION OF GRIEVANCE AND TECHNICAL HEARINGS	102
Table 9	EVALUATION OF ARBITRATION HEARINGS AND PRE- ARBITRATION CONFERENCES	103
Table 10	EVALUATION OF REDETERMINATION HEARINGS	104
Table 11	EVALUATION OF REGULAR AND TECHNICAL DECISIONS	105
Table 12	EVALUATION OF ARBITRATION DECISIONS	106
Table 13	EVALUATION OF REDETERMINATION DECISIONS ISSUED BY THE SELECTION AND CLASSIFICATION BUREAUS	107
Table 14	EVALUATION OF CIVIL SERVICE COMMISSION DECISIONS	110
Table 15	EVALUATION OF OVERALL PERFORMANCE	113
Table 16	ACCESS TO GRIEVANCE INFORMATION	117
Table 17	ACCESS TO GRIEVANCE FORMS	118
Table 18	ACCESS TO GRIEVANCE PROCEDURE	119
Table 19	UNDERSTANDING OF THE GRIEVANCE PROCEDURE	120
Table 20	IMPARTIALITY OF HEARING OFFICERS	121

Table 21	EVALUATION OF DECISION FAIRNESS, MSEA VERSUS AFSCME MEMBERS	122
Table 22	EVALUATION OF HEARING FAIRNESS, EXPEDITED VERSUS REGULAR HEARINGS	127
Table 23	GRIEVANCES DISMISSED WITHOUT A HEARING AT CIVIL SERVICE STEP 4	170
Table 24	DISTRIBUTION OF STEP 4 HEARINGS BY DEPARTMENT, CY 1973-1977	171
Table 25	DISTRIBUTION OF STEP 4 HEARINGS BY REPRESENTATION, 1973-1977	173
Table 26	DISTRIBUTION OF STEP 4 HEARINGS BY CLASSIFICATION LEVEL, 1973-1977	174
Table 27	DISTRIBUTION OF STEP 4 DECISIONS BY TYPE OF EMPLOYER ACTION GRIEVED, 1973-1977	176
Table 28	DISTRIBUTION OF STEP 4 GRIEVANCES BY TYPE OF DECISION, 1973-1977	177
Table 29	DISTRIBUTION OF STEP 4 HEARINGS BY TIME ELAPSED FROM DATE OF APPEAL TO DATE OF HEARING, 1973-1977	178
Table 30	DISTRIBUTION OF STEP 4 DECISIONS BY TIME ELAPSED FROM DATE OF HEARING TO DATE OF DECISION, 1973-1977	179
Table 31	STEP 4 DECISIONS APPEALED AND NOT APPEALED TO THE CIVIL SERVICE COMMISSION, 1973-1977	180
Table 32	STEP 4 DECISIONS APPEALED AND NOT APPEALED TO THE CIVIL SERVICE COMMISSION, 1977	181
Table 33	COMMISSION DECISIONS ON CASES APPEALED BY LEAVE, 1973-1977	182
Table 34	COMMISSION DECISIONS ON CASES APPEALED BY RIGHT, 1973-1977	183
Table 35	HEARING OFFICER DECISIONS REGULAR VERSUS EXPEDITED HEARINGS, 1977	184
Table 36	CASES DECIDED BY REGULAR AND AD HOC HEARING OFFICERS, 1973-1977	185
Table 37	STEP 4 HEARING OFFICER DECISIONS ON DISCHARGE CASES, AD HOC VERSUS FULL TIME HEARING OFFICERS, 1973-1977	186

Table 38	CIVIL SERVICE COMMISSION DECISIONS ON DISCHARGE GRIEVANCES FULL TIME VERSUS AD HOC HEARING OFFICERS, 1973-1977	187
Table 39	DISTRIBUTION OF ARBITRATION DECISIONS BY ACTION GRIEVED, 1973-1977	188
Table 40	DISTRIBUTION OF ARBITRATION DECISIONS BY DEPARTMENT INVOLVED, 1973-1977	189
Table 41	DISTRIBUTION OF ARBITRATION DECISIONS BY EMPLOYEE ORGANIZATION, 1973-1977	190
Table 42	DISTRIBUTION OF ARBITRATION DECISIONS BY CLASSIFICATION OF GRIEVANT, 1973-1977	191
Table 43	ELAPSED TIME OF ARBITRATION HEARINGS AND DECISIONS, 1973-1977	192
Table 44	DISTRIBUTION OF ARBITRATION DECISIONS BY DECISION, 1973-1977	193
Table 45	DISTRIBUTION OF ARBITRATION DECISIONS BY COMMISSION APPEALS ACTIVITY, 1973-1977	194
Table 46	DISTRIBUTION OF TECHNICAL HEARING OFFICER DECISIONS BY ACTION APPEALED, 1975-1978	195
Table 47	TECHNICAL HEARING OFFICER DECISIONS, 1975-1977	196
Table 48	TECHNICAL HEARING OFFICER DECISIONS APPEALED TO THE COMMISSION, 1976-1977	197
Table 49	AVERAGE ANNUAL EMPLOYMENT BY DEPARTMENT, 1973-1979	198
Table 50	AVERAGE ANNUAL MEMBERSHIP BY EMPLOYEE ORGANIZATION, 1973-1977	200
Table 51	AVERAGE ANNUAL EMPLOYMENT BY CLASSIFICATION LEVEL, 1973-1977	201
Table 52	OCCUPATIONS AND SALARY RANGES OF STATE EMPLOYEES	202

LIST OF FIGURES

Figure One	<u>The Michigan Civil Service</u>	45
Figure Two	<u>The Department of Civil Service</u>	46

CHAPTER ONE

INTRODUCTION AND STATEMENT OF THE PROBLEM

A grievance exists when one or more employees disagree with management concerning the interpretation and application of a policy or rule pertinent to the employment relationship. Speaking generally, employee dissatisfaction with some aspect of the work setting not covered by a specific policy or rule may give rise to a grievance. Whether policies and rules are negotiated between management and an employee organization, or are established unilaterally by management, it is inevitable that grievances concerning their proper interpretation and application will arise. The provision of a timely and equitable resolution of employee grievances is a necessary component of a functional work setting. When grievances remain unresolved, dysfunction may appear in the form of decreased employee morale, increased absenteeism and turnover, and unsatisfactory work performance. This dysfunction could culminate in the form of concerted employee action.

Formal grievance procedures are intended to facilitate grievance resolution through the provision of a well defined and orderly method of settlement by the employer and the employee and his union where there is one, and if settlement is not attained, by the provision of adjudication at the final stage of the procedure.¹ The availability of final

¹The function of adjudication is to render a decision that provides a final resolution of the grievance.

adjudication is important since it may be the only way of providing an orderly resolution of disputes unresolvable by the parties. In unionized settings, adjudication serves as a substitute for the strike and the lockout in settling unresolved grievances. The parties generally prefer to arbitrate grievances rather than to settle them by economic force or to allow them to remain unresolved.² Also, in a few nonunion settings, the parties have demonstrated a preference for some form of final disposition of grievances rather than allowing grievances to remain unsettled.³

The efficacy of any method of adjudication depends largely on its acceptability to the parties.⁴ A review of the literature indicates that at least four factors are considered important by the grievance parties in determining the acceptability of the method they use to

²Golden, C. S., and V. D. Parker (eds.), Causes of Industrial Peace (New York: Harper Brothers, 1949), p. 47. The terms arbitration and adjudication will be used throughout the dissertation. The term arbitration refers to the use of one or more neutrals or impartial persons to decide a dispute. Adjudication refers to any method for providing a decision to resolve a dispute including but not limited to arbitration.

Simkin, William E., Acceptability as a Factor in Arbitration Under an Existing Agreement (Philadelphia: University of Pennsylvania Press, 1952), p. 4.

³National Industrial Conference Board, Grievance Procedures in Nonunionized Companies. Studies in Personnel Policies No. 109 (New York: National Industrial Conference Board, 1950), pp. 16-17.

Scott, William G., The Management of Conflict, Appeals Systems in Organizations (Homewood, Ill.: Richard D. Irwin, Inc., 1965), pp. 90-113.

⁴The concept of acceptability may be used to evaluate the objective quality of the decision as well as the method used to reach a decision. The focus here is primarily on the method of decision. For further discussion refer to: Maier, Norman, R. F., Psychology in Industrial Organizations, 4th ed. (Boston: Houghton Mifflin Company, 1973).

adjudicate grievances. The most fundamental factor affecting acceptability is whether the adjudication function is perceived by the parties as being conducted impartially. Scholarly opinion suggests that in general, adjudication by any agent other than a neutral party, an outsider selected by joint agreement, lacks acceptability.⁵ Employees generally are reluctant to use grievance procedures that lack adjudication by a neutral outsider for the following reasons: (1) they doubt the ability of management, or their agents, to decide grievances on an objective and impartial basis, and (2) without the availability of adjudication by a neutral outsider employees perceive a lack of protection against negative management attitudes concerning their grievances and the use of grievance procedures.⁶ The qualifications of the adjudication agent in terms of such factors as experience, education, knowledge of labor relations matters, and integrity are also considered to be of great importance by the parties in determining acceptability.⁷ Finally, the timeliness and cost of decisions are seen as having a

⁵ Slichter, Sumner H., James J. Healy, and Robert E. Livernash, The Impact of Collective Bargaining on Management (Washington, D. C.: Brookings Institute, 1960), p. 692.

⁶ Beach, Dale S., "An Organizational Problem - Subordinate-Superior Relations," Advanced Management, Vol. 25 (December 1960), pp. 13-14.

Tead, Ordway, and Henry C. Metcalf, Personnel Administration - Its Principles and Practice (New York: McGraw Hill, Inc., 1926), p. 243.

⁷ Chamberlain, Neil W., "Neutral Consultants in Collective Bargaining," Proceedings of the Thirtieth Annual Meeting of the National Academy of Arbitrators, 1962, pp. 83-96.

Elson, Alex, "Ethical Responsibilities of the Arbitrator," Twenty Fourth Annual Proceedings of the National Academy of Arbitrators, 1971, pp. 194-203.

significant impact on acceptability.⁸ However, empirical research examining the acceptability of any method of grievance adjudication is scant.

This study will appraise, in terms of these four factors, the acceptability of a method of adjudication devised for use in a non-collective bargaining, state civil service setting.⁹ Due to its size, state civil service employment can be considered an important sector of employment. Total employment in this sector increased from approximately 280,000 in 1953 to 3.5 million employees in 1977.¹⁰ Figures for

Fleming, R. W., The Labor Arbitration Process (Urbana, Ill.: The University of Illinois Press, 1965), pp. 220-221.

King, Brian L., "Some Aspects of the Active Labor Arbitrator," Personnel Journal, Vol. 50, No. 2 (February 1971), pp. 115-123.

McKelvey, Jean T., and Derek L. Rogers, "Survey of the Arbitration Profession in 1969," Twenty Fourth Annual Proceedings of the National Academy of Arbitrators, 1971, pp. 275-303.

⁸ Fleming, Op. Cit., pp. 31, 57.

Fossum, John A., Labor Relations, p. 368.

Jones, Dallas, and Russell Smith, "Management and Labor Appraisals and Criticisms of the Labor Arbitration Process: A Report with Comments," Michigan Law Review, Vol. 62, No. 2 (May 1964), pp. 1115-1156.

Ross, Arthur M., "Distressed Grievance Procedures and Their Rehabilitation," in Mark L. Kahn (ed.) Labor Arbitration and Industrial Change, p. 187.

⁹ The term noncollective bargaining rather than nonunion is used because, though collective bargaining is not permitted in state civil service in Michigan, many state employees hold membership in a union or an employee organization.

¹⁰ United States Department of Commerce, Bureau of the Census, Public Employment in 1977, GE 77, No. 1 (Washington, D. C.: U. S. Government Printing Office, 1978), p. 12.

1977 range from approximately 10,000 employees in Wyoming, the smallest state employer, to over 290,000 in California. Labor relations practices in state employment differ considerably from state to state, and questions concerning the treatment of important labor relations matters, including grievance adjudication, are far from being settled in many states.¹¹

The particular system of adjudication examined in this research is that provided for classified employees in the Michigan Civil Service. The Michigan approach provides for adjudication by either a state employed Hearing Officer or a mutually selected private arbitrator, with final review by the Michigan Civil Service Commission. Formal arrangements for grievance adjudication were first provided to state employees in Michigan in 1938 by the Michigan Civil Service Commission. Since 1938, the Commission has revised this process extensively. The goals of these revisions have been to improve the operation of the adjudication process and to strengthen its acceptability to the employees, employee organizations, and departments involved in its use. Michigan, as a result, has one of the most elaborate systems of

¹¹Derber, Milton, Peter Pashler, and Mary Beth Ryan, Collective Bargaining by State Governments in the Twelve Midwestern States (Champaign, Ill.: Institute of Labor and Industrial Relations, University of Illinois, 1974), p. 41.

Nigro, Felix A., "Labor Relations in State and Local Governments," Personnel Administration, Vol. 33, No. 6 (November-December 1970), pp. 42-47.

Ullman, Joseph C., and James P. Begin, "The Structure and Scope of Appeals Procedures for Public Employees," Industrial and Labor Relations Review, Vol. 23, No. 3 (April 1970), pp. 323-334.

grievance adjudication available in a noncollective bargaining, civil service setting.

Scope

This research focuses on a test of the proposition that a system of adjudication, based primarily on the use of civil service Hearing Officers, selected unilaterally and employed by the state, rather than on the use of private arbitrators, selected and financed jointly by the parties, can gain acceptability as a means of grievance resolution.¹² The scope of the analysis will include both an examination of administrative policies, procedures and records and a survey of the perceptions of the grievance parties.

The empirical aspects of this research are confined to data drawn solely from the Michigan system. Accordingly, the findings and conclusions may not be directly generalizable to other civil service jurisdictions. Nevertheless, this work does indicate the extent to which a highly developed system of adjudication, primarily unilateral in nature, has proved useful and acceptable to the Michigan parties. As such, it should serve as a valuable source of ideas and guidance to employers attempting to develop programs of grievance adjudication in other non-collective bargaining, civil service jurisdictions.

The study is divided into three parts. Part One, chapters two through four, examines the factors that determine the acceptability of grievance adjudication. Chapter two defines and clarifies these

¹²Not included within the scope of this study is an appraisal of the several steps of the grievance procedure that precede the final adjudication step or steps.

factors, and reviews the statistical performance of adjudication in collective bargaining settings in terms of the four factors. These data will be used as part of the assessment criteria in analyzing the acceptability of the Michigan adjudication system. Because adjudication as practiced under collective bargaining is a result of negotiation by the parties, it provides a reasonable benchmark of what is acceptable to the parties in terms of impartiality, competence, timeliness, and costs. Preliminary research indicates that approaches to grievance adjudication differ between collective bargaining and non-collective bargaining settings and between the private and public sectors of employment. Chapter three is devoted to a review of the types of adjudication used in these several settings, with special emphasis placed on identifying the various approaches used in state government. In the final analysis, the acceptability of any system of adjudication must be determined by an analysis of the perceptions of the parties. Therefore, a literature survey was conducted to locate empirical research that attempted to assess how employees, employee representatives, and employer representatives viewed various methods of grievance adjudication. Chapter four summarizes the results of this survey.

Part Two, chapters five through ten, contains an intensive examination of the Michigan system of grievance adjudication. Chapter five reviews the development of this system, and describes its current structure and operation. The qualifications of the Civil Service Hearing Officers employed under the Michigan system are examined in chapter six. This includes a consideration of how they are selected and

trained, and what standards are utilized to guide their work. The grievance and technical appeal decisions by Hearing Officers and arbitrators are examined in chapter seven. The record of decisions is analyzed in terms of outcome, timeliness, the rate of participation by various departments, employee organizations, and employee classification levels, and the incidence of decisions overruled or remanded by the Civil Service Commission. The monetary costs to the parties of processing grievances through adjudication are examined in chapter eight. The costs involved in using full time Hearing Officers, ad hoc Hearing Officers, and private arbitrators are compared. Department and employee organization representatives are typically involved in numerous decisions each year, and consequently have a great deal of practical knowledge of the process. Department and employee organization representatives, therefore, were surveyed to determine their satisfaction or dissatisfaction with selected aspects of the adjudication process. The results of this survey are analyzed in chapter nine. Though a majority of Michigan state employees have never processed a grievance through adjudication, and few are involved in more than one or two formal grievances during their entire employment with the State, their perceptions of the process are a fundamental aspect of its acceptability. The results of a survey of employee perceptions of selected aspects of the process are analyzed in chapter ten. The Michigan Civil Service Commission, in addition to formulating the employment policies of the State, is ultimately responsible for the design and operation of the adjudication process. The views of Commission members concerning

their role in the process and the present design and operation of the system are considered in chapter eleven.

Part Three of the dissertation, containing chapter twelve, contains the author's conclusions concerning the acceptability of the Michigan system of adjudication.

Methodology

As a starting point a literature review was conducted for the purpose of defining factors that affect acceptability, and identifying the types of adjudicating agents used in collective bargaining and non-collective bargaining employment settings. The literature review revealed very little literature concerning the types of adjudication used in state civil service employment. Consequently, a questionnaire survey was administered to the state personnel directors in the 49 states exclusive of Michigan to identify the methods of adjudication used in those states. The results of the questionnaire survey were analyzed, and the several types of adjudicating agents identified in the survey were classified according to the methods used to select and employ them.

The author, in order to examine grievance adjudication in the Michigan Civil Service, collected and analyzed extensive archival data, including internal memoranda and reports, official policy statements, rules and regulations, minutes of Michigan Civil Service Commission meetings, records of Hearing Officers and arbitrator decisions, and grievance procedure cost data. On the basis of this examination the author described the structure and operation of the Michigan system,

and evaluated it in terms of the acceptability factors defined in the literature review.

The acceptability of the Michigan system to the employees, employee representatives, and employer representatives who use this system, was appraised through an analysis of their responses to questionnaire items concerning satisfaction with selected aspects of the system. In order to obtain the needed measures of satisfaction and dissatisfaction the author administered a questionnaire to the principal grievance representatives of the nineteen main departments and the seven employee organizations in Michigan state government. These grievance representatives responded to a set of Likert type rating items in order to indicate their satisfaction or dissatisfaction with aspects of the adjudication process.¹³ They also responded to an open ended question that sought an explanation for any dissatisfaction indicated in the response to the aforementioned items. Finally, the representatives provided their individual assessments of the relative merits of Civil Service Hearing Officers and arbitrators in terms of certain criteria specified in the questionnaire.

The author also conducted a questionnaire survey of two groups of Michigan state employees, identified hereinafter as Groups A and B. No individual was included in both groups. Group A consisted of a representative sample of all regular, full time employees on the civil service payroll during May, 1978. Because of its representative

¹³The Likert rating items provided for a rating of satisfaction at five levels, including "very satisfied," "satisfied," "neither satisfied or dissatisfied," "dissatisfied," and "very dissatisfied."

character, Group A included both a sample of employees that had prior experience in processing one or more grievances under the Michigan system and a sample of employees that had no such prior experience. Group B included all employees who filed a grievance that was heard by a Hearing Officer during the period from April 1, 1978 to June 10, 1978, but had not received the Hearing Officer's decision at the time they responded to the survey. Both groups of employees responded to a set of Likert type rating items dealing with their perceptions of their access to the system, and the fairness of the treatment they received, or would expect to receive under it. Group B was limited to employees who did not know the outcome of their grievances in order to exclude ratings that might be biased because the employee knew he had won or lost his grievance. This survey was tabulated and analyzed and an estimate was made of the extent to which the several types of respondents were satisfied or dissatisfied with selected aspects of the Michigan system.

Finally, the author conducted interviews with the four members of the Michigan Civil Service Commission to determine their views on the acceptability of the Michigan system and their role in its operation.

The author, in the concluding chapter, drew upon the analysis and results reported in Parts One and Two in order to develop conclusions and recommendations.

PART ONE

ACCEPTABILITY IN GRIEVANCE ADJUDICATION

CHAPTER TWO

FACTORS AFFECTING ACCEPTABILITY

The acceptability of any system of grievance adjudication, as outlined in chapter one, is determined largely by the parties' perceptions of four factors:

1. The impartiality of the adjudicating agent and the process
2. The qualifications of the adjudicating agent
3. The timeliness of adjudication decisions
4. The cost of adjudication decisions.

This chapter will examine these factors and review statistical data that indicate the record of arbitration in collective bargaining settings in terms of these factors. These data will be used, in Parts Two and Three, as a benchmark for a comparative evaluation of the Michigan approach to adjudication.

The necessity to use benchmark data from collective bargaining settings arises since no other set of comparative information is available. Moreover, the practice of adjudication under collective bargaining represents the best method that organized labor and management have been able to formulate through several decades of bargaining, and thus, should constitute a practical indication of what is acceptable to both parties.

The Impartiality of the Adjudication Agent and the Process

Adjudication performs the sensitive function of resolving disputes over the meaning and application of the policies and rules that govern the employment relationship. The policies and rules allocate to individuals their respective rights and duties in the organization and generate expectations of benefits to be earned and obligations to be owed as a result of participation in the organization.¹ In order for individuals to be assured that their expectations cannot be disregarded arbitrarily, and are accorded equal status with the expectations of other members of the organization, the adjudication function should be free of influence by personal or irrelevant considerations.² To safeguard the integrity of individual expectations the adjudication function should treat the rights of all members of the organization with impartiality.³ This requirement is fundamental to the integrity of the dispute resolution process in any organizational setting.⁴

Various criteria have been suggested for use in assessing the impartiality of the adjudicating agent. The most direct indicator is the procedure through which the adjudication agent is selected. It is reasonable to conclude that an adjudicator that is selected through a joint

¹Scott, William G., The Management of Conflict, Appeals Systems in Organizations (Homewood, Ill.: Richard D. Irwin, Inc., 1965), pp. 90-112.

Bodenheimer, Edgar, Jurisprudence, The Philosophy and Method of Law (Cambridge, Mass.: Harvard University Press, 1974), pp. 269-313.

²Rawls, John, A Theory of Justice (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1971), p. 159.

³Op. Cit., Scott, pp. 95-105.

⁴Op. Cit., Rawls, pp. 58-60, 237.

decision of the parties is perceived to be impartial since joint selection would presumably eliminate an adjudicator that either party thought was predisposed to favor the other side.

This method of selection is used almost universally in collective bargaining settings. A 1975 study of 1,517 collective bargaining agreements conducted by the Bureau of Labor Statistics (BLS) indicates that about 96 percent of the contracts in private industry provide for final and binding arbitration of grievances by a jointly selected, third party.⁵ The remaining four percent of the BLS sample of contracts made no reference to the adjudication of unresolved grievances. In the federal sector, Executive Orders 10988 and 11491, issued in 1962 and 1969, respectively, authorized collective bargaining and either advisory or binding arbitration of grievances by jointly selected neutrals. In 1977, the United States Civil Service Commission surveyed 3,032 negotiated agreements covering a total of 1,073,680 federal service employees, and found provisions for grievance adjudication in 2,658 (89 percent) of the agreements.⁶ Final and binding adjudication by a jointly selected neutral was provided in 2,454, or about 92 percent of the agreements that contained grievance provisions.⁷ The remaining 204, comprising about eight

⁵United States Department of Labor, Bureau of Labor Statistics, Characteristics of Major Collective Bargaining Agreements, July 1, 1975, Bulletin No. 1957 (Washington, D. C.: U. S. Government Printing Office, 1966), p. 34.

⁶United States Civil Service Commission, Grievance Arbitration in the Federal Service (Washington, D. C.: U. S. Government Printing Office, 1977), p. 1.

⁷Ibid., p. 35.

percent of those with grievance provisions, provided for arbitration that was advisory to a final decision by an agency official or the Federal Labor Relations Council.⁸

The Bureau of Labor Statistics (BLS) conducted a survey in 1973 of grievance and arbitration practices in state and local governments.⁹ The survey included the 655 negotiated agreements on file with the BLS that covered fifty or more employees. The results of the survey indicate that 591 agreements (about ninety percent) contained provisions for a grievance procedure, and of these, 496 (83 percent) included the use of some type of impartial agency in the resolution of the grievance. Thirteen (2.6 percent) of the 496 provided for fact finding and recommendations to an agency official, fifteen agreements (three percent) provided for mediation with an agency official retaining final authority to decide grievances, 444 agreements (89.5 percent) provided for final and binding arbitration by a jointly selected neutral party, eight agreements (1.6 percent) provided for both fact finding and binding arbitration, and sixteen agreements (3.2 percent) provided for both mediation and final and binding arbitration.¹⁰

In the absence of a joint selection process, the question of the adjudicator's impartiality becomes more critical. Scott concludes that in order to insure impartiality the adjudication function should be separated from the management function, and controlled by a disinterested,

⁸Ibid., p. 35.

⁹United States Department of Labor, Bureau of Labor Statistics, Grievance and Arbitration Provisions in State and Local Government (Washington, D. C.: U. S. Government Printing Office, 1973), pp. 15-45.

¹⁰Ibid., p. 40.

third party.¹¹ Evan likewise concludes that without a separation of authority between the management and adjudication functions, the subordinate employee may be vulnerable to the arbitrary and personal influence of his/her superior.¹² Rule 11 of the Voluntary Labor Arbitration Rules of the American Arbitration Association places particular emphasis on avoiding a conflict of interest:

QUALIFICATIONS OF ARBITRATOR - No person shall serve in any arbitration in which he has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualifications.¹³

This suggests that if the selection decision is controlled unilaterally by the employer, the particular relationship between the adjudicator and the employer should be examined to determine if reasonable precautions have been taken to eliminate improper employer influence on the adjudication decision.

The availability of procedural due process to each of the parties is another factor that should be considered in connection with impartiality.¹⁴ Procedural due process, unlike the other factors discussed in this section, is not a personal characteristic of the adjudication agent, per se, but rather is a set of procedural safeguards that limit the exercise of arbitrary power in the adjudication process. The concept of due process dates back to the time of the Magna Carta (1215 A.D.),

¹¹Op. Cit., Scott, pp. 119-123.

¹²Evan, William M., "Organization, Man and Due Process of Law," American Sociological Review, Vol. 26, No. 4 (August 1961), p. 542.

¹³American Arbitration Association, Voluntary Labor Arbitration Rules (New York, N. Y.: American Arbitration Association, 1970), p. 3.

¹⁴Edwards, Harry T., "Due Process Considerations in Labor Arbitration," The Arbitration Journal, Vol. 25, No. 3 (March 1970), pp. 141-167.

and provides to all parties in a dispute the right to receive a hearing conducted with regular procedures, to confront and cross-examine hostile witnesses, and to introduce evidence on one's own behalf.¹⁵ Though the operation of due process does not insure the impartiality of the adjudicator, it does provide each party with an equal opportunity to represent its interests in the adjudication process. The rigid requirements of due process used in criminal proceedings are not ordinarily appropriate in private grievance adjudication.¹⁶ In collective bargaining settings, the usefulness of adjudication stems from its flexibility and avoidance of bulky and legalistic rules of procedure and evidence; private arbitrators and the parties have established a pattern of ordered informality by extracting the sense of fairness from the rules of due process and shunning the rigidity and formality.¹⁷

Finally, the record of wins and losses may be of significance in determining the parties' perceptions of the impartiality of the adjudication agent. The concept of a win/loss tally is of no value as an objective indicator of the adjudicator's impartiality due to the presence of numerous factors that may play a role in determining the record of wins and losses. However, either of the parties may perceive that the adjudicator or the process lacks impartiality if the distribution of wins and losses greatly favors the other party.¹⁸

¹⁵Mott, Rodney L., Due Process of Law (Indianapolis, Ind.: Bobs-Merrill Co., 1926), pp. 1-29.

¹⁶Edwards, Op. Cit., p. 169.

¹⁷Ibid., p. 146.

¹⁸Fleming, R. W., The Labor Arbitration Process, p. 205.

Few statistics are available that indicate the record of wins and losses experienced by the parties in different settings. Those that have been published indicate that the employer wins anywhere from fifty to seventy-five percent of the arbitration decisions in collective bargaining settings.¹⁹ The fact that the employer usually wins more than fifty percent of grievance decisions is explained largely by the difference between employers and unions in the way they make the decision of whether to take a grievance to arbitration. Union leaders are elected to office through democratic processes, and may be pressured by rank and file members to carry unmeritorious grievances to arbitration. Management, however, is not subject to democratic pressures, and they are more able to resolve meritorious grievances before they reach arbitration. The net result is that fewer meritorious grievances reach arbitration. A survey of 1135 adjudication decisions in the federal civil service issued during the period 1970 through 1976 found fifty percent of the decisions being awarded to the employer.²⁰ However, this occurred while arbitration was still very new to the federal service. It is possible that as federal employers gain more experience,

¹⁹ Dunbar, Florence, Management Participation in the Arbitration Process, 1969. Najita, J. M., Labor Arbitration Awards in Hawaii, 1944-1962, 1967, p. 2. Ross, A. M., "Distressed Grievance Procedures and Their Rehabilitation," Labor Arbitration and Industrial Change, 1963, p. 110. Small, J., Factors That May Influence the Success Rate of Management and Unions in Arbitration Cases, 1974, p. 14.

²⁰ United States Civil Service Commission, Grievance Arbitration in the Federal Service (Washington, D. C.: U. S. Civil Service Commission, 1977), p. 37.

their ability to resolve meritorious grievances prior to arbitration will increase, and they will win a larger proportion of adjudication decisions.

In summary, three criteria can be considered of significant value in assessing the impartiality of the adjudication agent and the process. The first is the selection process used to choose the adjudicator. The process could range from a joint decision by the involved parties to a unilateral decision by the employer. The second is the ability of the adjudicator to exercise judgment free of improper influence by either party. If the adjudicator has a substantial relationship or a position of responsibility, with either party, the possibility of a conflict of interest should be considered. The third is the availability of due process in the adjudication process. Finally, the aggregate win/loss record may affect the parties' perceptions of impartiality.

The Qualifications of the Adjudicating Agent

The qualifications of the adjudicator, his knowledge of industrial relations issues, education, practical experience, and age are generally accorded significant weight by the parties in determining his acceptability.²¹ Labor and management representatives under collective bargaining are shown to have a strong preference for the arbitrator of mature age that is prepared by extensive experience and training. This preference prevails despite evidence that such qualifications make little difference in the outcome of routine arbitration decisions.²²

²¹Fleming, Robben F., The Labor Arbitration Process (Urbana, Ill.: The University of Illinois Press, 1965), pp. 219-220.

²²Ibid., pp. 78-106.

The known qualifications of active arbitrators clearly reflect these preferences of the parties. In 1969, King surveyed the 134 arbitrators who had published at least five arbitration decisions in the Bureau of National Affairs Labor Arbitration Reports during the 1963 to 1969 period.²³ His findings indicate that practicing arbitrators possess extensive academic and experience qualifications. The average age of this sample group was 58 years. Seventy percent possessed law degrees, while twenty percent had received advanced degrees in business, economics, or industrial relations. The remaining ten percent were scattered in several fields, predominantly in the social sciences and engineering. Approximately eighty percent of the sample group were part-time arbitrators. Of these, fifty percent were practicing attorneys and the remaining were professors in economics, business, or industrial relations. Finally, eighty percent of the sample group also had full-time work experience in the labor relations field.

McKelvey and Rogers administered a similar questionnaire survey, in 1969, to each of the 368 members of the National Academy of Arbitrators.²⁴ Their findings were in close agreement with those of King.

Finally, it should be noted that the adjudicator's integrity is an important factor in determining acceptability. However, because of the

²³King, Brian L., "Some Aspects of the Active Labor Arbitrator," Personnel Journal, Vol. 50, No. 2 (February 1971), pp. 115-123.

²⁴McKelvey, Jean T., and Derek L. Rogers, "Survey of the Arbitration Profession in 1969," Twenty Fourth Annual Proceedings of the National Academy of Arbitrators, 1971, pp. 275-303.

difficulty involved in measuring the quality, it will not be addressed in this research.

The Timeliness of the Adjudication Decisions

Time delays constitute one of the most significant problems in adjudication. The factor of timeliness is important to the parties awaiting an arbitration decision that will determine some aspect of their relative rights. Both the employee and management need to know as promptly as possible the resolution of disputed matters. Timeliness is viewed as being of particular importance in discharge cases. In the absence of a decision the employer is unable to determine the status of the individual he may hire to replace the discharged employee. Likewise, the discharged employee may have difficulty in evaluating new job prospects without this decision. Moreover, the amount of back pay the employer may be required to pay if the employee wins the grievance increases with time.

The Federal Mediation and Conciliation Service (FMCS) surveyed the timeliness of 5,446 arbitration cases it processed during the period of 1970-1977.²⁵ This survey indicates that an average of about six months elapsed between the date of the request for an arbitration and the date of the arbitration decision and the time elapsed from the request for arbitration to the appointment of the arbitrator averaged seven to eight

²⁵ Federal Mediation and Conciliation Service, Thirtieth Annual Report, Fiscal Year 1977 (Washington, D. C.: Federal Mediation and Conciliation Service, 1978), p. 41. Timeliness is treated in the F.M.C.S. Report and in this research as the time elapsed from one point in the process to a later point.

weeks. The time elapsed from the appointment to the hearing averaged about nine weeks. The time elapsed from the date of the arbitration hearing to the date of the decision averaged six to seven weeks per decision.

The Cost of the Adjudication Decisions

Cost is a factor that the parties may control by their selection of an arbitrator, and their use of transcripts, legal counsel and briefs. In general, arbitrators' fees tend to reflect the degree of experience and appropriate qualifications possessed by the arbitrator. Arbitrators' fees may range from as low as fifty dollars per decision for the inexperienced arbitrator working much as an intern in an expedited arbitration program,²⁶ to several hundred dollars per day for the highly experienced arbitrator.²⁷ The fee of the attorney retained to represent a party often exceeds the arbitrator's fee.²⁸ And, it is not unusual for the transcript to cost several hundred dollars for a single case.²⁹ The FMCS reports that a sample of 574 arbitrators referred by it in fiscal year 1977 charged an average of \$733 per decision, including an average of \$217 per day for time spent at the hearing and in writing the decision, and an average of \$88 for expenses per case.³⁰ These costs may be particularly onerous for the union or

²⁶ Daily Labor Report, October 17, 1978, p. C-1.

²⁷ Op. Cit., Federal Mediation and Conciliation Service, pp. 39-40.

²⁸ Ibid., p. 39.

²⁹ Fossum, John A., Labor Relations (Dallas, Texas: Business Publications, Inc., 1979), p. 368.

³⁰ Op. Cit., Federal Mediation and Conciliation Service, p. 40.

employer that is relatively small or financially weak. Even more burdensome would be the impact of arbitration costs in a nonunion setting. Individual employees would encounter difficulty in assuming a fifty percent share of the costs of arbitration, and as a practical matter the costs would most likely be carried by the employer.

Summary

The impartiality and qualifications of the adjudicator, and the timeliness and cost of the adjudication decision are significant factors in determining acceptability. In collective bargaining settings, adjudication is typically performed by a jointly selected outside party in order to assure that the impartiality and qualifications of the adjudicator are acceptable to both labor and management. In noncollective bargaining settings, where adjudicators are selected unilaterally by the employer the expected impartiality of any adjudicator may be determined by assessing his/her ability to render decisions that are independent of improper influence by management. The typical adjudication decision in a collective bargaining setting costs about \$733, and is issued about six to seven weeks after the case is heard, or about eight to nine months after the case is first appealed to arbitration. These fairly substantial costs and time delays suggest that the impartiality and the qualifications of the adjudicator are more important to the parties than the timeliness and cost of decisions. The parties are willing to accept these substantial costs and time delays in order to obtain the services of adjudicators that are acceptable in terms of impartiality and qualifications.

CHAPTER THREE

GRIEVANCE ADJUDICATION IN NONCOLLECTIVE BARGAINING SETTINGS

This chapter identifies the adjudication agencies used in noncollective bargaining settings in the private and public sectors of employment. Data covering each sector are discussed separately. Published findings concerning adjudication in noncollective bargaining settings are very scant. In order to obtain more comprehensive data concerning the methods of adjudication used in state government the author conducted a questionnaire survey. The results of the survey are reported in this chapter. The results of the literature and questionnaire surveys will be used in Parts Two and Three to determine how the system of adjudication used in Michigan compares with approaches used in other noncollective bargaining settings.

Private Sector Approaches

Six empirical studies have been published concerning the use of grievance adjudication in noncollective bargaining, private employment settings. The National Industrial Conference Board conducted a survey of 800 companies in 1950, and identified 57 firms that had formal

grievance procedures.¹ Two of the 57 companies provided procedures that included final and binding adjudication by a neutral agent.² In one case, the arbitrator was selected by agreement of a majority of an ad hoc committee consisting of three members appointed by the employee and three members appointed by the employer.³ The other procedure specified that a complete, written record of any unresolved grievance would be submitted for decision to an arbitrator selected by the Federal Mediation and Conciliation Service.⁴

A variety of approaches was used among the other 55 companies. A final and binding decision was provided by the company president in 24 cases, the general manager or plant superintendent in eleven cases, a vice-president in three cases, the chairman of the board in two cases, and the personnel director in two cases.⁵

A 1961 survey found that 25 percent of the 171 responding nonunion firms provided a formal procedure for handling employee grievances.⁶ Only four of the 21 companies with a grievance procedure reported the use of adjudication by an impartial outsider at the final step of

¹National Industrial Conference Board, Grievance Procedures in Nonunion Companies (New York, N. Y.: National Industrial Conference Board, 1950), pp. 12-24. Details concerning the sample size and the response rate were not reported.

²Ibid., pp. 15-18.

³Ibid., p. 16.

⁴Ibid., p. 17.

⁵Ibid., p. 15.

⁶Industrial Relations News, November, 1961, cited in: Ronner, W. V., "Handling Grievances of Nonunion Employees," Personnel, Vol. 39, No. 2 (March-April 1962), p. 56. The study did not report the total number surveyed or the response rate.

the procedure.⁷ No details concerning the method of selection of impartial parties were reported. The final step in those procedures without impartial adjudication was, in every step, handled by a management official.

The Bureau of National Affairs (BNA), in 1958, studied grievance procedures in 61 nonunion firms that were members of its Personnel Policies Forum, and identified the use of final and binding adjudication by a neutral third party in two firms. No information was reported concerning the method of selecting the adjudicator. Without exception, the grievance procedure in the other 59 firms provided adjudication by a management official.⁸ Again in 1968 and in 1978, BNA studied the grievance procedures of the nonunion members of its Personnel Policies Forum.⁹ The findings of these subsequent studies were substantially identical to the findings reported in 1958. Thirty-two nonunion grievance procedures were studied in 1978, and, of these 32, only two provided for adjudication by a neutral outsider. In each of these two procedures employees shared in the selection of the neutral outsider. The other 30 procedures provided for adjudication by a management official.

⁷Op. Cit., Ronner, p. 61. It should be noted that the use of arbitration reported here far exceeds that found by the other studies. However, the source of this information did not report enough details to allow for a check on the reliability of the information.

⁸Bureau of National Affairs, "Grievance Procedures for Unorganized Employees," Survey No. 49, Personnel Policies Forum (Washington, D. C.: Bureau of National Affairs, 1958), pp. 2-4.

⁹Bureau of National Affairs, "Personnel Policies for Unorganized Employees," PPF Survey, No. 88 (Washington, D. C.: Bureau of National Affairs, 1958). Bureau of National Affairs, "Policies for Unorganized Employees," PPF Survey, No. 125 (Washington, D. C.: Bureau of National Affairs, 1979), pp. 9-11.

The most extensive examination of nonunion grievance procedures was conducted by Scott in 1964.¹⁰ Scott surveyed 1,800 firms across six industrial groupings. Among 793 usable responses, 55 companies reported having formal grievance procedures, and 738 reported having no formal grievance procedure. Among the 738 companies with no formal procedure, 518 companies reported they had no formal or informal grievance policies, 184 companies indicated that they utilized an informal "open door" policy, and 36 companies indicated they had a formal grievance policy but no formal grievance procedure.

Two of the 55 firms that had a formal procedure provided for final and binding adjudication of unresolved grievances by a neutral agent. The adjudicating agent in each case was a federal judge.¹¹ Among the 53 remaining companies, a final and binding decision was provided by the company president in 45 cases and by a review board consisting of management officials in five cases.¹²

The findings of these studies indicate that only a small minority, i.e., no more than 10 to 20 percent, of nonunion private sector firms provide formal grievance procedures, and that, among these, very few firms provide for the use of adjudication by a neutral party. Management officials adjudicate grievances in nearly all the procedures surveyed.

¹⁰Scott, William G., The Management of Conflict, Appeals Systems in Organizations (Homewood, Ill.: Richard D. Irwin, Inc., 1965), pp. 56-88.

¹¹Details concerning the method of selection were not reported.

¹²Op. Cit., Scott, pp. 68-71. Information concerning adjudication was not available in three cases.

Public Sector Approaches

The earliest comprehensive survey of grievance arbitration in the public sector was conducted in 1958 by Killingsworth and Segal. Their study covered eighteen government jurisdictions, including the federal government, the largest states, and the largest municipalities, and included 38 percent of all government employment at the time.¹³ Killingsworth identified four types of adjudication agencies in his sample of jurisdictions.¹⁴ The most frequently used variation was adjudication by, or under the control of, a Civil Service Commission. The second most popular approach was adjudication by a permanent appeal board, established by law and independent of operating agencies and the Civil Service Commission. The third most frequently used type was adjudication by an impartial adjudicator selected jointly by the parties. The fourth category was a miscellaneous grouping of various types including adjudication by employer appointed hearing boards and by agency heads or other operating officials.

The only study in recent years that attempted to identify the types of adjudication used in noncollective bargaining settings in public employment was conducted by Derber in 1973.¹⁵ This study was limited to

¹³Killingsworth, Charles, and Melvin Segal, Grievance Machinery for State Civil Service Employees in Michigan (Lansing, Mi.: Labor and Industrial Relations Center, Michigan State University, 1958), pp. 12-37.

Also see: Killingsworth, Charles, "Grievance Adjudication in Public Employment," Arbitration Journal, Vol. 13, No. 1 (January 1958), p. 8.

¹⁴Ibid., pp. 8-9.

¹⁵Derber, Milton, Peter Pashler, and Mary Beth Ryan, Collective Bargaining by State Government in the Twelve Midwestern States (Champaign, Ill.: University of Illinois, 1974), pp. 37-42, 68-69.

twelve midwestern states. Derber found that formal grievance procedures were provided for state employees in each of the twelve states surveyed. The procedures in three of the states, Minnesota, Wisconsin, and Ohio, were negotiated between the state and various employee organizations. Each of these procedures included final and binding arbitration by a jointly selected neutral. The other nine states did not permit collective bargaining by state employees. In these states grievance procedures were provided unilaterally by the state. Eight of the nine noncollective bargaining states provided for final and binding adjudication by an agent or agency selected unilaterally by the employer.¹⁶ Among the types of agents or agencies used to decide grievances were the state personnel director, the chief administrative officer of the state, the Civil Service Commission, and individual department heads.¹⁷ One state, Indiana, provided for final and binding arbitration of all unresolved grievances by an arbitrator selected jointly by the parties.¹⁸

Survey of Grievance Adjudication in State Employment

In order to collect more complete data concerning the methods of adjudication used in state government a questionnaire was sent to the State Personnel Director in each of the 49 states exclusive of Michigan.¹⁹ A response was received from each state by September 15, 1978. Follow-up telephone interviews were conducted with personnel officials in ten

¹⁶Ibid., pp. 37-42.

¹⁷Ibid., pp. 37-43.

¹⁸Ibid., pp. 40-41.

¹⁹The questionnaire is contained in Appendix A.

states in October, 1978, to clarify the content of their questionnaire responses. The following discussion is based on the responses to the questionnaire and the follow-up telephone interviews.

Each of the 49 states provides a formal grievance procedure of one type or another for use by its state employees. These procedures are provided either unilaterally by the state, or through negotiations between the state and an employee organization. Grievance procedures, negotiated in collective bargaining agreements are available to state civil service employees in 20 states.²⁰ In each of these 20 states, certain groups of employees not covered by collective bargaining have access to grievance procedures provided unilaterally by the state. Generally speaking, employees covered by a collective bargaining agreement in such states have access to the unilateral procedure for certain types of grievances, while employees not covered by a collective bargaining agreement generally lack access to negotiated procedures.

In 17 of the 20 states the negotiated procedures provide for final and binding arbitration by a jointly selected arbitrator, and in three states other approaches are used at the final step. In the state of Washington, the negotiated procedure culminates in "final and binding" arbitration by the State Personnel Board rather than by a private arbitrator. Negotiated procedures in Vermont terminate with a decision by the Vermont Labor Relations Board. In New Jersey, the negotiated

²⁰These states are:

Alaska	New Mexico
Connecticut	New York
Florida	North Dakota
Hawaii	Ohio
Illinois	Oregon
Massachusetts	Pennsylvania
Minnesota	Rhode Island
Montana	Vermont
New Hampshire	Washington
New Jersey	Wisconsin

procedures provide for review and recommendations by a fact finder at the final step rather than a final and binding arbitration decision.

Grievance procedures are provided unilaterally by the state in the 30 states that do not engage in collective bargaining with state civil service employees. Considerable variation exists among these 30 states in the type of adjudication agency used with several states using more than one type. Analysis of the questionnaire results indicate that seven fundamentally different types are distinguishable in terms of which official or agency is authorized to make a final and binding decision on grievances. These seven types are:

1. the head of the individual agency or department that employs the grievant (10 states),
2. the chief administrator or personnel official of the state (5 states),
3. a full time or ad hoc Hearing Officer that is employed by the state in a unit that is separate from the agency that employs the grievant (1 state),
4. an oversight authority, such as a Civil Service Commission, which has responsibility for the entire state personnel system (25 states),
5. a special purpose appeals or review authority which is established solely for the purpose of deciding grievances either on an ad hoc or a standing basis (4 states),
6. a Tripartite Panel, including a member selected by the employer, a member selected by the employee, and a member selected by the other two members (1 state), and
7. a jointly selected private arbitrator (1 state).

For the purpose of assessing the impartiality of the adjudication agency, the most important difference among the seven types is the extent to which each possesses management responsibility at one level or another on behalf of the state employer. At one extreme is the agency or

department head, who, in addition to making final and binding decisions on grievances, has direct management responsibility for the operation of the unit that employs the grievant. At the other extreme is the jointly selected private arbitrator, who, in addition to being acceptable to both contending parties, lacks responsibility for the operation of the unit that employs the grievant. Similar to the arbitrator in independence from management responsibility is the jointly selected neutral member of the Tripartite Panel.

The special purpose appeal or review board is typically composed of members who have no management responsibility, but are appointed by the state. Panel members are ordinarily highly respected and qualified private citizens who are appointed because of their reputation for objectivity and impartiality. Members of such panels typically are not dependent on the state for their principal source of income.

The Hearing Officer typically does not have management responsibility for any aspect of state government, but is selected and employed directly by the state. Thus, the ability of the Hearing Officer to exercise independent judgment is brought into question by his or her dependence on state employment for a livelihood.

The Civil Service Commission is typically made up of citizens of the state appointed by the governor on a bipartisan basis who are charged with representing the interest of the general public in the exercise of their oversight authority. A major portion of the responsibility of the Commission in most states is to determine overall personnel management policy and to establish the general wage levels of broad classifications of state employees. However, even though the Commission has very significant management responsibility, its involvement is remote

from agency or department level concerns. Theoretically, its responsibility for the public good transcends the management concerns of individual state departments, and in any given state may include the responsibility to insure that state employees have access to well functioning and impartially administered grievance machinery. Thus, at the level of the Civil Service Commission the possibility of an objective and impartial treatment of employee grievances does exist.

Finally, returning almost full circle, the chief administrator and top personnel official of the state each bear substantial responsibility for the management of state government, though neither is closely involved with the day to day management concerns of individual departments.

Appendix B summarizes the incidence of these several types across the 30 noncollective bargaining states. Most states use more than one type of final step, and a high percentage (about 80 percent) use a general oversight authority to make final and binding decisions on at least some types of grievances. In 12 states the general oversight authority makes the final decision on virtually all types of grievances and appeals.

In eight states the general oversight authority makes final and binding decisions on a few types of cases, typically those involving key economic issues or serious disciplinary action, while other types of grievances and appeals are subject to a final and binding decision by the head of the agency or department that employs the grievant.

In five states, the responsibility for providing a final and binding decision is allocated among the general oversight authority, appeals board, and the chief administrator. In most of these states the special appeals board or the oversight authority handles the final determination

of discipline matters, while most other matters are decided by the top personnel official or administrator.

In the remaining states a number of different approaches exist, several of which are particularly noteworthy. In Maryland, grievants may appeal a broad range of issues, including classification matters, to a private arbitrator whose decision is advisory to a final and binding decision by the State Secretary of Personnel. The costs of the arbitrator are shared equally between the parties.

In Utah, the governor appoints a Hearings Officer who is employed as a full-time classified employee to make final and binding decisions on all types of cases except those that involve serious disciplinary actions and reallocations. The excluded matters may be appealed to a final and binding decision by the State Merit System Council.

In Vermont, grievants have three avenues of redress. Probationary employees who have been adversely affected by prohibited discrimination may appeal to the State Employees Labor Relations Board. Regular employees may appeal adverse reallocation and performance evaluation decisions to the State Personnel Director. All other types of cases may be appealed to the Vermont Labor Relations Board.

The unilateral procedure in Virginia provides for two unusual features: an employee relations counselor and a Tripartite Panel. The employee relations counselor is provided at no charge to advise and represent employees who request assistance in processing grievances. Employees may use a toll free number to telephone the counselor's office from throughout the state. The Tripartite Panel makes final and binding decisions on all types of grievances and appeals. The panel is

composed of three members: (a) one selected by the employer, (b) one selected by the grievant, and (c) an additional member selected jointly by (a) and (b) from any source. The decision of the panel is final and binding with no possibility for administrative reversal unless the panel exceeds its authority.

Indiana is the only state that authorizes the use of private arbitrators at the final step of the procedure. Under the Indiana system any nonprobationary employee may file a grievance if his or her employment status is changed involuntarily, or if he or she deems conditions of employment to be unsatisfactory. This provision has been very liberally applied with the result that the range of issues that may be appealed is almost unlimited. After the departmental steps have been exhausted the grievant may appeal any type of grievance to the State Employees Appeals Commission. The decision of the commission may be appealed to a mutually selected private arbitrator or to judicial review in the courts. The decision of the arbitrator is binding on both parties. The costs of the arbitrator are shared equally between the parties.

In summary, final and binding adjudication by a jointly selected arbitrator is available only in Indiana and for state civil service employees under collective bargaining agreements. Also, a few states provide for Tripartite Panels or specialized grievance appeals boards. However, the vast majority of states rely on Civil Service Commission or other general oversight authority to make final and binding decisions on grievances. In many of these states, the Civil Service Commission makes decisions on certain types of cases, such as dismissals,

while the department head or state personnel director has jurisdiction over other matters.

CHAPTER FOUR

THE PARTIES' PERCEPTIONS OF GRIEVANCE ADJUDICATION

Chapter four surveys the empirical research that has sought to assess employers', employees', and employee representatives' perceptions of presently used types of grievance adjudication. Emphasis was placed on the identification of empirical studies that assessed the perceived acceptability of, or the participating parties' satisfaction with, the utilized method of grievance adjudication. Few studies investigated these subjects.

The National Industrial Conference Board, in its 1950 survey of nonunion grievance procedures, found that most nonunion employers were unwilling to provide for adjudication of unresolved grievances by an outside neutral party. The most commonly cited reasons for employer reluctance to use outside arbitration were the following:

1. Employers are unwilling to relinquish control over the grievance outcome to an outside authority.
2. Employers perceive outsiders as unfamiliar with plant practices and, consequently, unqualified to provide fair and practical solutions to grievances.
3. The monetary cost of using an outside party to adjudicate grievances is viewed as exceeding the financial resources of individual employees in a nonunion setting.
4. Individual employees in a nonunion plant lack the competence and expertise to prepare and present arguments in formal arbitration proceedings.

5. The principal function of adjudication in a unionized setting is to restrict the use of strikes and lockouts in deciding unresolved grievances; in a nonunion plant no significant threat of disruption exists, and thus the use of outside adjudication is unnecessary.¹

The two nonunion employers that did permit impartial adjudication of unresolved grievances explained their policy as follows:

1. The company wants to "bend over backwards" to assure that employees receive a fair and unbiased hearing on grievances.²
2. The provision for impartial adjudication "gives credence to the sincerity of management to make the whole grievance procedure a workable one."³

Lawshe and Guion attempted to identify management and union views on what constitutes a good, or an acceptable, grievance procedure. They found that the management-oriented respondents tended to agree with the following statements:

- "No outside persons should be called in on grievance negotiations."
- "Levels should be set beyond which some grievances can't be taken."
- "A grievance procedure should give the worker a chance to take his grievance directly to top management if he wants to do so."

Union-oriented respondents tended to agree with the statement:

- "Arbitration which is final and binding to both parties should be the last step in the grievance procedure."⁴

¹National Industrial Conference Board, Inc., Grievance Procedures in Nonunionized Companies (New York, N. Y.: National Industrial Conference Board, Inc., 1950), pp. 15-17.

²Ibid., p. 16.

³Ibid., p. 17.

⁴Lawshe, C. H., and R. M. Guion, "A Comparison of Management-Labor Attitudes Toward Grievance Procedures," Personnel Psychology, Vol. 4, No. 1 (January 1951), pp. 1-17. The survey group included a total of 324 respondents, including managers, union official, employees, economists, and psychologists.

In a study of unionized grievance procedures in British industry, Thomson and Murray asked supervisors and middle managers to rate their understanding of, and their satisfaction with, the grievance procedures they use as representatives of management. They found that 96 percent of managers and 89 percent of supervisors had a very clear or a fairly clear understanding of their grievance procedures, and 60 percent of managers and 50 percent of supervisors were highly satisfied with their grievance procedures.⁵ However, acceptability of various methods of grievance adjudication was not addressed.

Brett and Goldberg conducted a study of the causes of strikes in the coal industry. They surveyed 124 coal miners employed at four mines, and obtained 113 usable responses. Their findings indicated that 90 percent of the miners surveyed believed that excessive delay in the grievance procedure, including the adjudication phase, was a definite cause of strikes, and 62 percent of the miners believed that the union lost grievances because arbitrators were biased or unfair.⁶ Arbitrators are selected jointly by the union and management in the coal industry. Therefore, it would be expected that most mining employees would perceive the arbitrators on the whole to be impartial. Nevertheless, the results of this study suggest that employee perceptions of impartiality may be independent of the method of selection. However, because of the high level of wildcat strikes and other unique conditions of the coal industry, these findings should be received cautiously.

⁵Thomson, A. W. J., and V. V. Murray, Grievance Procedures (Lexington, Mass.: Lexington Books, 1976), pp. 109-115.

⁶Brett, Jeanne M., and Stephen Goldberg, Wildcat Strikes in the Bituminous Coal Mining Industry: A Preliminary Report, Unpublished, May, 1978.

In a survey of their memberships, the American Federation of State, County and Municipal Employees (AFSCME), Michigan State Councils 7 and 55 found that 61 percent were in favor of compulsory arbitration of grievances while 10 percent were against arbitration, and 28 percent were undecided on the issue.⁷

Numerous studies of union member attitudes have been published. Without exception, these studies either do not address the question of how union members view grievance adjudication, or at most asked one or two general questions concerning member satisfaction with the quality of union representation provided under the grievance procedure.⁸

⁷American Federation of State, County, and Municipal Employees, AFL-CIO, Michigan State Councils 7 and 55, Union Member Attitude Survey, Unpublished Report, 1956.

⁸Amundson, Norman, and Janet Grant, Union Member and Attitude Survey, Western Graphic Arts Union (Berkeley, Calif.: Institute of Industrial Relations, November 1974).

Barkan, Alexander B., "The Union Member: Profiles and Attitudes," American Federationist, Vol. 8, No. 8 (August 1967).

Berstein, Irving, "West Coast Trade Union Characteristics, Membership and Influence," Monthly Labor Review, Vol. 82, No. 5 (May 1959).

Derber, Milton, Ellison Chalmers, Ross Stagner, and Milton Edelman, The Local Union-Management Relationship (Urbana: Institute of Labor and Industrial Relations, University of Illinois, 1960).

Dix, Keith, and Abram Flory, Political Attitudes of West Virginia AFL-CIO Union Members (Charleston: Institute for Labor Studies, Appalachia Center, West Virginia University, 1970).

Karsh, Bernard, "Union Traditions and Membership Apathy," Labor Law Journal, September, 1957.

Rosen, Hjalmar, and R. A. Rosen, The Union Member Speaks (New York: Prentice-Hall, Inc., 1955).

Sayles, Leonard R., and George Strauss, "What the Worker Really Thinks of His Union," Harvard Business Review, May-June, 1953.

Seidman, Joel, Jack London, Bernard Karsh, and Daisey Tagliacozzo, The Worker Views His Union (Chicago: The University of Chicago Press, 1958).

Stagner, Ross, Psychology of Industrial Conflict (New York: John Wiley and Sons, Inc., 1956).

Tannenbaum, Arnold S., and Robert L. Kahn, Participation in Local Unions (Evanston, Ill.: Row Peterson, 1958).

Uphoff, W. H., and Marvin D. Dunnette, Understanding the Union Member (Minneapolis: Industrial Relations Center, University of Minnesota Press, 1956).

A survey of research concerning employee job satisfaction failed to locate studies or survey instruments that examined perceptions of, or attitudes toward, various methods of grievance adjudication. It appears that theories and approaches to the study of job satisfaction have not considered the method of grievance resolution, per se, as being a variable related to job satisfaction.⁹

⁹Baehr, M. E., "A Factorial Study of the SRA Employee Inventory," Personnel Psychology, Vol. 7, No. 7 (July 1954), pp. 319-336.

Dawis, R. V., H. A. Lofquist, and D. J. Weiss, A Theory of Work Adjustment (Minneapolis: University of Minnesota, 1968).

Lock, E. A., "The Nature and Causes of Job Satisfaction," in M. D. Dunnette, ed., Handbook of Industrial and Organizational Psychology (Chicago: Rand McNally, 1975).

Robinson, J. P., R. Athanasiou, and K. B. Head, Measures of Occupational Attitudes and Occupational Characteristics (Ann Arbor: Survey Research Center, University of Michigan, 1969).

Rothlisberger, F. S., and W. J. Dickson, Management and the Worker (Cambridge, Mass.: Harvard University Press, 1939).

Smith, P. C., L. M. Kendall, and C. L. Hulin, The Measurement of Satisfaction in Work and Retirement (Chicago: Rand McNally, 1969).

Vitales, M. S., Motivation and Morale in Industry (New York: Wiley, 1964).

Vroom, V. H., Work and Motivation (New York: Wiley, 1964).

Wanous, J. P., and E. E. Lawler, "Measurement and Meaning of Job Satisfaction," Journal of Applied Psychology, Vol. 56, 1972.

Weiss, D. J., R. V. Dawis, G. W. England, and L. H. Lofquist, Manual for the Minnesota Satisfaction Questionnaire (Minneapolis: University of Minnesota, 1967).

Finally, studies of the causes of grievance activity were considered. None of these studies considered how the method of grievance adjudication is perceived by procedure participants.¹⁰

Summary

An analysis of empirical research which has touched on the question of grievance adjudication acceptability yields the following findings:

1. Nonunion employers have a strong preference for management controlled grievance adjudication, primarily because they object in principle to allowing a neutral outside authority to make decisions that are final and binding on management.
2. A few nonunion employers report that they perceive that employees lack the financial resources and expertise necessary to participate in impartial adjudication.
3. In rare instances, nonunion employers establish impartial adjudication in order to enhance the perceived fairness of the procedure.
4. Unions have a strong preference for jointly controlled adjudication.

¹⁰Ash, Phillip, "The Parties to the Grievance," Personnel Psychology, Vol. 23, No. 1 (January 1970), pp. 13-38.

Price, John, John Nowack DeWire, and Kenneth Scherke, "Three Studies of Grievances," Personnel Journal, Vol. 55, No. 1 (January 1976), pp. 33-37.

DeWire, J. E., Comparison of Multiple Grievants Versus Non-grievants in Industry (Atlanta, Ga.: School of Psychology, Georgia Institute of Technology, 1972).

Eckerman, A. C., "An Analysis of Grievances and Aggrieved Employees in a Machine Shop and Foundry," Journal of Applied Psychology, Vol. 32, No. 2 (February 1948), pp. 255-269.

Fleishman, Edwin A., and Edwin F. Harris, "Patterns of Leadership Behavior Related to Employee Grievances and Turnovers," Personnel Psychology, Vol. 15, No. 1 (January 1962), pp. 43-56.

Kissler, Gary D., "Grievance Activity and Union Membership: A Study of Government Employees," Journal of Applied Psychology, Vol. 62, No. 4 (April 1977), pp. 459-462.

Peach, D. A., and E. R. Livernash, Grievance Initiation and Resolution A Study in Basic Steel (Boston: Harvard University Press, 1974).

Ronan, W. W., "Work Group Attributes and Grievances Activity," Journal of Applied Psychology, Vol. 47, No. 1 (January 1964), pp. 38-41.

5. One study of coal miners reports that a large majority of those surveyed perceive that jointly selected arbitrators are biased in favor of management. However, these findings should be limited to the unique circumstances of the coal industry.

Nearly all of the literature that deals with grievance adjudication does not include any consideration of how the parties perceive different methods of grievance adjudication. Rather, the bulk of the literature is concerned with union members' perceptions of the quality of union representation, and with the causes of grievances. The few studies that have considered the perceived acceptability of adjudication have not compiled empirical data that is sufficient to constitute a meaningful benchmark to be compared with the data compiled in this study of the Michigan system.

PART TWO

THE MICHIGAN SYSTEM OF ADJUDICATION

CHAPTER FIVE

THE DEVELOPMENT AND OPERATION OF GRIEVANCE ADJUDICATION IN MICHIGAN

Organization of the Michigan Civil Service

The Michigan Civil Service is made up of 19 operating departments and the Department of Civil Service, which houses all staff personnel functions that are supervised by the Michigan Civil Service Commission. Figure One illustrates the organizational structure of the Civil Service. Figure Two illustrates the structure of the Department of Civil Service. The Michigan Civil Service Commission, which derives its authority from the State Constitution, is responsible for determining overall employment policy and regulating the employment process in the state civil service. Article XI of the Constitution, which establishes conditions pertaining generally to public offices and state employment, provides in Section 5:

"The Civil Service Commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year."

Section 5 also establishes the Commission's responsibilities:

"The Commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively

Figure One
The Michigan Civil Service

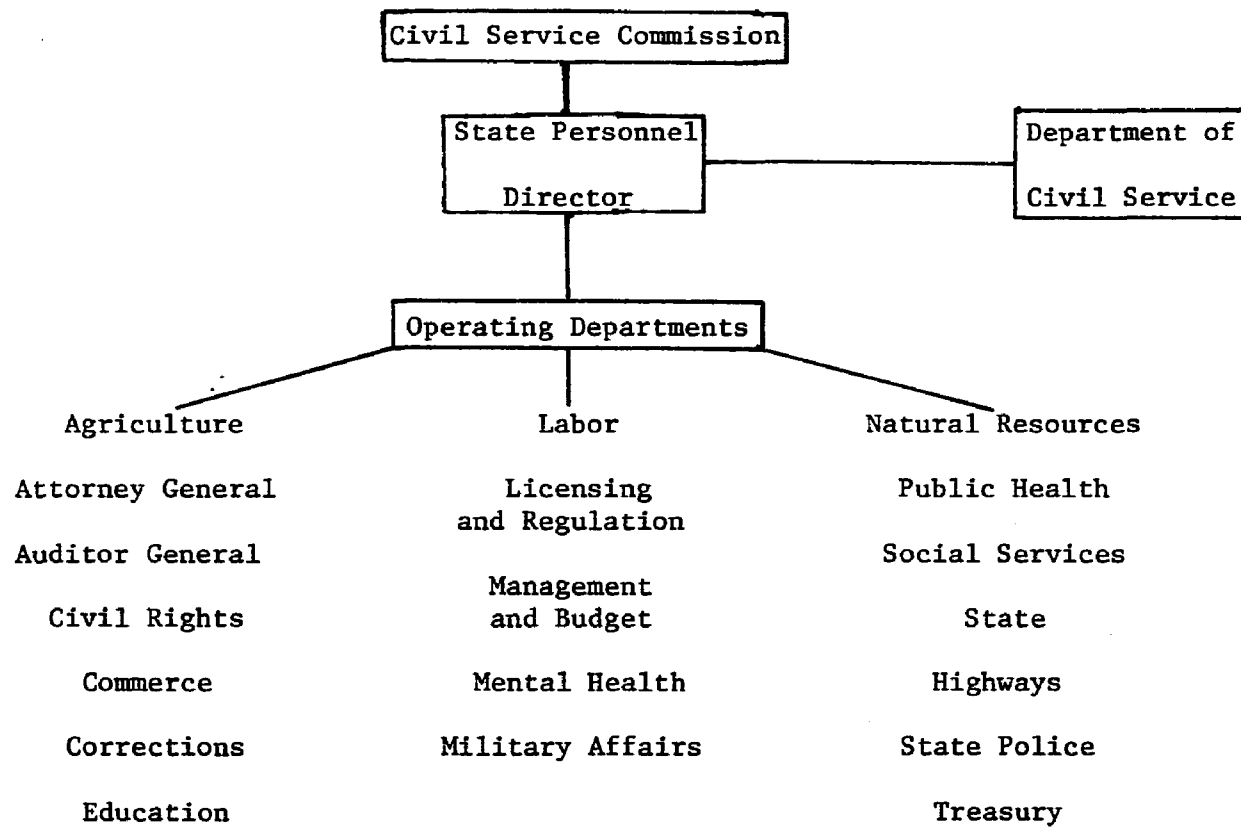
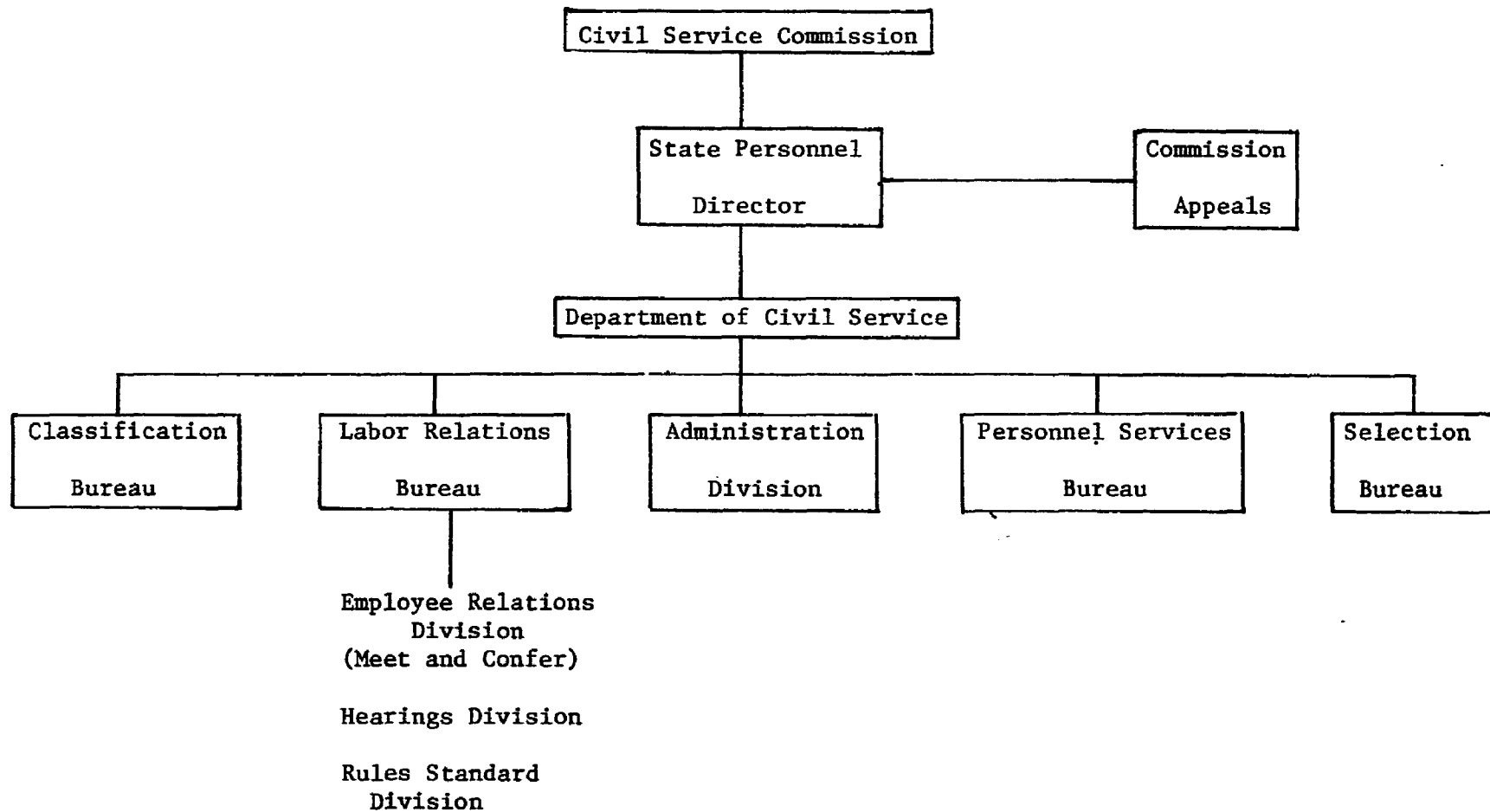


Figure Two

The Department of Civil Service



on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service."

Finally, Section 5 provides:

"To enable the Commission to exercise its powers, the legislature should appropriate to the Commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the Commission."

The administration of the Commission powers and responsibilities are vested in the State Personnel Director who reports directly to the Commission. The Department of Civil Service carries out the Commission's functions under the supervision of the State Personnel Director. The Hearings Division, which administers the adjudication process, is housed within the Bureau of Labor Relations in the Department of Civil Service.

Development of Grievance Adjudication from 1938 to 1971¹

Michigan first provided a formal grievance mechanism to State Civil Service employees in 1938. This procedure provided for direct appeals to the Civil Service Commission on separations from employment and alleged

¹Much of the material in this chapter was collected through interviews with: Otis Hardy, Director of the Labor Relations Bureau, John O'Connor, Commission Appeals Officer and State Arbitration Officer, Richard Myers, Director of the Hearings Division, Susan Schoettler, Acting Director of the Hearings Division, Hearing Officers Sylvia Elliot, John Fitch, William Hutchens, Hal Lesse, Alvin Washington, Edward Middleton, and Rodiville Morriss, John Pouch, Personnel Officer, Department of Mental Health, Michael Masternak, Personnel Officer, Department of Social Services, James Wilson, Personnel Officer, Department of Management and Budget, Michael Cain, American Federation of State, County, and Municipal Employees representative, and Donald Johnson, Michigan State Employees Association representative.

violations of Commission rules.² Commission decisions on dismissals were advisory to agency heads. Hearings were not granted on conditions of work not covered by Commission rules. State authorities viewed the procedure as a means to provide a check on violations of the state merit system, and thus as a protection of the public's interest in sound state government as well as a benefit to state employees.

In 1941, the Civil Service Commission was reestablished through an amendment to the state constitution.³ Later, in 1941, the new Commission established a three-member Hearings Board to decide dismissal grievances appealed above the agency level. The Hearings Board was composed of the State Personnel Director, the Legal Advisor to the Commission, and one member selected by the State Personnel Director. Hearings Board decisions could be appealed for review by the Commission, but were binding on the parties unless overturned by the Commission.

In October, 1941, the Commission revised the procedure to permit any employee, appointing authority, or citizen to appeal to the Commission any decision of the State Personnel Director or an appointing authority on any administrative matter affecting Civil Service. The Commission further provided that whenever an appeal of an appointing authority decision was made, the State Personnel Director would conduct an investigation and attempt to effect a settlement.⁴ If a settlement was not

²Michigan's first State Civil Service Commission was established by statute in 1938.

³Constitution of the State of Michigan, Article XI, Section 5.

⁴The Commission also replaced the State Personnel Director and his appointee on the Hearings Board with two members appointed by the Commission from the public at large. The Commission was thus composed of two Commission appointees plus the Commission legal advisor.

attained, the Director would present the appeal and his recommendation on its resolution to the Commission. The Commission, or, on the Commission's order, the Hearings Board would then hear and make a disposition of the appeal.

In December, 1944, the Commission revised the procedure to provide that all appeals of State Personnel Director or appointing authority decisions would be heard by the Hearings Board. As before, investigation and settlement efforts by the State Personnel Director on appeals of appointing authority decisions would precede consideration of appeals by the Hearings Board.⁵

In October, 1954, the Commission established the policy that the Hearings Board would operate more as an administrative fact finding body than as a judicial body. The Board would still decide the materiality of the facts and issues before it, and decide the issues through application of Civil Service rules. However, hearings would be conducted informally, more similar to administrative meetings than court room proceedings. The parties would be allowed to present all evidence they deemed pertinent to the case at hand, and the Board was responsible for insuring that a sound record was available to make its decision. The Commission's legal advisor was withdrawn from the Board, and the Board was expanded to 12 members, appointed by the Commission, who shared the Chairmanship on a rotating basis.⁶

⁵Killingsworth, Charles C., The Michigan Civil Service Hearings Board, Report and Recommendations (Lansing, Mi.: Labor and Industrial Relations Center, Michigan State University, 1958), pp. 12-16.

⁶Ibid., p. 15.

The Commission, in September, 1957, affirmed its policy of denying hearings to probationary employees, except in cases involving a specific charge of prohibited discrimination.

During 1957 and 1958, Dr. Charles C. Killingsworth and Dr. Melvin Segal of Michigan State University, at the request of the Commission, conducted a study of the grievance procedure. In January, 1959, the Commission adopted the following recommendations of the study:

1. The Commission staff should thoroughly investigate all appeals from employees on dismissals, suspensions, demotions, service ratings, and related matters.
2. The Hearings Board should be continued. Experienced arbitrators should be appointed to the Hearings Board, and at least one experienced arbitrator should serve as a Board member at each hearing.
3. The Commission should experiment with the use of arbitrators on some types of cases on an ad hoc basis.
4. Hearings Board decisions should contain carefully reasoned evaluations of pertinent facts and testimony.
5. A simply worded description of hearing policies and procedures should be developed and provided to every agency and appellant.
6. The Commission should consider adoption of the "Procedural Standards for Arbitrators" issued by the American Arbitration Association.
7. Probationary employees should be denied hearings on service ratings except in cases involving specific allegations of prohibited discrimination.
8. Provisional appointees of less than six months should be denied hearings on dismissals unless specific allegations of prohibited discrimination are involved.
9. Appeals should continue to be permitted on: all examination matters; reclassifications; disciplinary matters; and other matters, including service ratings, compensation, layoffs, employee preference or seniority, transfers, annual sick leave, and resignations.

10. Oral hearings before the Commission should be limited to certain types of cases, to be determined by the Commission.
11. New evidence should be received by the Commission only after a showing of good cause for a failure to submit the evidence earlier.
12. The Commission should direct the departments to establish written grievance procedures in conformance with certain minimum standards.
13. The Commission should design a model grievance procedure to be made available to departments for their use in developing their own procedures.
14. Predisciplinary fact finding hearings conducted by departments should allow employees the right of representation and the right to call witnesses on their own behalf.
15. The Commission should assure compliance by all agencies with its minimum standards for grievance procedures.
16. The Commission should provide training in grievance handling to agency personnel.

In 1966, Michigan state government was reorganized into 19 principal departments plus the Department of Civil Service. The Commission, in 1967, after extensive consultation with departments and employee organizations, established new minimum standards for departmental grievance procedures:

1. Departments should encourage day to day dialogue between employees and supervisors in order to identify and resolve problems prior to use of the grievance procedure.
2. Departments should provide standard forms for use in processing grievances.
3. Time limits were established for the processing of grievances.
4. Department head review should constitute the step prior to a hearing by the Hearings Board.
5. Recognized employee organizations may confer with departments concerning the development and implementation of new grievance procedures.

6. Complaints which constitute demands for changes in departmental rules or conditions of employment are not grievable, but may be taken up under the Commission's conference procedure.

In 1971, the Commission limited the types of cases that could be appealed to the Hearings Board. Appeals of lost time of eight hours or less, counseling memoranda, and reprimands were excluded from appeal above the department level.⁷

Recent Developments, 1972-1978

The Commission, on April 3, 1972, established a single, statewide grievance procedure to replace the separate departmental procedures that have been in use since 1967. This procedure, which is still in use today, provides for five levels of appeal:

1. to the immediate supervisor;
2. to an intermediate level supervisor;
3. to the department head or his designated representative;
4. to a Civil Service Hearing Officer or to an outside arbitrator; and,
5. to the Civil Service Commission.⁸

The costs of appeals to Hearing Officers are borne by the state. Arbitration fees and expenses are shared equally between the department and the employee or employee organization. The decisions of Hearing Officers and arbitrators may be appealed to the Commission. Employees are provided an automatic right of appeal to the Commission on dismissal cases. All other types of cases are granted leave to appeal to the

⁷Ibid., p. 15.

⁸Ibid., p. 15.

Commission only in the event that arbitrary personnel actions or violation of Commission rules are involved.⁹

The Commission, in 1972, provided for the use of full-time Civil Service staff Hearing Officers to hear cases at Step 4 in addition to the ad hoc Hearings Board members used exclusively before that time. At the discretion of Civil Service, an appeal to a Step 4 Hearing Officer may be assigned either to a full-time staff Hearing Officer, or to a part-time, ad hoc Hearing Officer selected from a panel of labor arbitrators, lawyers, and labor relations professors.

During the period from October, 1973, through March, 1974, the State Legislature's "Special Committee to Study Civil Service Policies and Operations," chaired by Representative Robert Crim, conducted public hearings and received testimony on many facets of the State Civil Service System.¹⁰ The Committee's findings contained specific conclusions concerning the grievance procedure:

1. A large number of state employees lack the confidence that they are treated fairly in the present system of grievance settlement; and
2. The Commission should consult with employee organizations and other interested parties to streamline, overhaul, and simplify the state grievance procedure.¹¹

During and following the period of the Crim Committee Study, the Commission implemented several changes in the administration of the grievance procedure:

⁹Refer to the Michigan Grievance Procedure, Section 5, in Appendix C, for details of grievance appeals process.

¹⁰A broad spectrum of participants contributed to the testimony including Commission members, representatives of departments and employee organizations, Department of Civil Service staff personnel, employees, and members of the public.

¹¹Report of the Special Committee to Study Civil Service Policies and Operations, 1974, pp. 6-7.

1. In November, 1974, the Office of Mediation and Hearings (subsequently changed to the Hearings Division) was created to handle appeals to Civil Service Hearing Officers. Thus, the Department of Civil Service adjudication function was to be supervised and administered separately from its employee relations advocacy functions.
2. In July, 1975, the transfer of Technical Hearing Officers from the Classifications and Testing Divisions was completed. Thus, technical appeals would be handled in a unit that was administratively separate from the division against which the appeal was lodged.
3. The Chief Hearing Officer would no longer co-sign Hearing Officer decisions.
4. Hearing Officers would no longer discuss their decision drafts with the State Personnel Director or anyone else.
5. The Administrative Procedures Act and the rules of the American Arbitration Association would serve as guides to the conduct of Civil Service Step 4 hearings.
6. The use of a tape recorder to record grievance hearings would be replaced by the use of professional court reporters.
7. Only the Commission would deny review of or adjudicate appeals.
8. The grievant's right of appeal in dismissal cases would be guaranteed.¹²

During 1975, full-time Civil Service Hearing Officers were increased from one to four, thus enabling more cases to be heard by full-time Hearing Officers. By 1978, the number of full-time Hearing Officers had been increased to eight.

Also, during 1975, the use of an expedited hearing procedure was implemented to supplement the formal, evidentiary hearing procedure used exclusively prior to that time. The expedited procedure was designed

¹²Memorandum dated December 30, 1974, from the Chief Hearing Officer to the State Personnel Director.

to be used for grievances involving relatively simple issues and little potential loss to either party. Expedited hearings were scheduled for one hour or less, involved the presentation of only oral arguments, ordinarily would not require witnesses, and excluded the use of a court reporter. The object was to reduce the case backlog of pending appeals and to achieve a more timely resolution of grievances. However, no fixed time limit for issuance of decisions on expedited cases was provided.

In May, 1975, the position of Commission Appeals Officer was established to administer appeals to the Commission. Presently, the position incumbent also coordinates appeals to arbitration and conducts prearbitration conferences.

A significant change in the grievance procedure was ordered by the Commission at its meeting in May, 1978. Largely as a result of pressure caused by a large number of discharge grievances involving allegations of patient abuse in the Department of Mental Health, the Commission extended the use of outside arbitration to dismissal grievances. Formerly, only nondismissal grievances could be taken to an outside arbitrator. At the same time, the Commission clarified its policy concerning appeals of arbitration to the Commission. The clarification provided that the Commission would defer to arbitration unless the arbitration hearing was unfair or irregular, or the arbitrator's decision was contrary or repugnant to civil service policies.

Current Operations

The Hearings Division administers all appeals to Civil Service Step 4. When an appeal is filed, a Hearings Division Scheduling

Officer conducts an investigation to determine if the grievance qualifies to be heard at Step 4. Generally speaking, in order for a grievance to qualify to be heard at Step 4, it must fall within the definition of a grievance (Section II.1 of the Grievance Procedure), be processed in a timely fashion (Section I.5 of the Grievance Procedure), and be filed on the proper forms. Cases found to be unqualified for hearing at Step 4 are dismissed by administrative action, and the parties are notified in writing of the dismissal. Review of such dismissal may be obtained by the grievant, first by a written request to the Director of the Hearings Division, and if satisfaction is not obtained, to the State Personnel Director.

If the grievance qualifies to be heard at Step 4, the Scheduling Officer, in consultation with the Director, assigns the case to a Hearing Officer, schedules the time and location of the hearing, and notifies the parties of the hearing. Finally, the Scheduling Officer, in consultation with the Director, determines if the grievance should be scheduled for a regular or an expedited hearing.

The Hearings Division is headed by a Director, employs four full-time grievance Hearing Officers, and maintains a roster of nine ad hoc Hearing Officers to decide Step 4 grievances. The decision to assign a grievance to a full-time Hearing Officer or an ad hoc Hearing Officer is made by the Scheduling Officer in consultation with the Director of the Hearings Division. Ordinarily, a very difficult or controversial case may be assigned to an ad hoc Hearing Officer because of his special expertise or experience with the issues involved. The Hearings Division also employs four Technical Hearings Officers to decide appeals of Civil

Service Bureau actions typically involving classification or testing matters.¹³

Appeals to outside arbitration are administered by the State Arbitration Officer, who also serves in the capacity of Commission Appeals Officer. The Arbitration Officer reports directly to the Commission and functions independently of the Hearings Division. The Arbitration Officer first investigates grievances appealed to arbitration to determine if they qualify for arbitration. Then he schedules and conducts a pre-arbitration conference to attempt mediation and to obtain stipulations on facts and issues to be submitted to the arbitrator. After the pre-arbitration conference, he issues a report describing what was accomplished at the conference, and certifying whether the case qualifies for arbitration. However, the Arbitration Officer's report is not binding on the parties; they may process a case to arbitration whether or not he advises that it should be taken to arbitration. The Arbitration Officer's involvement in the case is completed once he issues his report. Established procedures are available to the parties for use in selecting an arbitrator through the American Arbitration Association or other arbitration referral services.

Appeals to the Commission are administered by the Commission Appeals Officer. There are two types of appeal to the Commission, distinguished by whether the appellant has an automatic right of appeal or may appeal only upon leave granted by the Commission. All discharge grievances lost by the grievant at Step 4 of the procedure are guaranteed the right

¹³Refer to Grievance Procedure, Section IV, in Appendix C for a detailed description of appeals involving technical matters.

of appeal to the Commission. All other grievances may be appealed only when granted leave to appeal by the Commission. Usually, in order for leave to appeal to be granted, the appeal must allege either a violation of the state constitution, a violation of law, a violation of civil service rules or regulations, or an abuse of discretion by the Hearing Officer or arbitrator. The Commission members make all decisions on appeals on the basis of their own reading of case records, briefs, and transcripts and on the basis of analysis provided by Commission Appeals Office staff. The Commission members meet on a monthly basis to decide pending appeals, and to conduct other Commission business.

Representation of employees is permitted at all five steps of the procedure. The representative at the first step must be a fellow employee. Representation at all subsequent steps may be provided by any agent or employee organization selected by the employee. Though collective bargaining is not authorized for Michigan state employees, seven employee organizations historically have been recognized by the state for purposes of consultation on wages, hours, and other conditions of employment, and each of the seven is active in representing employees under the grievance procedure. These organizations are the Michigan State Employees Association (MSEA), the American Federation of State, County, and Municipal Employees (AFSCME), 31-M (affiliated with the Service Employees International Union), the Michigan State Troopers Association, the Corrections Organization, the Highway Engineers, and the Welfare Employees Union. About 80 percent of all grievances decided by Hearing Officers are represented by one of these organizations. The remaining 20 percent of the grievances decided by Hearing Officers are represented by a private attorney, the individual grievant, or a fellow employee

of the grievant. About 51 percent of all state civil service employees hold membership in, and authorize dues check off in support of one of these seven organizations. And at least one of the seven organizations is active in each of the 20 state departments.¹⁴

¹⁴Refer to Appendix F, Table 50 for further details.

CHAPTER SIX

THE CIVIL SERVICE HEARING OFFICER

The State of Michigan employs eight full-time Hearing Officers and nine ad hoc Hearing Officers. Four of the full-time Hearing Officers decide fourth step grievance cases, and the remaining four decide technical appeals. The nine ad hoc Hearing Officers decide fourth step grievance cases. In all, this group of Hearing Officers decided 438 regular grievance cases, and 185 technical appeals during the 12-month period from October 1, 1977, through September 30, 1978. The Hearing Officers are employed in the Hearings Division, which is a separate administrative unit within the Michigan Department of Civil Service. The Hearings Division was originally established in 1974 in order to separate the adjudication functions from the management and employer advocacy functions of the department of Civil Service. Since 1974, the Hearings Division has been housed in a separate office building, and thus has been geographically removed from all other Department of Civil Service units.

All but a very small percentage (three percent) of the fourth step grievances, and all technical appeals, are decided by Civil Service Hearing Officers. Very few Hearing Officer decisions are overturned by the Civil Service Commission. Under the Michigan system, the Hearing Officer functions much like a private arbitrator used in grievance

procedures under collective bargaining agreements. However, unlike the practice in arbitration under collective bargaining, the parties under the Michigan procedure do not have the right to participate in the selection of the Hearing Officers that adjudicate their disputes. Rather, the Michigan Department of Civil Service selects Hearing Officers, and establishes the policies and standards under which the adjudication process is performed.

This study surveyed Civil Service Hearing Officers and ad hoc Hearing Officers with respect to their background, education, training, and other qualifications. A questionnaire was administered to both groups of Hearing Officers. Official job descriptions and specifications for Civil Service Hearing Officers were examined. Finally, interviews with the Director of the Hearings Division and other Department of Civil Service personnel were held. The information reported below was obtained through the questionnaire survey, the interviews, and the job descriptions and specifications.

Knowledge, Abilities, and Responsibilities

Civil Service Hearing Officers are employed in a number of different job classifications, depending largely on their qualifications and tenure.¹ However, the types of knowledge, ability and responsibility required of Hearing Officers, though graded by experience on the job, fall in the same general categories. The primary responsibilities of Hearing Officers are:

¹The present group of Hearing Officers includes those classified as Personnel Administrator 14 and 15, Employee Relations Administrator 14 and 16, Labor Hearing Officer 15, and Personnel Specialist 11. This information was collected from official job descriptions on file with the Classification Bureau of the Department of Civil Service.

1. to investigate and mediate grievances;
2. to arrange stipulations on facts and issues;
3. to judge the relevancy and weight of evidence offered;
4. to make findings of fact and conclusions of law; and,
5. to prepare and issue written grievance and appeal decisions.

The types of knowledge and ability required of Hearing Officers include:

1. Knowledge of principles and practices of personnel administration.
2. Elementary knowledge of state government functions and organizations.
3. Knowledge of merit system principles.
4. Knowledge of grievance, mediation, and arbitration procedures.
5. Knowledge of rules of evidence.
6. General knowledge of Michigan constitutional provision for Civil Service, and all state and federal protective labor legislation.
7. Good command of written and spoken English.
8. Ability to interpret and apply laws, rules, and regulations relative to the state merit system.
9. Ability to conduct quasi-judicial hearings.
10. Ability to evaluate oral and written evidence and draw logical conclusions.
11. Ability to prepare accurate, logical and concise written decisions.²

²This information was collected from official job specifications on file with the Classification Bureau.

On the Job Training

Newly appointed full-time Hearing Officers are provided job training through a number of methods. Those with limited previous experience with state government labor relations practices are assigned to work as a Scheduling Officer for several weeks or months in order to gain general familiarity with the Michigan system. During this period, the individual trainee also observes hearings conducted by several different experienced Hearing Officers, involving a variety of issues, departments, and employee organizations. Practice decisions are written, critically evaluated by an experienced Hearing Officer, and rewritten by the new Hearing Officer. Finally, selected cases, Civil Service rules, appointing authority letters, information bulletins, employee relations policies and departmental personnel rules are made available to the new Hearing Officer for study. The new Hearing Officer is, at first, assigned relatively simple cases to decide, and then is assigned more difficult cases as proficiency is demonstrated. Thus, the new Hearing Officer undergoes what is essentially a period of apprenticeship training.

In contrast, ad hoc Hearing Officers must have demonstrated the ability to hear and decide cases before they are employed. Typically, the ad hoc Hearing Officer is an individual employed full-time as a university professor or a private lawyer, and possesses some experience in labor arbitration.

Compensation and Qualifications

The average annual salary of full-time Hearing Officers as of August, 1978, was approximately \$24,700, with the lowest paid incumbent receiving \$17,000 per year and the highest paid receiving an annual

salary of \$30,000. The ad hoc Hearing Officer is paid either \$150 or \$200 per day of hearing and writing time, depending on individual qualifications. Ad hoc Hearing Officers were paid an average of \$621 per decision issued in fiscal year 1978.

The average age of full-time Hearing Officers is 45 years, ranging from a minimum of 27 years to a maximum of 66 years. The average age of currently active ad hoc Hearing Officers is 54 years, ranging from 34 to 72 years of age.

Two of the eight full-time Hearing Officers possess a law degree, one a Masters degree in Labor and Industrial Relations, and one is a candidate for a Masters degree in Labor and Industrial Relations. The other four possess Bachelor degrees in economics, personnel administration, business administration, and political science.

The nine ad hoc Hearing Officers include six with a law degree and three with a Doctorate in labor relations, labor economics, or political science. Five of the ad hoc Hearing Officers are practicing attorneys, and four are university professors with a specialization in labor relations.

Four of the full-time Hearing Officers possessed substantial amounts of management experience in labor relations or personnel administration prior to their employment as Hearing Officers. Two possessed several years of experience as full-time staff representatives for employee organizations. The other two lacked labor relations or personnel administration experience, but were among those with the greatest amount of formal education.

Though one full-time Hearing Officer possessed prior experience with the arbitration of accident claims, none had served as a labor

arbitrator prior to being a Hearing Officer. Six of the nine ad hoc Hearing Officers possessed extensive experience in labor arbitration prior to being employed as a Hearing Officer. The other three had arbitrated only one or two cases apart from their experiences as Civil Service Hearing Officers.

Conflict of Interest

The Hearings Division uses the "Voluntary Labor Arbitration Rules" of the American Arbitration Association to provide Hearing Officers with guidelines concerning proper adjudication procedures and hearing conduct. These rules provide standards on how arbitrators or other "third party neutrals" should conduct hearings, issue decisions, and conduct their relations with the parties to grievances. These rules are intended to provide general guidance rather than serve as rigid requirements. Sections 11, 17, and 45 of the Voluntary Labor Arbitration Rules provide guidance that pertains to the Hearing Officer's or arbitrator's impartiality, and his duty to disclose circumstances that may affect his impartiality:

11. Qualifications of Arbitrator--No person shall serve as a neutral Arbitrator in any arbitration in which he has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualification.
17. Disclosure by Arbitrator of Disqualification--Prior to accepting his appointment, the prospective neutral Arbitrator shall disclose any circumstances likely to disqualify him as an impartial Arbitrator. Upon receipt of such information, the AAA shall immediately disclose it to the parties. If either party declines to waive the presumptive disqualification, the vacancy thus created shall be filled in accordance with the applicable provisions of these rules.

45. Communications with Arbitrator--There shall be no communication between the parties and a neutral Arbitrator other than at oral hearings. Any other oral or written communications from the parties to the Arbitrator shall be directed to the AAA for transmittal to the Arbitrator.³

An important question for neutral adjudicators is their ability to judge when they may be involved in a conflict of interest which might affect their decisions. The ability of an adjudicator to maintain his acceptability as an impartial decision maker may often depend on his ability to discriminate between situations which do and do not constitute a conflict of interest. Moreover, it is of particular importance for Michigan's Hearing Officers to be cognizant of and thus able to avoid potential conflict of interest situations; since they are selected unilaterally by the state rather than jointly by the parties, their impartiality may be more in question than jointly selected adjudicators. A study published in 1971 attempted to determine the views of professional arbitrators on what circumstances they should and should not disclose to the parties in order to be in compliance with their duty of disclosure in situations that might reasonably raise any doubt as to their impartiality.⁴ A sample of professional arbitrators, drawn from the membership of the National Academy of Arbitrators, was asked to identify among a set of 30 factual situations the types of circumstances that should be disclosed. The factual situations were based on personal experiences reported in interviews by a number of practicing arbitrators.

³American Arbitration Association, Voluntary Labor Arbitration Rules (New York, N. Y.: American Arbitration Association, 1970).

⁴Sherman, Herbert L., Jr., "Arbitrators' Duty to Disclosure--A Sequel," Arbitration and the Public Interest, Proceedings of the Twenty-Fourth Annual Meeting, National Academy of Arbitrators (Washington, D. C.: Bureau of National Affairs, 1971), pp. 203-233.

The 30 factual situations included a wide range of circumstances in business and social settings, including both superficial and very close relationships between arbitrators and the parties to grievances. Among the types of situations included were: pre-existing consulting relationships between the arbitrator and either party to a grievance being decided by the arbitrator; lectures, conferences, or university classes given (or attended) by the arbitrator and attended by either of the parties; stock ownership or other financial interest held by the arbitrator in a company that is party to a grievance; social and civic contacts between the arbitrator and either of the parties; prior contacts in arbitration; and potentially compromising statements (e.g., "I don't mind if I lose this one.") made by either of the parties to the arbitrator. The respondents indicated whether they thought the situation should be disclosed by indicating "yes," "no," or "it depends."

The results indicated a high level of agreement on what should and should not be disclosed. From about 60 to 80 percent of the arbitrators in the sample were able to agree that disclosure either was or was not required in 24 of the 30 situations.

In order to determine the extent to which Michigan's full-time and ad hoc Hearing Officers agreed with professional arbitrators regarding their duty to disclose, a questionnaire which is very similar to the one completed by the arbitrators in the 1971 study was administered to all full-time and ad hoc Hearing Officers. Twenty-one of the 30 situations used in the 1971 study are relevant to the civil service setting. Civil Service Hearing Officers were asked to indicate their

perceptions on their "duty to disclose" to the Director of the Hearings Division in these 21 situations, and in nine additional situations devised for use in this study.

The results of the survey indicate that a majority (55 to 85 percent) of full-time and ad hoc Hearing Officers and professional arbitrators are in agreement on whether there is or is not a duty to disclose in 12 of the 21 factual situations that were used in both studies. Responses to the 18 factual situations in which agreement was not attained indicate that full-time Hearing Officers are at least as cognizant of the existence of a possible conflict of interest as are either ad hoc Hearing Officers or professional arbitrators.⁵ These results indicate that the views of Michigan's full-time and ad hoc Hearing Officers are at least comparable to the views of private arbitrators concerning what situations may constitute a potential conflict of interest.

⁵The questionnaire responses of full-time and ad hoc Hearing Officers are shown in Appendix D.

CHAPTER SEVEN

GRIEVANCE AND TECHNICAL APPEAL DECISIONS

Michigan's present system of adjudication has been in use since May, 1972. However, no data concerning its operation and use, other than the annual volume of grievances sustained and denied, have been tabulated. In order to obtain more complete data concerning the use of the adjudication process, the author examined the Hearing Officer and arbitrator decisions issued during the five year period from January 1, 1973, through December 31, 1977. The author analyzed the decisions in terms of department involved, type of employee representation used, employee classification level, grievance issues, decision outcomes and timeliness, use of expedited hearings, use of ad hoc Hearing Officers, and appeals to the Civil Service Commission. The results of this analysis are presented in this chapter. These results serve the purpose of describing objectively, in terms of the factors analyzed, the nature of the adjudication process and how it has been used.

Regular grievance Hearings Officers decided a total of 1,325 cases during calendar years 1973 through 1977. Technical Hearings Officers, after becoming a part of the Hearings Division in 1975, decided 562 cases through 1977. Arbitrators decided 35 grievances during the 1973

through 1977 period. Altogether, Hearings Division personnel and arbitrators decided a total of 1,922 cases from 1973 through 1977. Appeals to the Civil Service Commission were taken on 422 (22 percent) of the 1,922 cases, which included 355 brought on Step 4 grievance decisions, 60 on technical appeal decisions, and seven on arbitration decisions.

Grievances Dismissed Without a Hearing

Decisions on grievances by Hearing Officers increased from 168 in 1973 to 371 in 1977. These decisions do not include the grievances that are appealed to the Hearings Division and then dismissed without a hearing before a Hearing Officer. In any one year, such cases comprise from 50 to 60 percent of the total Step 4 case load.¹ These grievances are dismissed because they contain one or more procedural or substantive deficiencies. The most common deficiencies identified in a sample of 411 dismissed cases in 1978, were:

- The grievance failed to comply with the definition of a grievance (20.4 percent of the sample)
- The grievance was untimely or otherwise failed to comply with the procedure at Step 1, 2 or 3 (15.4 percent of the sample)
- The action grieved was an employer right specified in Section 4.1 of the Employee Relations Policy (11.6 percent of the sample)
- The grievance should have been processed as a classification redetermination case (10.9 percent of the sample).²

¹Annual Report of the Civil Service Commission for the years 1973 through 1977.

²Refer to Appendix E, Table 23, for more detail.

Decisions by Department Involved

The Department of Mental Health was involved in 44 percent of all decisions decided by Hearing Officers during the 1973-1977 period, and three-fourths of all cases originated in Mental Health, Social Services and Corrections. The eight departments accounting for more than 90 percent of all cases are shown in Table 1.

Table 1: Distribution of Decisions by Department, 1973-1977

<u>Department</u>	<u>Percent</u>	<u>Cumulative Percent</u>
Mental Health	43.7	43.7
Social Services	14.6	58.3
Corrections	14.4	72.7
Labor	6.1	78.8
State Police	4.8	83.6
State Highways	3.9	87.5
Management and Budget	2.7	90.2
Commerce	2.1	92.3
<u>Source: Appendix E, Table 24.</u>		

Departments of Corrections and Mental Health were also at the top in number of cases per 1000 employees.³ The 1977 figures for total number of cases decided and rate per 1000 employees are shown in Table 2 for all departments.

³Refer to Appendix E, Table 24.

Table 2: Distribution of Decisions and Decision Rates by Department, 1977

<u>Department</u>	<u>Rate*</u>	<u>Number of Cases</u>
Corrections	13.1	50
Mental Health	11.5	163
Civil Rights	10.8	3
Commerce	7.2	12
State Police	7.1	20
Civil Service	6.0	2
Labor	5.1	28
Licensing and Regulation	4.4	1
Social Services	3.9	56
Management and Budget	3.9	7
Military Affairs	3.0	1
Public Health	2.8	5
State	2.7	6
State Highways	2.3	10
Education	1.3	3
Agriculture	1.3	1
Natural Resources	.9	3
Attorney General	0	0
Auditor General	0	0
Treasury	0	0

*rate per 1000 employees

Source: Appendix E, Table 24. Rates based on employment figures reported in Appendix F, Table 49.

Decisions by Type of Representation

Approximately 67 percent of all fourth step cases involved employees represented by either MSEA or AFSCME. However, AFSCME represented proportionately more cases on the basis of membership. Though MSEA accounted for about two-thirds of all employee members, it represented grievants in only about 25 percent of all cases decided during 1973 through 1977. In contrast, AFSCME accounted for about one-fifth of total employee organization membership and represented grievants in about 40 percent of all Step 4 cases.⁴

The number of cases represented per 1000 members increased over the five year study period for each employee organization, except the State Troopers and the Highway Engineers. AFSCME experienced the greatest gain increasing from 10.8 in 1973, to 25.8 Step 4 decisions per 1000 members in 1977.⁵ Organization representation utilized by grievants in 1977 is summarized in Table 3.

Table 3: Distribution of Decisions by Representation Type, 1977

<u>Representation</u>	<u>Rate*</u>	<u>Number of Cases</u>
MSEA	4.4	93
AFSCME	25.8	149
31-M	6.9	10
Troopers	0.7	1
Corrections Organization	13.4	13

⁴Appendix E, Table 25.

⁵Ibid.

Table 3 continued

<u>Representation</u>	<u>Rate*</u>	<u>Number of Cases</u>
Highway Engineers	0	0
Welfare Employees	13.1	14
*rate per 1000 members		

Other Employee Organizations	5
Private Attorney	26
Self-Representation	18
Fellow Employee	23
No Appearance Recorded	14

Source: Appendix E, Table 25. Rates based on employment figures reported in Appendix F, Table 50.

Employees represented by fellow employees, private attorneys, or by themselves accounted for about 20 percent of all Step 4 grievances during 1973 through 1977.

Decisions by Classification Level⁶

The employees in classification levels three through seven were involved in about 80 percent of all Step 4 decisions issued during the five year period under study.⁷ Employees at these levels included only 50 to 60 percent of all state employees. Employees at level 15 and above were involved in slightly over one percent of the decisions,

⁶Typical occupations and approximate salary ranges for the 21 classification levels are listed in Appendix G, Table 52.

⁷Appendix E, Table 26.

with those at level 18 and above receiving no decisions. Employees at levels one and two were involved in only about three percent of all decisions. Substantial increases in the numbers of decisions issued per 1000 employees were experienced at levels three, four, six, and eight, while rates of involvement in fourth step cases increased very little or remained about the same among employees at other levels. Most notable were the increases in Step 4 activity among employees at levels three and six, from 3.0 in 1973 to 10.0 in 1977, and from 5.2 in 1973 to 17.2 decisions in 1977 per 1000 employees, respectively.⁸ The distribution of Step 4 decisions by classification level is summarized in Table 4 for 1977.

Table 4: Distribution of Step 4 Decisions by Employee Classification Level, 1977

<u>Classification Level</u>	<u>Rate*</u>	<u>Number of Cases</u>
1	.07	2
2	1.1	5
3	10.0	64
4	6.4	67
5	3.0	23
6	17.2	59
7	4.7	30
8	8.4	29
9	4.7	24
10	8.0	23
11	5.5	18
12	1.9	4
13	4.1	6
14	4.6	3
15	1.8	1
16	0	0
17	9.4	2
18	0	0

⁸Appendix E, Table 26.

Table 4 continued

<u>Classification Level</u>	<u>Rate*</u>	<u>Number of Cases</u>
19	0	0
20	0	0
21	0	0

*Rate per 1000 employees

Source: Appendix E, Table 26. Rates based on employment figures reported in Appendix F, Table 51.

Decisions by Action Grieved

Discharge and other forms of discipline accounted for 32 percent of all Step 4 decisions in 1973 through 1977. Next in order of importance came grievances involving compensation (15 percent), assignment (14 percent), appointment (13 percent), and leave (11 percent).

The proportion of cases involving discharge grew steadily over the five year period, increasing from 13 percent in 1973 to 19 percent of all cases in 1977. Other types of discipline cases increased from 12 percent in 1973 to 19.5 percent in 1976, and then declined to 14.6 percent in 1977.⁹ The distribution of decisions by action grieved is summarized in Table 5, for 1977.

⁹Appendix E, Table 27.

Table 5: Distribution of Decisions by Action Grieved, 1977

<u>Action Grieved</u>	<u>f</u>	<u>%</u>
Discharge	70	18.9
Appointment	57	15.4
All other Discipline	54	14.6
Compensation	53	14.3
Assignment	44	11.9
Leave	14	11.9
Order Regulations	16	4.3
Lay Off	12	3.2
Termination	12	3.2
Evaluation	9	2.4
TOTAL	371	100.0

Source: Appendix E, Table 27. Definitions of types of employer actions are contained in Appendix H.

Step 4 Decisions Classified in Terms of Outcome¹⁰

The percentage of Step 4 decisions won by departments increased from 47.6 percent in 1973 to 70 percent in 1976, and then declined to 62 percent in 1977. Departments won 61.4 percent of all decisions over the five year period. Table 6 summarizes the distribution of decisions by outcome.

¹⁰Appendix E, Table 28.

Table 6: Distribution of Decisions by Outcome, 1977

<u>Decision Outcome</u>	<u>f</u>	<u>%</u>
Sustained	77	20.8
Partly Sustained	5	1.3
Modified	33	8.9
Denied	230	62.0
Remanded	9	2.4
Settled	15	4.0
Withdrawn	2	0.5

Source: Appendix E, Table 28.

Grievants won 19.2 percent of all decisions over the five year period. In addition, outcomes partially favorable to grievants were reached in 15 percent of the decisions, i.e., those that were partly sustained, modified, or settled. These outcomes favorable to grievants were reached in 34.2 percent of all decisions. The remaining five percent of the cases were withdrawn or remanded.

Making meaningful comparisons between grievance outcomes in State Civil Service and other employment sectors is difficult because data pertaining to grievance outcomes in other sectors is very limited. However, the available data indicate that the grievance outcomes under the Michigan procedure are similar to those attained in other sectors of employment. Various studies of arbitration awards found that

employers won anywhere from 50 to 75 percent of the cases, depending on the time frame and the sample of decisions used.¹¹ In addition, a survey of 1135 arbitration awards in the Federal Civil Service for the period 1970 through 1976 found that the employer won about 50 percent of the cases.¹²

Timeliness of Step 4 Grievance Hearings and Decisions

Timeliness was examined in terms of the mean number of days that elapsed between the date of appeal and the date of the hearing, and between the date of the hearing and the date of the decision. Between 1973 and 1977, mean number of days from appeal to hearing decreased moderately from 66 to 61 days. These averages represent wide differences among cases, ranging from as few as two to as many as 376 days for individual cases.

The mean number of days from the date of the hearing to the date of the decision increased from 35 for the 1973-74 period to about 55 or 60 for the 1975-77 period. The mean number of days that elapsed between the date of appeal and the date of decision increased from about 100 to about 115 days over the five year period. The figures also represent wide variations among cases ranging from a low of five days to a high of 544 days.¹³

¹¹Dunbar, Florence, Management Participation in the Arbitration Process, 1969. Najita, J. M., Labor Arbitration Awards in Hawaii, 1944-1962, 1967, p. 2. Ross, A. M., "Distressed Grievance Procedures and Their Rehabilitation," Labor Arbitration and Industrial Change, 1963, p. 110. Small, J., Factors that May Influence the Success Rate of Management and Unions in Arbitration Cases, 1974, p. 14.

¹²Grievance Arbitration in the Federal Service, 1977, p. 36.

¹³Appendix E, Tables 29 and 30.

Hearing Officer Decisions Appealed to the Commission

Twenty-seven percent of all Hearing Officer decisions issued during 1973-77 were appealed to the Commission. In 1975, 77 percent of Commission appeals were initiated by grievants and the remainder were appealed by departments. During 1977, grievants appealed about one-third of all decisions they lost and departments appealed about one-fourth of all decisions that grievants won.¹⁴

Any discharge grievance lost by the grievant at Step 4 may be automatically appealed to the Civil Service Commission. All other Step 4 decisions may be appealed to the Commission only when granted leave to appeal by the Commission. During the 1973-77 period, leave to appeal was requested in 245 cases and 110 cases were appealed by right. The Commission denied leave to appeal in 206 (84 percent) of the 245 cases for which leave to appeal was requested. Among the 39 (16 percent) cases in which leave was granted, there were six cases in which the Commission denied the grievance, 13 in which the grievance was sustained, and 20 in which the case was remanded.¹⁵

The Commission denied 76 (69 percent) and upheld 23 (21 percent) of the 100 grievances appealed by right over the five years studied. The proportion of these cases denied increased sharply from a low of 58.8 percent in 1975 to a high of 92.3 percent in 1977.¹⁶ The remaining 10 percent includes cases remanded or settled.

¹⁴Appendix E, Tables 31 and 32.

¹⁵Appendix E, Table 33.

¹⁶Appendix E, Table 34.

Expedited versus Regular Hearings

The use of expedited hearings was undertaken by the Hearings Division in 1975 in order to allow more cases to be heard during a given period of time, and to reduce time delays from appeal to hearing and from hearing to decision. Though the record does not permit a conclusive determination of this question, it is probable that the use of expedited hearings has enabled the Hearings Division to conduct an increasing number of hearings each year. From 1975 to 1977, the number of hearings conducted per year increased from 241 to 371, and the percentage of hearings that were expedited increased from 23.2 percent to 43.1 percent. Also, an increase in the number of Hearing Officers from four to eight during the 1975 to 1977 period contributed to the increase in the number of decisions.

On the other hand, there is no indication that expedited hearings have enabled the Hearings Division to reduce the number of days elapsed from appeal to hearing, and from hearing to decision. Over the three year period, 1975-77, mean days from appeal to hearing ranged from 67.9 to 69.6 for expedited cases, and from 56.6 to 66.4 for regular cases. During the same period, the mean days from hearing to decision ranged from 54.3 to 68.7 for expedited cases, and from 47.8 to 52.2 for regular cases.¹⁷ The inability of the Hearings Division to reduce time delays may be explained by the fact that the increase in Hearings Division staff has been less than proportionate to the increase in case load.

¹⁷Information obtained from Hearings Division Case Files.

There was no significant difference between expedited and regular cases in the proportion of grievances sustained or denied. However, cases processed through an expedited hearing were more likely to be remanded to Step 3, and cases handled in a regular hearing were more likely to be modified.¹⁸

The most notable private sector experience with expedited grievance processing is that of the steel industry. The expedited system in the steel industry provides for brief grievance decisions issued within 48 hours, little, if any use of briefs, transcripts, and formal evidentiary rules, presentation of cases by local personnel rather than by lawyers, the use of joint committees at the local level to look at the grievance docket periodically to determine if more grievances should be referred to the expedited process, and the use of special panels of arbitrators to provide the personnel needed to handle the case load. The parties in the steel industry report that their system is now working to reduce time delays, though it was not effective during the early years of its operation.¹⁹

Among the notable differences between the steel industry and Michigan Civil Service approaches to expedited grievance processing is the use of special panels of arbitrators and the time limit on issuance of decisions under the steel industry system.

¹⁸Appendix E, Table 35.

¹⁹Daily Labor Report, October 17, 1978, p. C-1.

Ad Hoc versus Regular Hearing Officer Decisions

Ad hoc Hearing Officers decided 247 (18.6 percent) of the cases decided from 1973 through 1977. About 70 percent of ad hoc Hearing Officer decisions were issued in 1973 and 1974. During the 1975-1977 period, ad hoc Hearing Officers decided only five to 10 percent of all decisions issued in each year.²⁰

Ad hoc and regular Hearing Officer decisions may be compared by examining the discharge grievances decided by each group. The issues involved in discharge grievances do not differ very much from one employment setting to another, while the issues involved in other types of grievances may differ considerably between civil service and private employment settings. Discharge was the subject of 218 grievances heard at Step 4 during 1973 through 1977. Ad hoc Hearing Officers decided 64 and regular Hearing Officers decided 154 of the total.²¹

The record of decisions indicates that, while each type of Hearing Officer sustained the grievant in about 17 percent of the cases decided, regular Hearing Officers were more likely than ad hoc Hearing Officers to deny a discharge grievance (60 percent versus 45 percent) while ad hoc Hearing Officers were much more likely to modify or partly sustain (e.g., reinstatement without back pay) or to remand a discharge grievance to Step 3. Ad hoc Hearing Officers partly sustained or modified the grievance in 30 percent and remanded the grievance in five percent of their decisions, while regular Hearing Officers took such action in 20 percent and 0.6 percent of their decisions, respectively.

²⁰Appendix E, Table 36.

²¹Appendix E, Table 37.

Since there is no reason to believe that the discharge grievances referred to ad hoc Hearing Officers differ significantly from those assigned to regular Hearing Officers, these differences suggest that ad hoc Hearing Officers are more inclined to consider such options as modifying the penalty and remanding grievances than are regular Hearing Officers.

About 50 percent of ad hoc and about 40 percent of regular Hearing Officer decisions were appealed to the Commission.²² Concerning discharge cases appealed by right (i.e., discharge cases lost by the grievant at Step 4), decisions by ad hoc Hearing Officers were much more likely to be appealed to the Commission. The reverse is true for discharge cases appealed by leave (i.e., discharge decisions won by the grievant at Step 4 and appealed by the department): regular Hearing Officer decisions were about twice as likely as ad hoc Hearing Officer decisions to be appealed to the Commission.²³

Ad hoc and regular Hearing Officer decisions were treated much the same by the Commission, each being upheld by the Commission in a vast majority of the cases.²⁴

Decisions by Arbitrators

Approximately 90 percent of all grievances appealed to outside arbitration during the period 1973-77 were withdrawn or settled before hearing or a decision by arbitrators. Of the 35 decisions issued by

²²Appendix E, Table 38.

²³Appendix E, Tables 37 and 38.

²⁴Ibid.

arbitrators during 1973 through 1977, 70 percent involved either discipline (11 cases, excluding discharge), assignment (eight cases), or compensation (seven cases). The remaining nine cases were distributed over several issues. Discharge cases were not appealable to arbitration during 1973 through 1977.²⁵

Only a few departments and employee organizations were involved in cases decided by arbitrators. Mental Health and Social Services were party to 17 and 15 arbitration decisions, respectively. AFSCME and the Welfare Employees Union represented grievants in 19 and 15 arbitration cases, respectively, while 31-M represented one case in arbitration.²⁶

Employees from a broad range of classification levels were party to arbitration decisions, including nearly every level from three to 11. However, about 57 percent of all arbitration decisions involved employees in classification levels five, six, and seven.²⁷

Arbitration cases took much longer to bring to a hearing and to decide than did Civil Service Step 4 Hearing Officer decisions. On the average, arbitration hearings were held 164 days after the date of appeal, and were decided 70 days after the date of the hearing.²⁸ The greater delay between the date of the appeal and the date of the hearing may in part be explained by the fact that the typical private arbitrator

²⁵Appendix E, Table 39.

²⁶Appendix E, Tables 40 and 41.

²⁷Appendix E, Table 42.

²⁸Appendix E, Table 43.

is less flexible than the Hearing Officer in terms of scheduling hearing dates because of his full-time employment outside state government. The greater delay between the hearing and the decision may be explained by the fact that most grievances decided by arbitrators involve the use of briefs which require additional time for preparation after the hearing. Very few cases decided by Hearing Officers involve the use of briefs.

Arbitrators denied the grievance in 51.4 percent of their decisions, and sustained, partly sustained, or modified the penalty in 45.6 percent of the cases. Thus, on the basis of this small sample, it appears that arbitrators are less likely to deny grievances than ad hoc or regular Hearing Officers.²⁹ This may be explained in part by the fact that, since employees or their organizations pay 50 percent of the cost of arbitration decisions, they exercise greater care in selecting and preparing cases for arbitration than they do in cases presented to Hearing Officers for which the State bears the entire cost.

Arbitrators' decisions were appealed to the Commission in seven of the 35 cases (20 percent) decided. Leave to appeal was granted in only two cases, one of which was remanded and, in the other, the grievance was sustained.³⁰

Decisions of Technical Hearing Officers

Technical Hearing Officers issued 562 decisions during 1975 through 1977. Of these, 438 (78 percent) involved appeals of classification

²⁹Appendix E, Table 44.

³⁰Appendix E, Table 45.

redetermination decisions. Appeals of testing redetermination decisions were involved in 82 (14.6 percent) of the cases, while the few remaining cases involved either selection or compensation matters. Classification matters have accounted for an increasing proportion of all technical cases, increasing from 72 percent in 1975 to 82 percent in 1977.³¹

The average number of days elapsed from date of appeal to date of hearing increased slightly, from 91.6 in 1976 to 93.1 in 1977. The average number of days elapsed from the date of hearing to the date of decision declined from 50.8 in 1976 to 44.1 in 1977. Largely because of delays in conducting hearings, Technical Hearing Officer decisions were much less timely than regular or ad hoc Hearing Officer decisions.

Technical Hearing Officers denied the appeal (i.e., sustained the decision rendered in the redetermination process) in 65 percent of the cases, and sustained the grievance in whole or in part (i.e., overturned, partially overturned, or modified the redetermination decision) in 28 percent of the cases.³² Sixty (13.2 percent) of the 456 cases decided by Technical Hearing Officers in 1975 through 1977 were appealed to the Commission. Of these, 55 were denied leave to appeal; in three cases, the Commission reversed the Technical Hearing Officer, while in one case, the appeal was denied, and in one case a settlement was reported.³³

³¹Appendix E, Table 46.

³²Appendix E, Table 47.

³³Appendix E, Table 48.

Summary

A large majority (nearly three-fourths) of all Hearing Officer decisions issued during the 1973-1977 period were concentrated in three departments, Mental Health, Social Services and Corrections, and three employee organizations, AFSCME, MSEA, and the Corrections Organization. Mental Health and Corrections experienced the highest rates of adjudication activity among all departments, 11.5 and 13.4 decisions per 1000 employees, respectively. The high rates experienced by Corrections and Mental Health may be explained in large part by conditions unique to those departments. Each department employs large numbers of employees in prisons or mental health hospitals. These work settings involve stressful working conditions resulting from contact with the inmate or patient population and numerous restrictive rules concerning employee work performance and behavior. These conditions largely explain the high rates of adjudication activity in these departments. AFSCME and the Corrections Organization, two organizations that have nearly all their memberships in Mental Health or Corrections, have correspondingly high rates of adjudication activity. Hearing Officer decisions were also concentrated within a few employee classification levels. Employees in levels three through seven, many of whom are employed in institutional positions at Mental Health or Corrections, were involved in 80 percent of all adjudication decisions. Yet, they comprised only 60 percent of the state work force.

Departments won about 61 percent of all Hearing Officer decisions over the 1973-1977 period. Outcomes favorable to grievants (i.e., grievance fully sustained, partly sustained, modified, or settled)

were reached in about 34 percent of Hearing Officer decisions. Decisions by Technical Hearing Officers, which largely involve employee appeals of decisions made by the classification or selection bureau, were 65 percent against the employee and 29 percent favorable to the employee. By comparison, employees won 46 percent and lost only 51 percent of all arbitration decisions. Because of the greater cost of arbitration to the employee or his organization, grievances appealed to arbitration are likely to have greater merit and to be better prepared than grievances appealed to civil service Hearing Officers.

An increasing percentage of all decisions involved discharge, and other forms of disciplinary grievances. Disciplinary grievances accounted for the largest percentage (about 33 percent) of all Hearing Officer decisions in 1977.

The time elapsed from the date of the appeal to the date of the decision increased by about two weeks for Hearing Officer decisions during the 1973-1977 period. All of the increase in time delay occurred between the date of the hearing and the date of the decision. Though the rise of expedited hearings contributed to the ability of Hearing Officers to hear more cases, it did not increase the timeliness of adjudication decisions.

Decisions by outside arbitrators took considerably longer to hear and decide than Hearing Officer decisions because of the extensive use of formal briefs in arbitration cases, which require additional time after the hearing, and because more lead time is required to schedule a hearing date with a private arbitrator than with a Hearing Officer.

The Civil Service Commission received appeals on 355 Hearing Officer decisions during the 1973-1977 period. The Commission overruled Hearing Officers in only 29 (12 percent) of these appeals. The Commission received appeals on seven arbitration decisions and did not overturn the arbitrator's decision in any case. The Commission received appeals on 60 decisions by Technical Hearing Officers and overruled Technical Hearing Officers in only three cases. Overall, the Commission overruled the various types of adjudication decisions with little frequency.

Finally, a comparison of ad hoc and regular Hearing Officer decisions on discharge grievances shows that ad hoc Hearing Officers remand or modify grievances in a greater percentage of their decisions and regular Hearing Officers deny grievances in a greater percentage of their decisions.

CHAPTER EIGHT

ADJUDICATION COSTS¹

Three types of adjudication agents, i.e., regular Hearing Officers, ad hoc Hearing Officers, and private arbitrators are used in the Michigan system. Each type involves different cost elements and different total costs, and, in addition, various administrative costs are associated with each type. These costs are a factor in determining the comparative acceptability of the process associated with each type of adjudicating agent.

Data concerning adjudication costs were collected through interviews and a questionnaire survey. Interviews were conducted with members of the Civil Service Commission, the Commission Appeals Officer, the Director of the Hearings Division, and personnel officials representing the departments of Management and Budget, Social Service, Mental Health, and Civil Service. Nineteen department personnel directors, plus the Personnel Director of the MESC, were included in the questionnaire survey.²

¹This cost survey excludes the cost of technical cases.

²The seven departments that did not respond to the cost survey were: Agriculture, Civil Rights, Commerce, Natural Resources, State Highways, Military Affairs, and Public Health. All the departments with large volumes of grievances at Step 4 and several of the departments with relatively small numbers of Step 4 grievances, responded to the survey. The questionnaire is contained in Appendix I.

The cost estimates reported below are based on the information received from the questionnaire and interview surveys. The surveys included data on:

1. the expenses of the Commission Appeals Office,
2. the time commitment required of Commission members to study and decide Commission appeals,
3. the expenses of the Hearing Division,
4. the cost to departments of staff time devoted to preparing and advocating grievances at Civil Service Steps 4 and 5, and in arbitration,
5. the cost to departments of administrative leave used at Civil Service Step 4 and in arbitration, and
6. the cost to departments of arbitration fees, filing fees, and transcripts, and the costs of the state arbitration officer.

It is estimated, as summarized in Table 7, that these six factors cost the state a total of about \$454,000 during FY 1977-1978.

Table 7: Adjudication Costs, Fiscal Year 1978

A. <u>Costs of Grievances Appealed to the Commission:</u>	
--Commission Appeals Office Budget for Grievances	\$ 51,000
--Department Advocacy Costs	4,020
Sub-Total	\$ 55,020
B. <u>Costs of Grievances Appealed to Hearing Officers:</u>	
--Hearings Division Budget for Grievances	\$317,600
--Department Advocacy Costs	26,280
--Administrative Leave Costs	39,420
Sub-Total	\$383,300
C. <u>Costs of Grievances Appealed to Arbitrators:</u>	
--Arbitration Officer Budget	\$ 8,500
--Arbitration Fees	4,000
--Department Costs for Advocacy	450
--Administrative Leave Costs	540
--Leave Costs to Pre-arbitration Conferences	2,380
Sub-Total	\$ 15,870
TOTAL	\$454,190

The Cost of Grievances Appealed to the Commission

The total cost to operate the Commission Appeals Office during FY 1977-78 was \$85,000.³ About 60 percent of this total, or \$51,000, is attributable to appeals of Civil Service Step 4 grievance decisions. The remainder is attributable to the functions of the arbitration officer (10 percent, \$8,500) appeals of technical decisions (20 percent, \$17,000) and miscellaneous activities (10 percent, \$8,500). The \$51,000 cost of grievance appeals breaks down to an average of \$381 per case for the 134 grievance decisions issued by the Commission during FY 1977-78.

The cost to departments to prepare and present Commission appeals totaled \$4,020 for the 134 grievance decisions issued in FY 1977-78.⁴

The time devoted by the Commission members to studying and deciding Commission appeals is a particularly important cost factor. It is important because Commission members serve on a part-time basis, and do not have unlimited time to devote to Commission business. Thus, the time spent by Commission members on appeals leaves less time for Commission members to spend on other Commission business.

The Commission members reported that they spend from two to four days per month on studying and deciding Commission appeals (FY 1977-78). This amounted to about two-thirds of the total time spent by the

³This figure includes the cost of professional and clerical salary, office space, transcripts, printing and reports.

⁴This is based on the estimate that each appeal involves an average of 0.5 hours of personnel director time at \$14.14 per hour, 1 hour of employee relations advocate time at \$9.97 per hour, and 1 hour of clerical support at \$6.20 per hour. This sums to a total of about \$30 per decision.

Commission on all its business. No estimate is made of the dollar cost of the Commission's time, since the Commissioners serve without salary. However, the estimated time demand of the appeals case load, relative to the time demand of other Commission business, may raise questions about what is the best use of the Commission's time.

The Costs of Grievances Appealed to Hearing Officers

The total cost of grievances appealed to Hearing Officers was \$383,300. The cost to operate the Hearings Division (exclusive of technical cases) during FY 1977-78 was \$317,600.⁵ This amounts to an average cost per decision of \$725 for the 438 grievance decisions issued during FY 1977-78.

Cases decided by ad hoc Hearing Officers cost the Hearings Division an average of \$621 per decision in fees and expenses paid to ad hoc Hearing Officers.⁶ Regular hearing officer salaries cost the Division an average of \$381 per decision during FY 1977-78. The cost of secretarial and court reporter services attributable to grievance cases was an average of \$132 per decision during the same period.

⁵This figure includes the costs of professional and clerical salary, office space, outside court reporters, travel, supplies, materials, new equipment, and ad hoc Hearing Officer fees and expenses.

⁶Ad hoc Hearing Officers are paid either \$150 or \$200 per day of hearing and decision writing time, depending on their experience and qualifications, plus expenses.

The costs of departmental staff time devoted to preparing and advocating cases heard at Civil Service Step 4 totaled \$26,280 for the 438 grievance cases decided by Hearing Officers in FY 1977-78.⁷

The costs of administrative leave used at Step 4 grievance hearings totaled \$39,420 for the 439 grievance cases decided during FY 1977-78. This total includes the cost of leave used by the department witnesses and officials other than the principle advocate, grievants' witnesses, fellow employee representatives, and grievants.⁹ This estimate is based on the following factors:

1. It is estimated that grievants, grievants' witnesses, and fellow employee representatives are paid administrative leave at an hourly rate equal to the state average wage (\$6.84 per hour), and that department witnesses and officials other than the principal advocate, receive administrative leave at a rate equal to 1.5 times the state average wage.
2. Responses to the questionnaire survey indicate that an average of four hours of administrative leave is used by grievants, fellow employee representation, grievants' witnesses, and department witnesses for each hearing, which each attends.
3. A survey of 200 1978 Civil Service Step 4 hearings indicate that an average of one grievant, 0.6 grievant witnesses, and/or fellow employee representatives, and 1.1 department witnesses attend each Step 4 hearing.

These three cost factors sum to a total average cost of about \$90 per decision in administrative leave costs.

⁷This is based in the estimate that an average case requires the use of 1 hour personnel director time at \$14.14 per hour, 4 hours of employee relations advocate time at \$9.97 per hour, and 1 hour of clerical support time at \$6.50 per hour. This sums to a total of about \$60 per decision.

The Costs of Grievances Appealed to Arbitration

The Commission Appeals Officer also performs the job of State Arbitration Officer. About 10 percent of the cost of the Commission Appeals Office, or about \$8,500, is attributable to the functions of the State Arbitration Officer.⁸ The principle functions of the State Arbitration Officer are to organize and conduct pre-arbitration conferences, through which he attempts to mediate grievances before the parties file for arbitration with the AAA or other arbitration referral services. During FY 1977-78, pre-arbitration conferences were conducted by the Arbitration Officer at an average cost of \$250 per conference.

The cost of administrative leave to attend pre-arbitration conferences totaled \$2,380 for the 34 conferences conducted during FY 1977-78.⁹

The costs of department staff time required for the preparation and advocacy of arbitration cases, is estimated to be about \$75 per decision. This sums to a total of \$450 for the six arbitration decisions issued in FY 1977-78.¹⁰

⁸This figure includes professional and clerical salary, office space, reports, printing, and transcripts.

⁹This is based on the estimate that an average of one grievant and one grievant representative each receive an average wage of two hours of leave, paid at a rate equal to the state average wage (\$6.84 per hour) for each conference, and that two department representatives receive leave paid at a rate equal to 1.5 times the state average wage for an average of two hours attendance at each conference. This sums to a total cost of \$70 per conference.

¹⁰This is based on the estimate that an average of about one hour of personnel director time at \$14.14 per hour, five hours of employee relations advocate time at \$9.87 per hour, and two hours of clerical support time at \$6.20 per hour, is required for each arbitration and conference. This totals about \$75 per decision.

Administrative leave costs departments a total of \$540 for the six arbitration decisions issued in FY 1977-78.¹¹

Finally, arbitration fees and expenses charged to the departments averaged \$672 per decision, or a total of about \$4,000 for the six decisions issued in FY 1977-78. This figure represents 50 percent of the total cost of arbitration fees, expenses and transcripts; employees or employee organizations pay the remaining 50 percent.

It is noteworthy that the cost of arbitration was the most costly, averaging \$672 per decision in fees, expenses and transcript costs paid by the state. Ad hoc Hearing Officers were the second most expensive, averaging \$621 per decision in fees and expenses paid by the state. Full-time Hearing Officers were the least expensive, averaging \$381 per decision in salary costs. In addition, the cost of secretarial and court reporter services paid by the Hearings Division was \$132 per Hearing Officer decision. This amount should be added to the above cited costs of regular and ad hoc Hearing Officer decisions to make them more comparable to the cost of private arbitration (which, as reported, includes transcript and secretarial costs). This adjustment results in a cost of \$513 per decision for regular and \$753 per decision for ad hoc Hearing Officers.

¹¹This was based on an estimated cost of \$90 per decision, calculated as indicated in Footnote 9, supra.

CHAPTER NINE

DEPARTMENT AND EMPLOYEE ORGANIZATION

PERCEPTIONS OF THE GRIEVANCE AND APPEAL PROCEDURE

A survey of department personnel directors and employee organization grievance representatives was conducted to assess their perceptions of the adjudication process. Included in the survey were the principal grievance representatives of the seven employee organizations recognized by the State for the purposes of Meet and Confer, and 20 personnel directors or their designated representatives. Interviews were conducted with the personnel directors of eight departments and with representatives of three employee organizations in March, 1978, in order to make a preliminary identification of their views concerning the adjudication process. These interview data were used to guide the development of the questionnaire.

The initial form of the questionnaire was pretested on the personnel directors of five departments. This pretest resulted in several changes in the organization and content of the questionnaire.

The final form of the questionnaire, contained in Appendix J, included 50 questions and four types of questions. The most frequently used type of question was a Likert type rating of satisfaction or dissatisfaction with the various elements of the procedure. Coupled with these Likert type rating items was a question requesting the respondents to

describe the basis for any dissatisfaction that was indicated in responses to the Likert rating items.¹ A third question type requested the respondents to indicate their preferences for various provisions and practices under the procedure. Finally, an open-ended question requested the respondents to evaluate and compare regular Hearing Officers, ad hoc Hearing Officers, and arbitrators on the basis of several criteria.

For the most part, the questions were organized chronologically, in the order that a grievance would be processed through the procedure. Questions one through 15 pertained mostly to the first three steps of the procedure; these aspects of the procedure were primarily of interest to the Michigan Department of Civil Service and are not within the scope of this dissertation. Questions 16 through 27 pertained to redetermination and technical cases; questions 28 through 35 dealt with the treatment of grievances at Civil Service Step 4; questions 36 through 41 were concerned with appeals to outside arbitration; and questions 44 through 46 pertained to Civil Service Step 5, i.e., appeals to the Civil Service Commission. Question 50 involved an appraisal of Hearing Officers and arbitrators. Questions 47 and 49 were general, open-ended questions, and question 48 was an assessment of the overall performance of the procedure.

The prospective respondents, 20 department and seven employee organization officials in all, were contacted by telephone a few days before the questionnaire was mailed to them during the second week of April, 1978. The purpose of the telephone contact was to explain the questionnaire and to request their cooperation in its completion.

¹The responses to this item are contained in Appendix K.

All 20 department officials and six of the seven employee organization officials completed and returned the questionnaire. A high level of response was attained for nearly all items. Four department respondents reported that they lacked experience with Step 4 hearing and arbitration, and omitted responses to the questions pertaining to those parts of the procedure. Three of six employee organizations' respondents failed to respond to open-ended question number 49. All the other questions were completed by all the respondents.

Overall, the survey results indicate that a majority of the respondents for both departments and employee organizations hold largely favorable perceptions of the procedure, though significant dissatisfaction was found to exist with regard to specific aspects of the process.

Access to arbitration and to Steps 4 and 5 of the procedure is limited by the exclusion of specific types of grievances from those steps. Several questionnaire items (i.e., numbers 29, 30, 40, 41, and 45) requested the respondents to evaluate these exclusions. The responses indicate that a substantial majority (60 to 80 percent) of the department respondents are satisfied with all exclusions except for the exclusion of discharge cases from arbitration. A majority of the departments indicated that discharge grievances should be appealable to arbitration. While the survey was in progress, the Department of Civil Service expanded access to arbitration by permitting all discharge cases to be appealed to arbitration. Prior to May, 1978, only non-discharge grievances could be appealed to arbitration. Employee organizations were largely of the view that all exclusions should be eliminated.

Evaluations of the several types of hearings provided for under the procedure are presented in Tables 8, 9, and 10. A substantial majority of the department respondents (from about 60 to 90 percent) reported that they were satisfied with the conduct of regular grievance hearings, technical hearings, and arbitration hearings, while only about 35 percent to 40 percent of the department representatives were satisfied with redetermination hearings. Employee organization representatives were generally dissatisfied with all types of hearings. Arbitration hearings were rated only marginally higher than the other types of hearings by employee organizations.

Tables 11, 12, and 13 contain evaluations of the clarity, consistency, and timeliness of the several types of decisions issued under the procedure (i.e., arbitration decisions, grievance and technical decisions issued by the Hearings Division, and redetermination decisions issued by the Bureaus of Classification and Selection). A majority (55 percent) of the department respondents were satisfied with the clarity and logical consistency of both technical and regular grievance decisions, though a greater percentage (about 80 percent) indicated satisfaction with grievance decisions than with technical decisions.

Employee organizations tended to be widely divided in their views on the clarity and consistency of both technical and regular grievance decisions, without a clear majority indicating satisfaction or dissatisfaction on either of the two factors rated. Both departments and employee organizations were dissatisfied with the timeliness of all types of decisions.

TABLE 8: EVALUATION OF GRIEVANCE AND TECHNICAL HEARINGS

Questions		Responses					
		NU	VS	FS	N	FD	VD
26.	The conduct of hearings by Technical Hearings Officers:						
	- in terms of the completeness of the facts received by Technical Hearings Officers.	D (0)	(4)	(9)	(3)	(4)	(0)
		E (0)	(1)	(1)	(1)	(0)	(3)
	- in terms of the impartiality of the Technical Hearings Officers.	D (0)	(2)	(10)	(4)	(4)	(0)
		E (0)	(0)	(0)	(3)	(0)	(3)
33.	The conduct of Civil Service step 4 hearings:						
	- in terms of the completeness of the records of facts established through the hearings.	D (1)	(3)	(15)	(1)	(0)	(0)
		E (0)	(1)	(3)	(0)	(1)	(1)
	- in terms of the impartiality of the Civil Service Hearings Officers.	D (1)	(4)	(10)	(2)	(3)	(0)
		E (0)	(1)	(0)	(1)	(3)	(1)

D = Department

E = Employee Organization

NU = not understood

N = neither satisfied nor dissatisfied

VS = very satisfied

FD = fairly dissatisfied

FS = fairly satisfied

VD = very dissatisfied

TABLE 9: EVALUATION OF ARBITRATION HEARINGS AND PRE-ARBITRATION CONFERENCES

Questions		Responses					
		NU	VS	FS	N	FD	VD
37.	The conduct of pre-arbitration conferences in terms of enhancing a fair and timely resolution of grievances.	D (4)	(1)	(8)	(5)	(1)	(1)
		E (0)	(0)	(2)	(2)	(1)	(1)
38.	The conduct of arbitration hearings;						
	- in terms of the completeness of the records of facts established through the hearings.	D (6)	(4)	(6)	(4)	(0)	(0)
		E (1)	(1)	(1)	(1)	(0)	(2)
	- in terms of the impartiality of the arbitrators.	D (6)	(4)	(6)	(4)	(0)	(0)
		E (1)	(0)	(2)	(1)	(0)	(2)

TABLE 10: EVALUATION OF REDETERMINATION HEARINGS

Questions		Responses					
		NU	VS	FS	N	FD	VD
18. The redetermination process in the Classification Bureau.	D	(0)	(1)	(7)	(3)	(3)	(6)
	E	(0)	(0)	(1)	(1)	(0)	(4)
21. The redetermination process in the Selection Bureau.	D	(2)	(0)	(7)	(5)	(3)	(3)
	E	(0)	(0)	(1)	(0)	(1)	(4)

TABLE 11: EVALUATION OF REGULAR AND TECHNICAL DECISIONS

Questions		Responses					
		NU	VS	FS	N	FD	VD
27.	The adequacy of Technical Hearings Officers written decisions:						
	- in terms of clearness of stated facts, conclusions, and supporting reasons.	D (0)	(2)	(9)	(7)	(2)	(0)
		E (0)	(0)	(0)	(3)	(0)	(3)
	- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	D (0)	(2)	(9)	(5)	(4)	(0)
		E (0)	(0)	(2)	(1)	(0)	(3)
	- in terms of timeliness.	D (1)	(1)	(6)	(3)	(5)	(4)
		E (0)	(0)	(2)	(0)	(2)	(2)
34.	The adequacy of Civil Service step 4 Hearings Officers written decisions:						
	- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	D (1)	(4)	(12)	(0)	(1)	(2)
		E (0)	(1)	(1)	(2)	(1)	(1)
	- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	D (1)	(4)	(10)	(0)	(3)	(2)
		E (0)	(1)	(2)	(1)	(1)	(1)
	- in terms of timeliness.	D (2)	(1)	(4)	(1)	(7)	(5)
		E (0)	(0)	(1)	(2)	(2)	(1)

TABLE 12: EVALUATION OF ARBITRATION DECISIONS

Questions		Responses					
		NU	VS	FS	N	FD	VD
39. The adequacy of the written decisions of arbitrators:							
- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	D	(4)	(4)	(7)	(5)	(0)	(0)
	E	(1)	(1)	(1)	(1)	(1)	(1)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	D	(4)	(3)	(8)	(5)	(0)	(0)
	E	(1)	(1)	(1)	(1)	(1)	(1)
- in terms of timeliness.	D	(4)	(3)	(3)	(7)	(2)	(1)
	E	(1)	(0)	(2)	(1)	(1)	(1)

TABLE 13: EVALUATION OF REDETERMINATION DECISIONS ISSUED BY THE
SELECTION AND CLASSIFICATION BUREAUS

Questions		Responses					
		NU	VS	FS	N	FD	VD
22.	The adequacy of Classification Bureau redetermination decisions:						
	- in terms of clearness of stated facts, conclusions, and supporting reasons.	D (0)	(2)	(7)	(3)	(5)	(3)
		E (0)	(0)	(2)	(0)	(2)	(2)
	- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	D (0)	(2)	(6)	(3)	(6)	(3)
		E (0)	(0)	(2)	(0)	(2)	(2)
	- in terms of timeliness.	D (0)	(0)	(3)	(4)	(1)	(12)
		E (0)	(0)	(1)	(0)	(2)	(3)
23.	The adequacy of Selection Bureau redetermination decisions:						
	- in terms of clearness of stated facts, conclusions and supporting reasons.	D (2)	(1)	(3)	(9)	(4)	(2)
		E (0)	(0)	(1)	(1)	(2)	(2)
	- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	D (2)	(1)	(2)	(9)	(6)	(0)
		E (0)	(0)	(2)	(1)	(1)	(2)
	- in terms of timeliness.	D (2)	(0)	(3)	(7)	(2)	(6)
		E (0)	(0)	(1)	(0)	(2)	(3)

As reported in greater detail in Appendix K (Items 22, 23, 27, and 34), several complaints were registered concerning technical and regular grievance decisions. Some respondents indicated that lack of timeliness was a source of dissatisfaction, while others reported that the decisions tended to be too brief and did not provide enough explanation. Finally, a small minority of both department and employee organization representatives (three respondents) indicated that the impartiality of Technical Hearing Officers is suspect because several of them were former employees of the Classification or Selection bureaus.

With regard to arbitration decisions, department respondents tended to be favorable, while employee organizations were widely divided in their ratings on all three factors. The response of a large proportion (about 50 percent) of the respondents, that they were indifferent or lacked understanding of arbitration decisions may reflect the fact that most departments and employee organizations have had no experience with arbitration.

A much higher percentage of both departments and employee organizations indicated dissatisfaction with redetermination decisions than with the other types of decisions. The greatest percentage of respondents were dissatisfied with the timeliness of redetermination decisions (65 to 80 percent), though sizable percentages were also dissatisfied with performance with respect to clarity and consistency of decisions (45 to 65 percent). Several respondents provided comments that are critical of the quality and timeliness of redetermination decisions. These comments are listed under questions 22 and 23 in Appendix K.

The respondents' evaluations of Civil Service Commission decisions at Step 5 of the grievance procedure are presented in Table 14. Nearly 50 percent of all department respondents and a large majority of all employee organization representatives were unable to decide whether the Commission provides an effective check on the decisions it reviews at Step 5. This is largely a reflection of the fact that a substantial proportion (about 50 percent) of the respondents have had little or no experience with Step 5 decisions. Of those that did provide a "yes" or "no" response, an overwhelming majority (from 70 to 100 percent) indicated that the Commission does not provide an effective check on the decisions it reviews.

Critical comments returned with the completed questionnaires focused on the brevity of most Commission decisions, and on the Commission's apparent heavy reliance on staff to process and analyze the large volume of cases it reviews. Some respondents reported that they lack any meaningful access to the Commission, unless they are involved in a case that is argued orally before the Commission.

Question 50 requested the respondents to indicate their preference for regular Hearing Officers, ad hoc Hearing Officers, and outside arbitrators on the basis of several specified criteria. The results indicate that most of the respondents do not have a clear cut preference for any one type of adjudicator, but tend to shift their preference in accordance with the circumstances or the issues of the case involved.

Most respondents credited regular full-time Hearing Officers with possessing a greater knowledge of Civil Service policies and regulations than either ad hoc Hearing Officers or arbitrators. Thus, Civil Service

TABLE 14: EVALUATION OF CIVIL SERVICE COMMISSION DECISIONS

Question	Responses		
	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
46. All in all, does the Michigan Civil Service Commission provide an effective check on:			
- the clarity and logical consistency of decisions that it denies leave to appeal?	D (3) E (0)	(8) (5)	(9) (1)
- the clarity and logical consistency of decisions that it grants leave to appeal of right?	D (4) E (0)	(8) (4)	(8) (2)
- the fairness of decisions it denies leave to appeal?	D (0) E (0)	(9) (3)	(11) (3)
- the fairness of decisions that it grants leave to appeal or reviews through appeal of right?	D (5) E (0)	(5) (3)	(10) (3)

D = Department

E = Employee Organization

Hearing Officers were preferred for cases in which knowledge and sensitivity to Civil Service policies, regulations, and past practice was essential. It was reported by several respondents that the decisions of regular Hearing Officers were more predictable than those of outside arbitrators on such cases. Also, most respondents credited ad hoc Hearing Officers with having a greater knowledge of Civil Service rules and policies than arbitrators, because ad hoc Hearing Officers typically receive more experience under the procedure than do arbitrators, and therefore, have a greater opportunity "to learn the system."

Arbitrators are credited with possessing greater experience with, and much greater knowledge of, industrial relations matters in general. This was also thought to be true of most ad hoc Hearing Officers. Several respondents gave arbitrators and ad hoc Hearing Officers credit for writing more comprehensive and well-reasoned decisions than regular Hearing Officers. Some respondents reported the view that regular Hearing Officers are required to process a much larger case load than outside arbitrators and that this may in part account for whatever differences exist in their written decisions.

Arbitrators and ad hoc Hearing Officers were viewed by both department and employee organization representatives as possessing greater credibility as impartial decision makers than regular full-time Hearing Officers, because they are not dependent on full-time state employment. Accordingly, the use of an arbitrator or an ad hoc Hearing Officer was preferred in cases such as prohibited discrimination or discharge, in which greater credibility as an impartial decision maker was needed.

Question 48 requested the respondent to provide an overall evaluation of the performance of the grievance procedure. The responses indicate that a large majority (85 percent) of the departments are satisfied with the fairness of the treatment given to regular grievances, while a smaller majority (55 percent) is satisfied with the fairness of the treatment of technical decisions.

Employee organizations are less positive on this overall rating, with 50 percent being satisfied with the fairness of the treatment given to regular grievances and only one in six being satisfied that technical cases are treated fairly.

A majority (55 to 65 percent) of both department and employee organization respondents were dissatisfied with the overall record of the procedure in providing timely treatment of both technical and regular grievances. The responses to question 48 are presented in Table 15.

TABLE 15: EVALUATION OF OVERALL PERFORMANCE

Question		Responses					
		NU	VS	FS	N	FD	VD
48. All in all, how satisfied are you with the record of the Michigan State Civil Service grievance and appeals procedure in providing:							
- a fair resolution of redetermination appeals?	D	(0)	(0)	(11)	(4)	(4)	(1)
	E	(0)	(0)	(1)	(2)	(1)	(2)
- a timely resolution of redetermination appeals?	D	(0)	(0)	(5)	(3)	(6)	(6)
	E	(0)	(0)	(1)	(2)	(0)	(3)
- a fair resolution of grievances?	D	(0)	(1)	(16)	(2)	(0)	(1)
	E	(0)	(0)	(3)	(1)	(0)	(2)
- a timely resolution of grievances?	D	(0)	(1)	(6)	(3)	(6)	(4)
	E	(0)	(0)	(0)	(2)	(2)	(2)

D = Department

E = Employee Organization

CHAPTER TEN

EMPLOYEE PERCEPTIONS OF THE ADJUDICATION PROCESS

Two separate groups of state employees were surveyed in order to obtain an assessment of employee views on various aspects of the grievance procedure (excluding the treatment of technical appeals). One group, designated Group A, was representative of all regular, full-time employees on the state payroll during April, 1978. Group A included 549 employees, or about a one percent sample of all state employees on the payroll. About 80 percent of the employees in this group had never processed a grievance at any step under the existing procedure. Responses of these employees have been tabulated separately from the 20 percent who have had some experience with the grievance procedure.

The other survey group, designated Group B, consisted of all state employees who had carried a grievance through a Civil Service Step 4 hearing during the 10 week period from April 1, to June 9, 1978, but had not yet received a Hearing Officer decision in their cases at the time they were surveyed. Group B included 113 Step 4 grievants.

Separate questionnaires were developed for each survey group.¹ Both groups were asked to assess their understanding of, and their access to the process. Both Groups were asked to report certain background

¹The questionnaires are contained in Appendices L and M.

information such as prior grievance experience, employee organization affiliation, age, sex, and race. Group A was asked to rate the fairness of Step 4 Hearing Officer decisions.² Group B was asked to evaluate the fairness of their treatment under the process, without knowledge of the Hearing Officer decision in their cases.³

Analysis of the questionnaire returns indicates that those employees in Group A that responded to the questionnaire were representative of the population of regular, full-time state employees in terms of age, sex, race, classification level, employee organization membership, and department of employment. Likewise, it was found that those employees in Group B that responded to the survey were similar to the employees that carried a grievance to a Step 4 hearing during CY 1977 in terms of employee organization membership, employer action grieved, classification level, the percentage of cases won and lost, the percentage of cases heard by an ad hoc Hearing Officer, and the percentage heard in an expedited hearing. Thus, there is some assurance that the respondent samples are representative of the population from which they were drawn.

²The questionnaire to Group A was mailed out on May 12, 1978, enclosed with postage free, return envelopes. By June 10, 91 Group A employees had completed and returned the questionnaires. A follow up questionnaire was mailed out on June 13 to the employees that had thus far failed to return the questionnaire. An additional cover letter was included to encourage cooperation with the study. Sixty additional employees responded to the questionnaire after June 13. In all, 251, or 46 percent of Group A completed and returned the questionnaire in usable form.

³The questionnaire to Group B was mailed at weekly intervals during the 10 week survey period to the employees that had taken a grievance to a Step 4 hearing during the prior week. Follow up questionnaires with additional cover letters were sent out to those that failed to respond to the first mailing within three weeks. In all, 55 Step 4 grievants or 49 percent of Group B completed and returned a questionnaire in usable form. No individual respondent was included in both Group A and Group B.

Survey Results

The results indicate that a large majority (70 to 80 percent) of Michigan State civil service employees perceive the adjudication process to be accessible and understandable. Most survey respondents reported that they have access to written information about the process (70 to 80 percent), to grievance forms (78 to 83 percent), and to use of the procedure (68 to 82 percent). A substantial majority (56 to 96 percent) reported that they have either a very clear or a fairly clear understanding of how to use the process. These results are presented in Tables 16, 17, 18, and 19. As indicated in Table 19, understanding of how to use the procedure increased from 56 percent of those (Group A) with no grievance experience, to 64 percent of those (Group B) currently processing a grievance at Step 4.

The results concerning the fairness of Step 4 Hearing Officer decisions are less conclusive. As indicated in Table 20, a large majority (65 percent) of the Group A respondents were undecided about whether Step 4 Hearing Officer decisions are fair and impartial. This high percentage of undecided respondents may be a reflection of the fact that less than 10 percent had received a Step 4 Hearing Officer decision on a grievance. Thus, over 90 percent lacked any personal experience on which to base an evaluation of Hearing Officer impartiality.

Employees (Group A) who have had no grievance procedure experience are largely (68 percent) undecided about whether Step 4 Hearing Officers provide fair and impartial grievance decisions. Grievants with past experience at Step 4 (Group A) are much more decided in their views of Hearing Officer fairness; 45 percent reported that Step 4 Hearing Officers are not fair and impartial, 20 percent reported that Hearing

TABLE 16: ACCESS TO GRIEVANCE INFORMATION

Question asked:

In your view, can employees at your place of employment typically request and receive a copy of the written grievance procedure without unreasonable delay?

Responses:	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
<u>Group A:</u>			
Employees without grievance experience. (n = 193)	76%	6%	18%
Employees with prior grievance experience. (n = 48)	77%	17%	7%
<u>Group B:</u>			
Current Civil Service step 4 grievants. (n = 55)	71%	11%	18%

TABLE 17: ACCESS TO GRIEVANCE FORMS

Question asked:

In your view, can employees at your place of employment typically request and receive grievance forms without unreasonable delay?

	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
Responses:			
<u>Group A:</u>			
Employees without grievance experience. (n = 191)	80%	4%	4%
Employees with prior grievance experience. (n = 48)	83%	13%	4%
<u>Group B:</u>			
Current Civil Service step 4 grievants. (n = 54)	78%	4%	18%

TABLE 18: ACCESS TO GRIEVANCE PROCEDURE

Question asked:

In your view, do employees at your place of employment typically have complete access to use the grievance procedure?

	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
Responses:			
<u>Group A:</u>			
Employees without grievance experience. (n = 194)	82%	9%	9%
Employees with prior grievance experience. (n = 48)	78%	20%	2%
<u>Group B:</u>			
Current Civil Service step 4 grievants. (n = 54)	68%	17%	15%

TABLE 19: UNDERSTANDING OF THE GRIEVANCE PROCEDURE

Question asked:					
All in all, how clear or unclear is your understanding of how to use the grievance procedure?					
Responses:	<u>Clear</u>	<u>Fairly Clear</u>	<u>Neither</u>	<u>Fairly Unclear</u>	<u>Very Unclear</u>
<u>Group A:</u>					
Employees without grievance experience. (n = 193)	13%	43%	19%	11%	14%
Employees with prior grievance experience. (n = 48)	17%	46%	10%	19%	8%
<u>Group B:</u>					
Current Civil Service step 4 grievants.	27%	69%	4%	0%	0%

TABLE 20: IMPARTIALITY OF HEARING OFFICERS

Question asked:

In your view, do Civil Service Step 4 Hearings Officers typically provide fair and impartial grievance decisions?

	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
Responses:			
<u>Group A:</u>			
Employees without grievance experience. (n = 185)	20%	12%	68%
Employees with prior grievance experience at steps 1, 2, or 3 only. (n = 28)	14%	25%	61%
Employees with prior grievance experience at Civil Service step 4 with decision received. (n = 20)	20%	45%	35%

TABLE 21: EVALUATION OF DECISIONS FAIRNESS, MSEA VERSUS AFSCME MEMBERS

Question asked:

In your view, do Civil Service Step 4 Hearings Officers typically provide fair and impartial grievance decisions?

	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
Responses:			
<u>Group A:</u>			
Members of M.S.E.A. (n = 91)	16.5%	8.8%	74.7%
Members of A.F.S.C.M.E. (n = 17)	17.6%	41.2%	41.2%

Officers are fair and impartial, and 35 percent were undecided. This tendency for skepticism about Hearing Officer fairness to increase with experience in the adjudication process may be a reflection of the fact that a large proportion (about 61 percent) of all Step 4 Hearing Officer decisions go against the grievant.⁴

Perceptions (in Group A) of Hearing Officer fairness also appear to be related to employee organization membership. A greater percentage of MSEA (75 percent) than of AFSCME (41 percent) were undecided about whether Step 4 Hearing Officers provide fair and impartial decisions. On the other hand, members of AFSCME were much more likely to perceive that Step 4 Hearing Officers are not fair and impartial. As presented in Table 21, 41 percent of the AFSCME respondents and only nine percent of the MSEA respondents reported that Hearing Officers are not fair and impartial. This may be a reflection of the fact that members of AFSCME as a group have had more experience with the grievance procedure, and thus have more frequently been involved in Step 4 cases decided against them. As reported in Appendix G, Table 6, AFSCME was involved in 25.8 fourth step decisions per 1000 members in 1977, while MSEA was involved in only 4.4 fourth step decisions per 1000 members during the same period. Also, this greater tendency of AFSCME members to be skeptical of Hearing Officer impartiality is consistent with the fact that AFSCME has elected more often than any other employee organization to appeal grievances to outside arbitration.⁵ On the other hand, MSEA has

⁴Appendix E, Table 28.

⁵Appendix E, Table 41.

never used outside arbitration, but rather has chosen to rely exclusively on Civil Service Hearing Officers for adjudication. These differences between AFSCME and MSEA may be related to the well documented differences between AFL-CIO affiliated unions and state employee associations.⁶ AFSCME is an AFL-CIO affiliate and MSEA is an unaffiliated employee association. Generally speaking, unaffiliated employee associations tend to be more conservative, less militant in their advocacy of employee interests, and less likely to favor the use of collective bargaining and private arbitration than affiliated unions.

The first question addressed exclusively to the Group B respondents was:

How satisfied or dissatisfied are you with the overall procedure that must be followed in order to bring a case to a hearing?

In answering the question, do not consider the conduct of the actual hearing; consider only the process that must be followed to bring a case from the starting point in the procedure to the hearing.

Fifty-five percent of the Group B respondents indicated that they were very satisfied or fairly satisfied, 41 percent reported that they were very or fairly dissatisfied, and six percent were neither satisfied or dissatisfied. Nearly all of the respondents that indicated dissatisfaction with the procedure reported that excessive amounts of time were

⁶Marshall, J. F., "Public Employee Associations--Roles and Programs," Public Personnel Management, Vol. 3 (March 1974), pp. 415-425.

Martin, J. E., "State Employee Affiliation and Attitude Differences," Journal of Applied Psychology, Vol. 63, No. 5 (May 1978), pp. 654-657.

Stieber, J., Public Employee Unionism: Structure, Growth, Policy (Washington, D. C.: Brookings Institute, 1973), pp. 1-50, 89-113.

required to process a grievance through to a hearing. Other complaints cited were:

- the procedure is too complicated and includes too many steps.
- an employee loses the grievance if he fails to abide by the time limits, but if management fails to respond in a timely fashion it does not lose the grievance.
- there is a lack of communication between the Department of Civil Service and other departments.

The Group B respondents also evaluated the conduct of their Step 4 hearings through a set of six questions. These six questions, and the percentage of "yes," "no," and "undecided" responses were:

- Was there a fair opportunity at your hearing for you or your representative to present witnesses, documents, and other evidence in support of your cases?

Yes 74% No 19% Undecided 7%

- Was there a fair opportunity at your hearing for you or your representative to cross-examine witnesses presented by the department?

Yes 70% No 24% Undecided 6%

- Was the Hearing Officer or arbitrator sincerely interested in receiving all the facts that are important to your cases?

Yes 67% No 11% Undecided 22%

- Did the Hearing Officer or arbitrator make fair rulings on objections during the hearing?

Yes 59% No 11% Undecided 30%

- Did you understand the hearing procedure?

Yes 82% No 9% Undecided 9%

- All in all, do you feel that the conduct of the hearing was fair and impartial?

Yes 57% No 15% Undecided 28%

These results indicate that a large majority of the grievants awaiting an adjudication decision perceive that their hearing was conducted properly and fairly.

Whether the Group B respondent's grievances was heard in an expedited or in a regular hearing was related to his or her perception of the conduct of the hearing. A substantial majority (68 percent) of the respondents that received an expedited hearing reported that the hearing conduct was fair and impartial, while only 39 percent of the employees that received a regular hearing reported that the hearing was conducted fairly and impartially. These responses are reported in Table 22. Only six percent of those in expedited hearings and 28 percent of those in regular hearings reported that their hearings were not fair and impartial. These differences may reflect the fact that expedited hearings are limited to cases involving less potential loss to the employee and relatively simple issues and factual situations. Grievants with less to lose may be less critical of the Hearing Officer in charge of the case. And grievants involved with less complex cases may have a better understanding of the issues and facts in the case, thus eliminating one potential source of misunderstanding and mistrust concerning the Hearing Officer's conduct during the hearing.

TABLE 22: EVALUATION OF HEARING FAIRNESS, EXPEDITED
VERSUS REGULAR HEARINGS

Question asked:

All in all, do you feel that the conduct of the hearing was fair
and impartial?

	<u>Yes</u>	<u>No</u>	<u>Undecided</u>
Responses:			
<u>Group B:</u>			
Grievants that received an expedited hearing. (n = 31)	67.7%	6.5%	25.8%
Grievants that received a regular hearing. (n = 18)	38.9%	27.8%	33.3%

CHAPTER ELEVEN

VIEWS OF CIVIL SERVICE COMMISSION MEMBERS

The four members of the Commission were interviewed concerning their views on the Commission appeals process and the adjudication process generally. The Commissioners view their function to be that of an appellate review body seeking to determine whether decisions reached at lower levels are substantially supported by the evidence. They view themselves as being essentially outside and independent of the state bureaucratic process, and thus able to bring a fresh, impartial "lay" point of view to the resolution of grievances brought to their attention through the appeal process.

A number of topics were treated in the interviews with the Commissioners. The Commission members differed on whether appeals of Civil Service Bureau (technical appeals) actions should be appealable to outside arbitration as are regular grievances. Three of the Commissioners said that internal, technical, civil service matters, such as classifications, selections, and compensation decisions, are not amenable to effective review by persons outside the Department of Civil Service because of their sensitivity and complexity. One Commissioner reported a personal reluctance to scrutinize Civil Service Bureau technical decisions because of inability to understand such matters. Also, the view was expressed that an outside arbitrator with limited understanding of the state system may endanger the technical integrity of the classification

system, i.e., produce decisions that cause serious imbalance in the classification structure. One Commissioner did, however, express a willingness to permit technical appeals to be carried to outside arbitrators who have demonstrated ability to evaluate technical state civil service matters.

All Commissioners reported that they approve of the use of ad hoc Hearing Officers to decide fourth step grievance appeals, primarily in order to relieve case load pressures, but also to provide special expertise in unusual cases. The availability of outside arbitration was seen as essential in the few cases in which employees or employee organizations perceive that an outsider is able to provide a more objective and impartial decision, and are willing to share in the additional cost of arbitration. However, the continued use of internal, full-time Hearing Officers was seen as being vital to maintaining a continuity of knowledge of the state system in the adjudication process.

Every Commissioner expressed the conviction that the number of Commission appeals is too large, and requires the use of excessive amounts of time relative to the amount of time available to conduct other Commission business. Thus, there was general agreement that the problem of excessive case load was in need of study and solution.

The Commissioners unanimously believe that the current design of the grievance system places too little responsibility on employees and employee organizations to limit appeals of questionable merit, or of a frivolous nature. Two Commissioners suggested that there should be a limit on the types of cases that may be appealed to the Commission, beyond that presently established. Thus, they saw a need to balance the rights of individual employees and departments to appeal cases of limited

significance against the need for the Commission to give adequate consideration to matters of greater importance.

Finally, all Commissioners believe that it is important to have a Commission made up of individuals from outside of state government, appointed on a nonpartisan basis, to oversee Civil Service procedures. They thought that a Commission so constituted is able to bring fresh, independent views to the review process.

In summary, Commission members favor the present design and operation of the grievance and appeals procedure. However, they believe that the Commission case load is too large, and that some means to limit Commission appeals should be found. Though no specific recommendations for change were made, it was suggested that some means should be found to discourage the appeal of frivolous or insignificant cases, or to further limit the types of cases that may be appealed to the Commission.

PART THREE

CHAPTER TWELVE

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary

The Michigan grievance procedure was developed, during the forty years of its experience, from a simple, one-step mechanism permitting appeals on only a narrow range of issues, to a multiple set of steps and alternatives providing for appeals on a broad range of issues. Much of this development was undertaken in response to suggestions for improvement offered by many interested parties in the expectation that the resulting procedure would be more acceptable to the departments, employees, and employee organizations that rely on it as a means for resolving their differences.

The procedure provides two basic avenues of grievance adjudication, the Civil Service Hearing Officer and private arbitration. Appeals of technical determinations made by the Department of Civil Service are limited to one avenue of redress, the Technical Hearing Officer. Both grievance and technical appeal decisions are subject to review by the Civil Service Commission.

The grievant may elect to obtain grievance adjudication either from a Civil Service Hearing Officer, selected and paid for by the Hearings Division of the Department of Civil Service, or from a private arbitrator jointly selected and paid for, on an equal share basis, by the parties.

If an employee elects to appeal a grievance to a Civil Service Hearing Officer, the Hearings Division may assign the grievance to either a full time or to an ad hoc Hearing Officer. Full time Hearing Officers are state career civil servants, while ad hoc Hearing Officers are typically lawyers, practicing arbitrators, or university professors. Ad hoc Hearing Officers are used primarily to handle excess case volume, but occasionally may be selected for their special expertise on certain issues.

Employees may elect to be represented in adjudication by any agent of their choice. About 81 percent of all grievances in adjudication are represented by a union or employee association official. The remaining grievances are represented by private attorneys, fellow employees, or by the grievant himself.

Since 1972 the Hearings Division has increased its staff of full time Hearing Officers from one to eight, including four regular Hearing Officers that decide regular grievances and four Technical Hearing Officers that decide appeals of technical civil service determinations involving classification and selection issues. The Hearings Division also employs eight or nine ad hoc Hearing Officers to decide grievances. The number of grievance decisions issued increased from 168 in 1973 to 371 in 1977. Decisions on technical matters increased from 105 in 1975, the first year that technical Hearing Officers were placed in the Hearings Division, to 257 in 1976, and then declined to 199 in 1977. Over the entire period, 1973-1977, a total of 1,325 grievance decisions and 562 technical decisions, or a total of 1,887 decisions, were issued by Hearing Officers. Appeals to the Civil Service Commission were

brought on 415 of the 1,887 cases, which included 355 brought on grievance decisions and sixty on Technical Hearing Officer decisions.

Conclusions

This research examined the acceptability of the Michigan system of grievance adjudication in terms of four fundamental factors: adjudicator impartiality, adjudicator qualifications, adjudication timeliness, and adjudication costs.

Several cautionary notes should be raised concerning the following interpretations of the results. First, no empirical studies have been conducted of how the parties in other settings view the systems of adjudication they use. Thus, it is not known whether the Michigan parties are more satisfied or less satisfied with the Michigan system of adjudication than are the parties in other settings with their methods of adjudication. Second, it should be kept in mind that the win/loss record under the Michigan system favors the employer by a substantial margin. It is not known to what extent this fact is known by the parties, but it may influence their perceptions of the system regardless of how impartial and qualified the Hearing Officers may be. Finally, other factors in the Michigan Civil Service environment which have not been empirically controlled in this research may have an important influence on the parties' perceptions of the adjudication system. For instance, the acceptability of the policies and rules involved in grievances may affect the parties' perceptions of the adjudication system. In particular, if an employee is dissatisfied

with a rule that requires him to be penalized, he may generalize that dissatisfaction to his perceptions of the adjudication process.

Impartiality

Impartiality has been examined in terms of the applicable administrative policies and arrangements and in terms of the perceptions of the grievance parties.

1. Administration

The Michigan system of adjudication is based on a complex set of administrative policies and arrangements that provide reasonable assurance of the impartiality of the adjudicators and the process.

The parties to grievances under the Michigan system do not share in the selection of Hearing Officers. Rather, the Department of Civil Service selects Hearing Officers and administers all aspects of the adjudication process. In this role, the Department of Civil Service is cast as a neutral relative to departments and grievants.

The Department of Civil Service is responsible to determine the state's classification, testing, compensation, and labor relations policies and, generally, to regulate employment relations in the state civil service. The nineteen operating departments carry out these personnel management functions within the policy guidelines and regulations established by the Department of Civil Service. It is within the context of this broad management responsibility that the Department must act as a neutral in administering the adjudication function.

In order to safeguard the impartiality of the adjudication process the Department has devised certain administrative arrangements.

Historically, the adjudication function was administered jointly with the labor relations function, which was responsible to advocate the state's labor relations stance in dealings with employee organizations. In 1974, the Hearings Division was established in order to provide for a separation in the administration of the Department's adjudicatory and management advocacy functions. The Hearings Division, since 1974, has been solely responsible for the selection of Hearing Officers and the administration of all aspects of the adjudication process. However, the Hearings Division remains in the Bureau of Labor Relations. The Director of the Hearings Division reports to the Director of the Labor Relations Bureau, who in turn reports to the State Personnel Director.

As an additional precaution, the Hearings Division has been housed in a facility that is entirely separate from the offices that house all other Department of Civil Service functions. This geographic separation was intended to minimize day-to-day contact between the department's adjudicatory and advocacy personnel. This enables the Hearings Division to conduct hearings and related business away from "management's territory."

The Department, in 1974, also established certain policies to enhance the impartiality of Hearing Officers and to protect the due process rights of employees and departments. The Department provided that:

1. Each Hearing Officer is solely responsible for the decisions he or she issues, and that decisions are not subject to approval by the Director of the Hearings Division.

2. Hearing Officers may not discuss their decisions with the State Personnel Director, the Director of the Labor Relations Bureau, or any other state official (with the exception of more experienced Hearing Officers for training purposes).
3. Voluntary Rules of the American Arbitration Association are adopted to guide Hearing Officers in the conduct of hearings, and in their relations with the parties to receive notice of hearings, to present evidence and testimony, and to cross examine witnesses. They instruct Hearing Officers to avoid conflict of interest situations in which questions concerning their impartiality may be raised.

These policies and administrative arrangements do not assure the impartiality of Hearing Officers and of the adjudication process. However, they do tend to create a climate of concern regarding the due process rights of the parties and the impartiality of Hearing Officers, and reduce the potential for the undesirable influence that may result from frequent association among Hearing Officers and the Department's management advocacy personnel. Moreover, based on the questionnaire responses of Hearing Officers to hypothetical "conflict of interest" situations, it appears that Hearing Officers are able to recognize the possibility of a conflict of interest in their relations with grievants department representatives, and other state personnel.

Overall, the adjudication policies and practices used to safeguard employee rights in Michigan are highly elaborate and sophisticated in comparison to what is used in nearly all other noncollective bargaining state Civil Service settings. Most other states rely on the department heads, personnel officials, or an oversight authority to adjudicate all or most grievances rather than on professional Hearing Officers and arbitrators.

2. The Parties' Perceptions of Impartiality

Overall, employer and employee organization representatives are satisfied with the impartiality of Hearing Officers and arbitrators, though employee organization representatives tended to be considerably less satisfied than department representatives.

Specifically, about seventy to eighty percent of the department representatives and about fifty to sixty percent of employee representatives indicate they are satisfied with the impartiality of regular grievance Hearing Officers. About sixty percent of the department and only one of the six employee organizations was satisfied with the impartiality of technical Hearing Officers.¹ Finally, department and employee organization officials reported that private arbitrators and ad hoc Hearing Officers were seen as having more credibility as impartial decision makers because they are not part of the career civil service and derive their principal income from sources independent of state employment.

The most important finding regarding employee perceptions is that a large majority (64 percent) of the respondents indicated that they are undecided about whether Hearing Officers are impartial. This reflects the fact that relatively few employees have any personal experience with adjudication on which to base an evaluation of Hearing Officers, and accordingly, they are not certain one way or the other

¹It is important to point out that there have been practically no previous studies made of employer, union, and employee perceptions of grievance procedures, either under negotiated collective bargaining agreements or in nonunion situations. Therefore, great care should be exercised in drawing any normative conclusions from these findings.

about Hearing Officer impartiality. This indicates there is no strong predisposition of employees to be skeptical of Hearing Officer impartiality. Only nineteen percent indicated that Hearing Officers are impartial while only about sixteen percent reported that Hearing Officers are not impartial. Employees who had received an adjudication decision were much more likely to indicate that Hearing Officers are not impartial. The data reported in Table 20 on page 121 indicate that as employees gain knowledge of the system they are less likely to perceive that Hearing Officers are impartial. This may be explained by the fact that sixty percent of all adjudications are lost by employees. Also, significant is the fact that a majority (57 percent) of the respondents who very recently had received an adjudication hearing, but had not yet received the Hearing Officer's decision, indicated that the Hearing was conducted impartially. Whether these perceptions would change after receipt of the Hearing Officer's decision is not dealt with empirically in this research. Finally, the employees who received an expedited hearing were more likely to perceive that they had been treated fairly than those who had received a regular hearing. The reasons for this difference are not clear. However, the author concludes tentatively that the more informal expedited hearings give the grievant a better chance to be heard and to get his grievance "off his chest." This may contribute to the employee's perception of being treated fairly. In addition, grievants may have a better grasp of the issues and facts involved in the relatively simple and nonserious types of cases dealt with in expedited hearings. Having a better grasp of the situation may allow the grievant to have a clearer understanding of

Hearing Officer rulings and behavior during the hearing, thus reducing one potential area of mistrust.

In conclusion, we have three bases on which to evaluate the impartiality of Hearing Officers: (1) administrative policies and arrangements, (2) department and employee organization perceptions, and (3) employee perceptions. The administrative aspects are largely sound and provide reasonable assurance of impartiality. Department representatives, most of whom have extensive experience with adjudication, generally are satisfied with the impartiality of Hearing Officers. Employee organization representatives are much less satisfied with the impartiality of Hearing Officers. Employees, for the most part, have little experience with adjudication and a large majority are uncertain whether Hearing Officers are impartial. Those with experience under the system are more likely to doubt Hearing Officer impartiality. The responses of employees with very recent experience indicate that most perceive that their hearing was conducted fairly, and those who received an expedited hearing are more likely to perceive that they were treated impartially. Finally, the parties are much less satisfied with the impartiality of technical Hearing Officers than with that of regular Hearing Officers. Only about one half the departments hold favorable views of technical Hearing Officer impartiality, while only a small minority of employee organizations are satisfied with their impartiality.

Qualifications

The qualifications of full time Hearing Officers include either substantial advanced education or experience in law, labor relations and personnel administration, or a combination of education and experience in these fields. No full time Hearing Officer had experience in the conduct of labor arbitration prior to employment in the Hearing Division. In comparison with private arbitrators, Hearing Officers are less qualified in terms of experience, and educational background. However, one researcher found that such qualifications make no difference in the outcome of routine cases. The Hearings Division appears to recognize this through its practice of employing seasoned, private arbitrators as ad hoc Hearing Officers to decide the most difficult or sensitive cases.

Most department and employee organization representatives do not have a preference for either Hearing Officers or arbitrators, but reported that their preference would depend on the nature of the grievance involved. Full time Civil Service Hearing Officers are preferred for grievances in which an understanding of Civil Service policies, rules, and past practice is essential. Arbitrators are preferred in cases in which greater need for credibility as an independent decision maker is required.

A majority (eighty percent) of department respondents were satisfied with the clarity, and logical consistency of grievance decisions, while about 55 percent were satisfied with the clarity and consistency of technical decisions.

Employee organization respondents were widely divided in their views of the clarity and consistency of grievance and technical decisions, without a clear majority indicating either satisfaction or dissatisfaction.

Timeliness

Grievances appealed under the Michigan Civil Service system to outside arbitrators were decided about six months after the appeal to arbitration and about ten weeks after the hearing. Civil Service Hearing Officer decisions under the Michigan system are issued an average of about four months after the appeal date and about eight weeks after the date of the hearing. Thus Hearing Officer decisions are more timely than arbitrator decisions on Michigan Civil Service grievances. It should be noted that the greater time delay between the date of the appeal and the date of the hearing for arbitrators is largely attributable to the fact that arbitrators are selected through a joint process which is more time consuming than the unilateral appointment of Hearing Officers. Also, arbitrators, once selected, may be more difficult as a group to schedule a hearing date with because many of them pursue full time careers in teaching, research, or legal practice. Despite the fact that the timeliness of Hearing Officer decisions compares quite favorably with that of arbitrators, a large majority of both department and employee organization respondents are dissatisfied with the timeliness of grievance and technical appeal decisions.

Expedited hearings have risen since 1975 from 23 percent to 43 percent of all fourth step hearings. The use of expedited proceedings has enabled Hearing Officers to hear more cases, but the amount of time elapsed between appeal and hearing and from hearing to decision is not less for expedited cases than for cases handled through regular procedures. The administration of expedited hearings needs to be strengthened in order to realize their potential for improving timeliness.

Costs

In fiscal year 1977-78, the cost per case to the State of grievance decisions by full time Hearing Officers (\$513) was substantially less than the per case cost of ad hoc Hearing Officers (\$753), or of Civil Service grievances appealed to private arbitration (\$672). These figures include the cost of secretarial and court reporter services.

The Federal Mediation and Conciliation Service reports that the arbitrators it refers charge an average of \$753 in fees and expenses per decision. The Federal Mediation and Conciliation Service report did not include the costs of transcripts. Nevertheless, the cost per decision of full time Hearing Officers is considerably less than the cost of other types of adjudication. These differences in cost reflect to a great extent the preference of the parties in private arbitration for arbitrators with extensive experience and educational qualifications who can demand a per decision fee that far exceeds the per decision salary paid to full time Hearing Officers.

Finally, outside arbitration is used very infrequently under the Michigan system apparently because the parties have decided that its

high cost relative to the "no charge" Hearing Officer is not justified in a vast majority of the cases.

Commission Review

The Commission members perceive their function to be that of an oversight authority with the responsibility to represent the interests of the public, the employees, and the departments. They believe that their status as lay persons with no career commitment to the state civil service enables them to bring a fresh, objective point of view to the review process. In accordance with this, they see their review function to be an important added assurance that the interests and rights of employees and departments will be accorded fair treatment in the grievance procedure.

In order to discharge their review function, the members of the Commission devote from two to four days per month to studying and deciding Commission appeals. This constitutes about two-thirds of the total time they spend on the conduct of all Commission business. The Commissioners believe that this case load is excessive, and that some means to limit Commission appeals should be devised. They see a need to discourage the appeal of frivolous or insignificant matters and to further limit the type of cases that may be appealed to the Commission.

A substantial minority of both departments and employee organizations believe that the Civil Service Commission does not provide an effective review of Hearing Officer and arbitrator decisions appealed to the Commission. Specific comments indicated dissatisfaction with the brevity of Commission decisions, and concern over the extent of the

Commission's reliance on staff to analyze the large volume of appeals. However, from 50 to 65 percent were undecided concerning the effectiveness of the Commission's review function. This is largely due to their lack of experience with grievances appealed to the Commission.

In view of the concerns of the Commission members and the grievance parties, it is clear that some modification in the role of the Commission should be considered.

Summary

The Michigan system of adjudication is largely sound in terms of the four acceptability factors examined in this research. The administrative policies and arrangements supporting the adjudication process are reasonable. Though significant amounts of dissatisfaction were found to exist, department and, to a lesser extent, employee organization representatives indicate that in great measure they are satisfied with the impartiality of Hearing Officers. A large majority of the employees, those who lack experience with adjudication, appear not to be predisposed to doubt Hearing Officer impartiality. Hearing Officers possess very good qualifications, and are prepared for their work through substantial training in the Hearings Division. Finally, Hearing Officer decisions are on the whole more timely and less costly than decisions issued by arbitrators. Thus, the findings of this study support the hypothesis that a system of adjudication that is based primarily on the use of Hearing Officers, selected unilaterally and employed by the employer, can attain a high degree of acceptability. The acceptability of the system is secured through the use of administrative

arrangements and policies that work to safeguard the impartiality of the process, and through reliance on well-qualified Hearing Officers that provide timely grievance decisions at a reasonable cost relative to what is provided under other systems. However, the findings of this study indicate that there is serious dissatisfaction regarding some aspects of the procedure which are addressed in the following recommendations.

Recommendations

1. Instead of employing full time Hearing Officers in several civil service classifications as at present, a single Hearing Officer classification should be established with specific standards of education, experience and other qualifications relevant to the position. Hearing Officer salaries should be set at a level that will continue to attract highly motivated and qualified individuals to what is one of the most important and responsible positions in the classified civil service.
2. In order to further separate the adjudication function from the management advocacy responsibilities of the Department of Civil Service, the Hearings Division should be removed from the Labor Relations Bureau and established as a separate bureau. The director of the new Hearings Bureau should report directly to the Civil Service Commission. This measure should increase the extent to which state employees perceive the technical appeals and adjudication process to be impartial, and free from association with the

management oriented forces of the other units of the Department of Civil Service.

3. An advisory board with department, employee organization, and public representation should be established to oversee the administration of the Hearings Division. The Board should have a neutral chairman drawn from its public members, that reports directly to the Civil Service Commission. A major function of the Board should be to review the selection, training, and decisions of Hearing Officers to assure their impartiality and competence. The members of the board should be used in a blind review process to periodically evaluate the soundness of Hearing Officer decisions. Proper execution of the board's functions should enhance the credibility of technical and regular Hearing Officer impartiality and competence.
4. The time lapse between Step 4 appeal and decision is too long. It is a major source of dissatisfaction by departments, employee organizations, and employees. Three measures are suggested to deal with this problem:
 - a) Additional attention should be given to the time it takes to process grievances and technical appeals from appeal to hearing and from hearing to decision. Statistics on the timeliness of hearings and decisions should be compiled and utilized to monitor the timeliness of individual Hearing Officers. The evaluation of Hearing Officers should place additional emphasis on the extent to which they meet realistic and fair time targets in processing cases, as well as on the quality of their work.

- b) "Expedited" cases should be heard and decided much more promptly than cases processed through regular procedures. In order to attain this objective, one or more full time Hearing Officers should be assigned exclusively to handle "expedited" cases within established time limits. Hearing Officers should be rotated on this assignment for periods of six months or longer. A second approach might be to utilize ad hoc Hearing Officers exclusively on expedited cases with established time limits for hearing and decision. Since ad hoc Hearing Officers cost over fifty percent more than full time Hearing Officers, assigning them to "expedited" cases should reduce the overall costs of the Hearings Division.
- c) If reasonable time limits established for processing regular and expedited cases cannot be met, the full time Hearing Officer staff should be increased. This is preferable to using more ad hoc Hearing Officers who are much more costly on a per case basis.
5. Excessive amounts of time of Civil Service Commission Members is required to review and decide appeals from adjudication decisions. To correct this problem, the following approaches should be considered:
- a) Reduce the categories of cases on which appeals may be exercised. However, since almost three-fourths of all appeals heard by the Commission are taken on discharge cases, there is little potential relief in this approach. Discharge grievances are too important to the parties to deny the right of appeal.

Though there may be some potential for reducing the number of nondischarge appeals heard by the Commission, the effect on Commission work load would not be significant.

- b) Establish the position of Commission Hearing Officer, to be appointed by the Commission as its personal representative to hear and decide all appeals from decisions by Civil Service Hearing Officers referred by the Commission Appeals Officer. Appeals from arbitration decisions should continue to be heard and decided by the Commission. The Commission Hearing Officer should report directly to the Commission and be independent of the Hearings Division of the Department of Civil Service. Appeals from decisions of the Commission Hearing Officer to the Commission should be permitted only in exceptional cases, based on standards developed by the Commission after consultation with civil service departments and employee organizations.

APPENDICES

APPENDIX A

QUESTIONNAIRE TO THE 49 OTHER STATES

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
South Kedzie Hall
East Lansing, MI 48824

RE: RESEARCH QUESTIONNAIRE

A research group in the School of Labor and Industrial Relations at Michigan State University is in the process of studying the design and operation of grievance procedures used in state civil service employment. This study is supported by a research grant received under the authority of the Intergovernmental Personnel Act.

We need the help of state government personnel directors from the fifty states, and would like to have you participate by providing us with some basic information about the grievance procedure(s) available to state civil service employees in your state. After completion of this study we will issue a report containing a summary of data, and a statement of findings and conclusions. If you want to obtain a copy of this report please furnish us with a return addressed, stamped, post card which we will use to inform you how and when you may obtain a copy of the report.

An important part of the study involves identifying the types of grievance procedures presently in use in state civil service employment. The attached questionnaire includes questions about the design and operation of the grievance procedure(s) used by state civil service employees in your state. The questionnaire also requests that you provide us with copies of important documents related to the grievance procedure(s).

Your cooperation in assembling the requested documentation and forwarding it along with the completed questionnaire to the address indicated below will be greatly appreciated.

With many thanks,

Kent Murrmann
Research Assistant

Jack Stieber
Professor and Project Director

PLEASE FORWARD QUESTIONNAIRE

AND REQUESTED DOCUMENTATION TO:

Jack Stieber, Director
400 S. Kedzie Hall
School of Labor and Industrial Relations
Michigan State University
East Lansing, MI 48824

ATTN: KENT MURRMANN

In completing your responses to this questionnaire please attach any additional pages needed.

1. Is there a formal grievance procedure for state civil service employees in your state?

Yes _____ No _____

If yes, please provide us with a copy of the written grievance procedure.

2. If the answer to 1 is yes, when and how was (were) the grievance procedure(s) established? Please provide us with a copy of any legislative language, personnel rules, civil service rules, leading court opinions, leading attorney general opinions, or collective bargaining agreements that authorize, establish, and/or limit the grievance procedure(s). Please identify below any documents that you provide to us.
3. What items are subject to the grievance procedure? Please identify and explain any significant items that are excluded from the grievance procedure.
4. What is the terminal part of the grievance procedure: state personnel director decision, civil service commission decision, appeal board, advisory arbitration, final and binding arbitration, other?
5. If arbitration is used, how many cases have been appealed to it in the last year?
6. Are there any major areas of disagreement about or dissatisfaction with the design and operation of the grievance procedure(s)?

Yes _____ No _____

If yes, please briefly identify and describe them below.

7. What changes in the grievance procedure(s), if any, are expected during the next few years?

INFORMATION NEEDED FOR FOLLOW UP INTERVIEWS:

Name of person completing the questionnaire _____

Position _____

Address _____

Telephone Number _____

APPENDIX B

RESULTS OF THE QUESTIONNAIRE
TO OTHER STATES

APPENDIX B

AUTHORITIES THAT MAKE FINAL AND BINDING DECISIONS UNDER UNILATERAL GRIEVANCE PROCEDURES

States	Type of Decision Maker						
	1. Head of Agency or Department	2. Chief Administrator or Personnel Official	3. Hearings Officer Employed by State	4. General Oversight Authority*	5. Special Purpose Appeals Agency	6. Tripartite Hearings Panel	7. Mutually Selected Arbitrator
Alabama				X			
Arizona	X	X					
Arkansas				X			
California	X			X			
Colorado				X			
Delaware				X			
Georgia	X			X			
Idaho	X			X			
Indiana			(X)		(X)		X
Iowa				X			

APPENDIX B (cont.)

AUTHORITIES THAT MAKE FINAL AND BINDING DECISIONS UNDER UNILATERAL GRIEVANCE PROCEDURES

States	Type of Decision Maker						
	1.	2.	3.	4.	5.	6.	7.
Kansas	X			X			
Kentucky				X			
Louisiana	X	X		X			
Maine				X	X		
Maryland		X					(X)
Michigan			(X)	X			(X)
Mississippi	X			X			
Missouri	X			X			
Nebraska				X			
Nevada		X	(X)	X	X		
North Carolina				X	(X)		
Oklahoma				X			
South Carolina				X	(X)		

APPENDIX B (cont.)

AUTHORITIES THAT MAKE FINAL AND BINDING DECISIONS UNDER UNILATERAL GRIEVANCE PROCEDURES

States	Type of Decision Maker						
	1.	2.	3.	4.	5.	6.	7.
South Dakota				X			
Tennessee				X	X		
Texas	X			X			
Utah			X	X			
Virginia						X	
West Virginia	X	X				X	
Wyoming				X	X		

Note: (X) indicates an intermediate level or advisory function.

*May be a Civil Service Commission or a State Personnel Board.

Source: Tabulated from questionnaire responses from the other 49 states.

APPENDIX B (cont.)

AUTHORITIES THAT MAKE FINAL AND BINDING DECISIONS UNDER UNILATERAL GRIEVANCE PROCEDURES

States	Type of Decision Maker						
	1.	2.	3.	4.	5.	6.	7.
South Dakota				X			
Tennessee				X	X		
Texas	X			X			
Utah			X	X			
Virginia						X	
West Virginia	X	X				X	
Wyoming				X	X		

Note: (X) indicates an intermediate level or advisory function.

*May be a Civil Service Commission or a State Personnel Board.

Source: Tabulated from questionnaire responses from the other 49 states.

APPENDIX B (cont.)

AUTHORITIES THAT MAKE FINAL AND BINDING DECISIONS UNDER UNILATERAL GRIEVANCE PROCEDURES

States	Type of Decision Maker						
	1.	2.	3.	4.	5.	6.	7.
Kansas	X			X			
Kentucky				X			
Louisiana	X	X		X			
Maine				X	X		
Maryland		X					(X)
Michigan			(X)	X			(X)
Mississippi	X			X			
Missouri	X			X			
Nebraska				X			
Nevada		X	(X)	X	X		
North Carolina				X	(X)		
Oklahoma				X			
South Carolina				X	(X)		

APPENDIX C

THE GRIEVANCE AND APPEALS PROCEDURE
FOR EMPLOYEES IN THE STATE CIVIL SERVICE

State of Michigan

CS-333
1077

GRIEVANCE AND APPEALS PROCEDURE FOR EMPLOYEES IN THE STATE CIVIL SERVICE

November 1, 1973

(As amended through June 17, 1977)

COMBINED DEPARTMENT AND CIVIL SERVICE PROCEDURE

This latest statement of the statewide grievance and appeals procedure, available to all employees, establishes employee and management rights and obligations on both department grievances and civil service testing and classification appeals.

1. GENERAL PROVISIONS

1. AUTHORIZATION

It is authorized by the Civil Service Commission under Rule 33 (Appeals).

2. PURPOSE

The purpose of the grievance and appeals procedure shall be to provide an orderly system of resolving employee grievances in an equitable and timely manner without fear of reprisal. Every effort shall be made to reach a clear understanding of the exact nature and facts of the grievance and of the relief requested, and to explore sound resolution of the grievance.

3. REPRESENTATION

At Step 1 of the Grievance Procedure the grievant may have one fellow employee representative. The grievant may have representation of his choice beginning at Step 2 in the Grievance Procedure, in the Civil Service Bureau Appeals Procedure, in the Commission Appeal Procedure, and in Trial Board Procedures.

- a. Fellow employee: Another employee of the same principal department and same sub-agency.
- b. Spokesman: Where more than one representative is present, the grievant shall designate his chief spokesman.

4. ADMINISTRATIVE LEAVE

Necessary and reasonable absence from work for scheduled grievance adjustment meetings with supervisors, Civil Service Department representatives, and for Civil Service appeal meetings, shall be granted the grievant and one representative without loss of pay or leave credits. Grievant, one fellow employee representative where grievant is not represented by an employee organization paid staff representative or attorney, and necessary witnesses timely called by the grievant shall lose no pay or leave credits for necessary travel and attendance at a scheduled Civil Service Hearing, but overtime and travel expenses are not authorized.

5. TIME LIMITATIONS

- a. Time shall be counted in terms of weekdays, defined as Monday through Friday, excluding employment holidays.
 - b. Grievances shall be presented within 10 weekdays of the employee becoming aware of the cause of the grievance. Civil Service Department staff decisions shall be appealable within 20 weekdays of notice to the employee.
 - c. Late appeals at any step may be filed only upon showing of good cause for delay.
 - d. Regardless of belated awareness of the cause of grievance or of good cause for late filing, no grievance shall be filed on events, nor relief be retroactive to events, which occurred more than 90 calendar days before the filing date, however, the Department, Hearing Officer or Arbitrator may accept grievances and grant retroactive relief of up to one year after occurrence if special extenuating circumstances are found.
 - e. All appeals to the State Personnel Director, Hearing Officer, and Arbitrator, must be received within 15 weekdays of the mailing or personal delivery date of the decision at the next lower step.
 - f. All appeals to the Commission must be filed with the Commission Appeals Officer within 20 weekdays of the mailing date of the decision of the adjudicating officer.
- In the absence of timely appeal the last decision at any step of the grievance and appeal procedure becomes final.
- g. Any grievance upon which an answer is not made by the Department within the time limits prescribed, or within any written extension agreement, may be appealed to the next step of the grievance and appeals procedure within 10 weekdays from the date when the Department's time for answer expired.
 - Any unanswered grievance not appealed within this time limit is deemed closed upon the basis of the last answer.
 - h. Time limits may be extended by mutual agreement in writing.

6. LIMITATIONS ON GRIEVANCES

a. Probationary Service Ratings

There shall be no appeal beyond Step 3 on probationary service ratings of new employees.

b. Probationary Dismissals

There shall be no appeal beyond Step 3 on dismissals of new employees which occur during or upon completion of the probationary period, unless the employee provides evidence of discrimination prohibited by Rule 1.2. This limitation shall not apply to any continuing employee who has previously achieved full civil service status.

c. Counseling

Counseling memoranda or reprimands are not appealable beyond the final department step, but service ratings are grievable beyond such step.

7. DEPARTMENT TRIAL BOARDS

Where an employee is required to report on his conduct to a trial board, board of inquiry, patient abuse committee, or similar fact-finding board, making any determination prior to imposition of discipline on him, he shall have the right to appear, to have representation, and to have an opportunity to call witnesses. He shall receive a copy of the findings and have an opportunity for post-hearing appeal to his appointing authority before imposition of discipline.

8. SHORTENED STEPS

a. Adverse Action

Dismissal, suspension, demotion, layoff, or any grievable action taken by management at a level higher than that of the immediate supervisor, is initially grievable at the next higher step of the grievance procedure above the official acting. If a dismissal or suspension grievance is filed at Step 3, there shall be a conference with the employee.

b. Group Grievance

Employees having a common complaint may sign and file one group grievance, indicating a maximum of three fellow employee spokesmen and a representative of their choice. The grievance shall be filed at the lowest step of the grievance procedure involving a common supervisor.

9. WAIVER OF STEPS

Upon application of an employee and a department, or on his own motion, the State Personnel Director may waive any step or steps of the Department of Civil Service grievance procedure to permit accelerated handling.

II. GRIEVANCE PROCEDURE

1. DEFINITION

A grievance is a complaint of violation of personnel law, policy, rules, regulation, procedure, condition of employment, past practice, or agreement, or a dispute over its application and interpretation, or a claim of discipline without just cause.

2. PROCEDURE

DEPARTMENT STEP 1

An employee who has a grievable complaint shall orally discuss it with his immediate supervisor within ten (10) weekdays of becoming aware of the cause of his complaint.

The immediate supervisor shall have two (2) weekdays from the date of discussion to orally inform the employee of his answer.

DEPARTMENT STEP 2

If not satisfied with the Step 1 grievance decision, the employee shall explain his grievance in writing on grievance Form CS-G1 over his signature and file it with his immediate supervisor within five (5) weekdays of receiving his oral answer.

The immediate supervisor shall write his answer on the Form CS-G1 and transmit the employee's written grievance to the appropriate Step 2 supervisory official designated by the department, with a copy to the employee.

Within 10 weekdays from date of filing the CS-G1, the Step 2 supervisor shall hold an oral conference with the employee and issue a decision in writing on grievance answer Form CS-G2.

DEPARTMENT STEP 3

If not satisfied with the Step 2 grievance decision, the employee shall, within five (5) weekdays of receiving such decision, return his copy of Form CS-G2 to the Step 2 supervisor with his signed notice of appeal.

The Step 2 supervisor shall transmit his grievance answer Form CS-G2 and the employee's written grievance Form CS-G1 to the principal department director, or his designated personal representative, at Step 3.

The department director, or his designated personal representative, shall have fifteen (15) weekdays from date of filing at Step 3 to hold any conference he deems necessary, and to issue a decision in writing on grievance answer Form CS-G2.

CIVIL SERVICE STEP 4

If not satisfied with the Step 3 grievance decision, the employee shall within fifteen (15) weekdays of the mailing date or personal delivery date of such decision file his grievance in writing over his signature on the Step 3 grievance answer Form CS-G2, together with a copy of the completed Form CS-G1 and the completed Step 2 supervisor's answer Form CS-G2 to: Hearing Officer, Department of Civil Service, Hearings Division, Lewis Cass Building, Box 30002, Lansing, Michigan 48909.

The State Personnel Director shall authorize the Director, Hearings Division, and assigned Staff Members as Civil Service Hearing Officers to conduct hearings and decide grievance cases. Hearings shall be held within 40 weekdays. Prior investigation and pre-hearing conciliation may be made at the discretion of the Hearings Division.

CIVIL SERVICE STEP 5

The award of a Civil Service Hearing Officer may be appealed to the Commission upon a satisfactory written showing of the grounds specified in Rule 33.2 and the Commission Appeal Regulations (See Article V).

III. GRIEVANCE TO ARBITRATION

1. EMPLOYEE ALTERNATIVE

As an alternative to appeal to a Civil Service Hearing Officer, an employee may elect final and binding arbitration of the grievance as defined in Article II, Section 1 with the exception of separations from employment. Notice of election must be filed in writing with the Department of Civil Service within 15 weekdays of mailing or personal delivery of the final Department answer. The employee shall assume one-half all costs. The employee's Department shall perform all conditions necessary, and share equally in the cost of arbitration.

2. PRE-ARBITRATION CONFERENCE

The Arbitration Officer shall investigate the grievance, schedule a pre-arbitration conference of the parties within 20 weekdays to explore conciliation of the grievance, to obtain agreement on the issues and stipulations to be submitted and to coordinate representation of the state in arbitration.

3. ARBITRATOR SELECTION PROCEDURE

Within 5 weekdays thereafter the employee shall file his request with the selecting agency or acknowledge acceptance of a mutually agreed arbitrator. Unless agreement has already been reached on any preferred method of selection, the arbitrator shall be selected and the hearing conducted under the rules of the American Arbitration Association. The Federal Mediation and Conciliation Service or Michigan Employment Relations Commission may be used by mutual agreement. Liability for retroactive relief shall not accrue further beyond 30 days from the earliest hearing date for which the arbitrator is available and which management accepts.

4. APPEAL TO COMMISSION

The award of an arbitrator may be appealed to the Commission upon a satisfactory written showing of the grounds specified in Rule 33.2 and the Commission Appeal Regulations (See Article V).

IV. APPEAL PROCEDURE FOR CIVIL SERVICE BUREAU ACTIONS

1. REDETERMINATION AND APPEALS PROCEDURE FOR THE SELECTION BUREAU

Decisions of the Selection Bureau staff affecting applicants are subject to a redetermination and appeals procedure as outlined below:

a. REDETERMINATION

The applicant will have 20 weekdays (i.e., regular work days) after receiving notification of the action taken to file a Request for Redetermination with the Selection Bureau.

The Selection Bureau may hold a conference, request additional information in writing, or both, to clarify the issue(s) and the positions of the parties.

The Director of the Selection Bureau will then issue a redetermination decision which will state a finding of facts, conclusions and supporting reason(s). The decision will be issued within 30 weekdays after receipt of all information.

b. APPEAL TO THE HEARINGS DIVISION

The applicant may appeal if not satisfied with the redetermination decision. The appeal must be filed within 15 weekdays after receiving the decision from the Selection Bureau Director. Appeals should be addressed to the Hearings Division, Department of Civil Service.

The Hearings Division will schedule a hearing before a Technical Hearing Officer on the decision rendered in the redetermination process. Appeal to the Hearings Division must include a statement identifying points of disagreement and supporting reasons, data and documents. The Hearing Officer will consider only those facts and contentions presented during the redetermination process. A written decision will be issued.

c. APPEAL TO THE CIVIL SERVICE COMMISSION

The decision of the Technical Hearing Officer may be appealed to the Civil Service Commission under Commission Rule 33.2 and the Commission Appeal Regulations (See Article V).

d. FORMS

Request for Redetermination Forms (CS-409) may be obtained from the Selection Bureau, Department of Civil Service, in Lansing, or the Civil Service Detroit Regional Office, Michigan State Plaza Building, 1200 Sixth Avenue, Detroit, Michigan 48226.

Form (CS-403) for filing an appeal with the Hearings Division may be obtained in agency or department personnel offices or from the Department of Civil Service.

2. REDETERMINATION AND APPEALS PROCEDURE FOR THE CLASSIFICATION BUREAU

Decisions of the Classification Bureau staff affecting employees are subject to a redetermination and appeals procedure as outlined below:

a. REDETERMINATION

The employee will have 20 weekdays after receiving notification of the classification action taken to file a Request for Redetermination with the Bureau of Classification.

The Bureau of Classification may hold a conference, request additional information, or both, to clarify the issue(s) and the positions of the parties.

The Director of Classification or his designated representative will issue a decision on redetermination which will state a finding of facts, conclusions and supporting reasons. The decision will be issued within 30 weekdays after receipt of all information, if possible. If there is a large volume of requests, decisions may be delayed.

(1) REDETERMINATIONS ARISING FROM THE IMPLEMENTATION OF NEW SERVICES

Filing procedures and time limits are the same as stated above. Redetermination decisions changing the initial determination will be effective on the date of implementation of the new service. If implementation decisions are delayed for certain classes or positions in a service, the employee will still have 20 weekdays to request redetermination after notification of the new class and level.

b. APPEALS PROCEDURE

The employee will have 15 weekdays to file an appeal with the Hearings Division, Department of Civil Service, Lewis Cass Building, Box 30002, Lansing, Michigan 48909, after receiving the decision on redetermination from the Bureau of Classification.

The Hearings Division will schedule a hearing before a Technical Hearing Officer on the decision rendered in the redetermination process. Appeal to the Hearings Division must include a statement identifying points of disagreement and supporting reasons, data and documents. The Hearing Officer will consider only those facts and contentions presented during the redetermination process. A written decision will be issued.

c. APPEAL TO THE CIVIL SERVICE COMMISSION

The decision of the Technical Hearing Officer may be appealed to the Civil Service Commission under Rule 33.2 and the Commission Appeal Regulations (See Article V).

d. FORMS

Forms for requesting a redetermination (CS-212T) or the filing an appeal (CS-403) may be obtained in the Department or agency personnel office. Completed forms should be returned to the personnel office.

V. APPEAL TO CIVIL SERVICE COMMISSION

1. APPEAL OF RIGHT

An employee may file an appeal of right to the Commission from an adjudicating officer's affirmation of a dismissal for cause.

2. LEAVE TO APPEAL

An employee, appropriate employer, exclusive representative, state personnel director or citizen may appeal any other decision of an adjudicating officer only upon application and leave granted in the discretion of the Commission.

3. FILING

All appeals to the Commission shall be filed in writing with the Commission Appeals Officer within 20 weekdays of the mailing date of the decision. Appeals shall be addressed: Michigan Civil Service Commission, c/o Commission Appeals Officer, Bureau of Labor Relations, Lewis Cass Building, Box 30002, Lansing, Michigan 48909.

APPENDIX D

QUESTIONNAIRE TO CIVIL SERVICE HEARINGS OFFICERS

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
Office of the Director
South Kedzie Hall
East Lansing, MI 48824

August 21, 1978

M E M O R A N D U M

To: All Hearings Division Hearing Officers

Subject: Questionnaire to Hearing Officers

As part of the IPA study of the Michigan State Civil Service Grievance and Appeals Procedure, we are collecting data on the operation of the Hearings Division. In order to complete this part of the study, we need to collect from Hearing Officers the information requested in the attached questionnaire.

The Director of the Hearings Division has authorized us to request your cooperation in completing this questionnaire. We would appreciate your cooperation by completing and returning this questionnaire to us by September 1, 1978.

With many thanks,

Kent Murrmann
Research Assistant

Jack Stieber, Professor
and Project Director

KM/sk

Attachment

HEARING OFFICER SURVEY

Part I: Biographical Information

1. What is your year of birth? _____
2. How many years of schooling have you had? Years

High School _____
College _____
Graduate or Professional _____
3. What degrees do you hold? (Check)

None _____
Bachelor's _____
Master's _____
LL.B. _____
LL.M. _____
J.D. _____
Ph.D. _____
Other, specify _____
4. What was your major field of concentration in college? _____

Your minor field? _____
5. What type, if any, graduate or professional study did you do?

6. Have you ever worked for a union, an employee association, or the labor movement on a:
full time basis? Yes _____ No _____
part time basis? Yes _____ No _____

If the answer is "yes," give

Type of work you performed: _____

The years of this experience: From 19__ to 19__

The name of this organization: _____

7. Have you ever worked for a private sector employer or employer association in labor relations or personnel work on a:

full time basis? Yes ____ No ____

part time basis? Yes ____ No ____

If the answer is "yes," give

The years of this experience: From 19__ to 19__

8. Other than for the State of Michigan, have you ever worked for the government (federal, state, county or municipal) in a labor relations or personnel position on a:

full time basis? Yes ____ No ____

part time basis? Yes ____ No ____

If the answer is "yes," give

The years of this experience: From 19__ to 19__

9. Were you ever employed by the State of Michigan prior to your employment in the Hearings Division? Yes ____ No ____

If yes, please give:

- the department(s) you were employed in: _____

- the position(s) and classification(s) you were employed in: _____

- the type(s) of work you performed in this (these) position(s):

- the years of this experience: From 19__ to 19__

10. For what period of time have you been employed as a Hearing Officer with the Hearings Division? From _____ to present
(month, year)

How many grievance decisions have you issued? _____

11. What experience and education, other than that reported in your responses to the above questions, do you possess that strengthens your qualifications as a Hearing Officer?

RESPONSES OF FULL-TIME AND AD HOC HEARING OFFICERS

Part II: Hypothetical Questions

There are no right or wrong answers to the following questions. Rather, the questions are designed to obtain an expression of your views concerning the role of a Hearing Officer. Your responses should be based on your independent judgement of the matters addressed. The response of individual hearing officers will be confidential. Only the aggregated responses of all the respondents will be analyzed and reported.

Does a Hearing Officer have a duty to disclose to the Director of the Hearings Division at any stage of the adjudication process:

1. That three years ago he/she received a loan of \$100 from one of the parties which he/she has since repaid?

FT*	(5) Yes	(1) No	(3) It Depends
AH*	(7) Yes	(0) No	(2) It Depends

*FT = Full Time Hearing Officer
AH = Ad Hoc Hearing Officer

2. That three years ago he/she received a loan of \$100 from a spouse (or other relative) of one of the parties which he/she has since repaid?

FT	(5) Yes	(2) No	(2) It Depends
AH	(7) Yes	(0) No	(2) It Depends

3. That he/she has received a loan from one of the parties that has not yet been repaid?

FT	(8) Yes	(0) No	(1) It Depends
AH	(8) Yes	(0) No	(1) It Depends

4. That last year he/she received a free lunch when he/she gave a general talk to a personnel association meeting which included some representation of the department that is a party to a grievance he/she is assigned to decide?

FT	(0) Yes	(7) No	(2) It Depends
AH	(0) Yes	(7) No	(2) It Depends

5. That last year he/she participated in a conference on how to be more effective in grievance arbitration, and the conference included a representative of a union now party to a grievance he/she is assigned to decide?

FT	(0) Yes	(7) No	(2) It Depends
AH	(0) Yes	(9) No	(0) It Depends

6. That the department involved in the hearing sent representatives to a university to attend a management training program for various state agencies, and the Hearing Officer teaches a course in industrial relations in that program?

FT	(2) Yes	(7) No	(0) It Depends
AH	(0) Yes	(8) No	(1) It Depends

7. That the department representative at the hearing once was enrolled in an industrial relations course given by the Hearing Officer in a program of a university?

FT	(2) Yes	(7) No	(0) It Depends
AH	(3) Yes	(4) No	(2) It Depends

8. That a representative of one of the parties is a former degree-seeking student of the Hearing Officer?

FT	(1) Yes	(7) No	(1) It Depends
AH	(3) Yes	(5) No	(1) It Depends

9. That a representative of one of the parties is a former student-research assistant for the Hearing Officer?

FT	(4) Yes	(4) No	(1) It Depends
AH	(5) Yes	(2) No	(2) It Depends

10. That the union or department representative has, at the Hearing Officer's request, given a talk to the Hearing Officer's class at a university?

FT	(1) Yes	(7) No	(1) It Depends
AH	(4) Yes	(4) No	(1) It Depends

11. That the Hearing Officer once attended a talk given by a representative of one of the parties on the subject "grievance procedures and arbitration"?

FT	(0) Yes	(9) No	(0) It Depends
AH	(0) Yes	(9) No	(0) It Depends

12. That the Hearing Officer's spouse is employed in the personnel division of the department involved in the hearing?

FT	(7) Yes	(0) No	(2) It Depends
AH	(7) Yes	(1) No	(1) It Depends

13. That the Hearing Officer's spouse is employed by a department involved in a hearing in a position totally unrelated to the grievance?

FT	(2) Yes	(5) No	(2) It Depends
AH	(6) Yes	(2) No	(1) It Depends

14. That the Hearing Officer found himself sitting beside the union representative for the next day's hearing on the plane trip to the hearing location in the Upper Peninsula?

FT	(5) Yes	(3) No	(1) It Depends
AH	(2) Yes	(5) No	(2) It Depends

15. That the Hearing Officer has discovered during the hearing that the union representative has a reservation on the same flight to return to their home city after the hearing and that the union representative plans to sit with the Hearing Officer?

FT	(4) Yes	(4) No	(1) It Depends
AH	(1) Yes	(5) No	(3) It Depends

16. That the department representative took the Hearing Officer out to dinner at the last meeting of a national organization to which they both belonged?

FT	(2) Yes	(5) No	(2) It Depends
AH	(2) Yes	(4) No	(3) It Depends

17. That the union representative happened to see the Hearing Officer at a cocktail lounge the night before the hearing and offered him a drink?

FT	(2) Yes	(4) No	(3) It Depends
AH	(0) Yes	(9) No	(0) It Depends

18. That upon the Hearing Officer's asking the parties in a joint letter how to reach the Upper Peninsula hearing location, the union has arranged for its representative to drive the Hearing Officer from the airport to the hearing location?

FT	(5) Yes	(3) No	(1) It Depends
AH	(5) Yes	(3) No	(1) It Depends

19. That the Hearing Officer has played poker or golf with the union representative on prior occasions?

FT	(3) Yes	(3) No	(3) It Depends
AH	(3) Yes	(5) No	(1) It Depends

20. That the department representative and the Hearing Officer belong to the same neighborhood civic association?

FT	(5) Yes	(2) No	(2) It Depends
AH	(4) Yes	(5) No	(0) It Depends

21. That a neighbor-friend of the Hearing Officer is employed in a management capacity in the department involved in the grievance (but in a capacity unrelated to the case being heard)?

FT	(1) Yes	(6) No	(2) It Depends
AH	(2) Yes	(6) No	(1) It Depends

22. That the union representative has presented prior grievance cases to the Hearing Officer (but the department representative has not)?

FT	(0) Yes	(9) No	(0) It Depends
AH	(0) Yes	(9) No	(0) It Depends

23. That, for a short period of time, as a college student several years ago, the Hearing Officer was an inactive member of a local chapter affiliated with the employee organization?

FT	(2) Yes	(5) No	(2) It Depends
AH	(3) Yes	(5) No	(1) It Depends

24. That a representative of a party, after the hearing but before issuance of the decision, has advised the Hearing Officer that "this is a very important case which we cannot afford to lose"?

FT	(5) Yes	(2) No	(2) It Depends
AH	(3) Yes	(3) No	(3) It Depends

25. That the Hearing Officer recognizes one of the representatives of the parties as a fellow member of a professional association to which he belongs?

FT	(0) Yes	(8) No	(1) It Depends
AH	(1) Yes	(7) No	(1) It Depends

26. That a union representative has advised the Hearing Officer that he agrees with the department's position (but that the hearing must be held for "political" reasons), and that the union representative has asked the Hearing Officer to agree in advance of the hearing to adopt the department position?

FT	(8) Yes	(0) No	(1) It Depends
AH	(7) Yes	(0) No	(2) It Depends

27. That a union representative has advised the Hearing Officer that he agrees with the department's position (but that the hearing must be held for "political" reasons), but the union representative does not ask the Hearing Officer to agree in advance of the hearing to adopt the department position?

FT	(5) Yes	(2) No	(2) It Depends
AH	(3) Yes	(0) No	(6) It Depends

28. That after the hearing the union representative who presented the union's case indicates that he/she has done his/her best in presenting the case, but that he/she will understand if the Hearing Officer rules in favor of the department?

FT	(0) Yes	(8) No	(1) It Depends
AH	(1) Yes	(5) No	(3) It Depends

29. That the Hearing Officer and the department grievance representative worked together for several years in the same section of a state department?

FT	(6) Yes	(1) No	(2) It Depends
AH	(5) Yes	(3) No	(1) It Depends

30. That the Hearing Officer and the department grievance representative became good friends while they were fellow employees of the same state department and that their families occasionally get together on a social basis?

FT	(7) Yes	(2) No	(0) It Depends
AH	(6) Yes	(2) No	(1) It Depends

APPENDIX E

CIVIL SERVICE HEARING OFFICER AND ARBITRATION DECISIONS

TABLE 23

GRIEVANCES DISMISSED WITHOUT A HEARING
AT CIVIL SERVICE STEP 4

Basis for Dismissal	Frequency	%
Does not comply with the definition of a grievance.	90	20.4
Untimely or lack of proper procedure at step 1, 2, or 3.	68	15.4
Action complained of is within employer rights specified in Employment Relations Policy Section 4.1. (i.e., employer rights to appoint, transfer, and set rates of pay.)	51	11.6
The case should be processed as a redetermination in the classifications division.	48	10.9
The grievance is not grievable above step 3 of the procedure. (Refer to Grievance Procedure Section 6, "Limitations on Grievances".)	38	8.6
Grievance remanded for reconsideration at step 3 because existing policy or prior Hearing Officer decision is determinative of the issues raised.	37	8.4
Withdrawn by the grievant.	32	7.2
Untimely or improper procedure at step 4.	27	6.1
Settled mutually by the parties.	24	5.4
The case should be processed as a redetermination in the selection bureau.	12	2.7
The case should be resolved through the meet and confer process.	8	1.8
The case should be appealed to a Technical Hearing Officer in the Hearing Division.	3	.7
The case should be appealed to the State Personnel Director.	<u>3</u>	<u>.7</u>
Total Cases	441	100.0

Source: Hearings Division records on administrative dismissals.

TABLE 24

DISTRIBUTION OF STEP 4 HEARINGS BY DEPARTMENT, CY* 1973-1977

Department		1973	1974	1975	1976	1977	Total/Average
Agriculture	F	1	2	1	0	1	5
	R	1.2	2.6	1.3	0.0	1.3	1.3
Attorney General	F	1	0	1	1	0	3
	R	4.9	0.0	3.5	3.2	0.0	2.3
Civil Rights	F	4	1	0	5	3	13
	R	19.9	4.0	0.0	18.8	10.8	10.7
Civil Service	F	4	0	0	4	2	10
	R	14.2	0.0	0.0	12.8	6.0	6.6
Commerce	F	5	5	3	3	12	28
	R	3.4	3.4	1.9	1.8	7.2	3.5
Corrections	F	27	18	34	62	50	191
	R	11.2	7.0	12.4	20.5	13.1	12.8
Education	F	0	0	3	3	3	9
	R	0.0	0.0	1.3	1.3	1.3	0.8
Labor	F	10	7	13	23	28	81
	R	2.5	1.6	2.5	4.1	5.1	3.2
Auditor General	F	0	0	0	0	0	0
	R	0.0	0.0	0.0	0.0	0.0	0.0
Licensing & Regulation	F	0	0	2	1	1	4
	R	0.0	0.0	10.2	4.9	4.4	3.9
Management & Budget	F	2	6	12	9	7	36
	R	0.0	4.1	7.5	5.2	3.9	4.1
Mental Health	F	68	91	117	140	163	579
	R	4.8	6.6	8.7	10.6	11.5	8.4
Military Affairs	F	0	0	0	1	1	2
	R	0.0	0.0	0.0	2.8	3.0	1.2
Natural Resources	F	7	1	2	0	3	13
	R	2.8	0.4	0.6	0.0	0.9	0.8

TABLE 24 (cont.)

DISTRIBUTION OF STEP 4 HEARINGS BY DEPARTMENT, CY* 1973-1977

Department		1973	1974	1975	1976	1977	Total/Average
Public Health	F	0	2	1	3	5	11
	R	0.0	1.2	0.6	1.7	2.8	1.3
Social Services	F	23	39	31	45	56	194
	R	2.3	3.7	2.7	3.7	3.9	3.3
State	F	6	4	6	3	6	25
	R	3.1	2.0	3.1	1.5	2.7	2.5
State Highways	F	8	12	11	11	10	52
	R	1.8	2.6	2.4	2.4	2.3	2.3
State Police	F	2	21	5	16	20	64
	R	0.7	7.7	1.8	5.7	7.1	4.6
Treasury	F	0	2	0	2	0	4
	R	0.0	1.2	0.0	1.3	0.0	0.5
Totals		168	211	242	333	371	1325

F = Frequency of step 4 decisions.

R = Number of decisions per 1000 employees.

Note: Weighted averages are not used because they do not differ significantly from the unweighted averages reported here.

Source: Calculated from data obtained from Michigan Department of Civil Service, Hearings Division records of decisions issued.

Employment data reported in Appendix F, Table 50.

TABLE 25

DISTRIBUTION OF STEP 4 HEARINGS BY REPRESENTATION, 1973-1977

Representation		1973	1974	1975	1976	1977	Total/Average
M.S.E.A.	F	39	53	74	100	93	359
	R	2.2	2.9	3.8	5.0	4.4	3.7
A.F.S.C.M.E.	F	75	84	104	107	149	519
	R	10.8	11.6	14.2	16.4	25.8	15.8
31M	F	4	3	7	9	10	33
	R	3.5	2.6	5.1	5.8	6.9	4.8
Troopers	F	0	5	0	1	1	7
	R	0.0	3.9	0.0	0.8	0.7	1.1
Corrections Organization	F	0	2	6	21	13	42
	R	0.0	2.7	8.2	22.6	13.4	9.4
Highway Engineers	F	1	0	1	1	0	3
	R	2.5	0.0	2.5	2.5	0.0	1.5
Welfare Employees Union	F	4	16	6	12	14	52
	R	5.2	18.4	6.8	1.7	13.1	11.0
Other Employee Organizations	F	6	4	8	6	5	29
	R	0.0	0.0	0.0	0.0	0.0	0.0
Private Attorney	F	14	13	16	19	26	88
	R	0.0	0.0	0.0	0.0	0.0	0.0
Self Representation	F	14	19	9	19	18	79
	R	0.0	0.0	0.0	0.0	0.0	0.0
Fellow Employee	F	7	11	9	26	23	76
	R	0.0	0.0	0.0	0.0	0.0	0.0
No Appearance Recorded	F	1	1	0	6	14	22
	R	0.0	0.0	0.0	0.0	0.0	0.0
Totals		165	211	240	327	366	1309

Membership data are reported in Appendix F, Table 51.

Source: Calculated from data obtained from Hearings Division records of decisions issued.

Note: Weighted averages are not used because they do not differ significantly from the unweighted averages reported here.

TABLE 26

DISTRIBUTION OF STEP 4 HEARINGS BY CLASSIFICATION LEVEL, 1973-1977

Classification Level		1973	1974	1975	1976	1977	Total/Average
1	F	9	8	4	0	2	23
	R	3.0	3.0	1.9	0.0	0.7	1.8
2	F	2	2	2	3	5	14
	R	5.3	3.4	1.8	0.9	1.1	2.5
3	F	15	17	32	38	64	166
	R	3.0	3.5	6.5	7.7	10.0	6.1
4	F	17	38	52	77	67	251
	R	2.1	4.5	5.7	8.1	6.4	5.4
5	F	28	25	19	30	23	125
	R	3.6	3.1	2.3	3.9	3.0	3.2
6	F	12	14	12	27	59	124
	R	5.2	4.5	3.3	7.6	17.2	7.6
7	F	12	29	30	44	30	145
	R	1.7	4.1	4.4	6.1	4.7	4.2
8	F	3	2	11	19	29	64
	R	1.8	0.9	3.6	5.8	8.4	4.1
9	F	14	24	19	24	24	105
	R	2.2	3.8	2.9	4.1	4.7	3.5
10	F	11	7	15	9	23	65
	R	3.5	2.2	4.7	3.1	8.0	4.3
11	F	14	24	8	29	18	93
	R	4.8	7.6	2.3	8.5	5.5	5.7
12	F	3	2	6	9	4	24
	R	2.0	1.2	3.3	4.7	1.9	2.6
13	F	1	3	3	4	6	17
	R	0.9	2.4	2.2	2.8	4.1	2.5

TABLE 26(cont.)

DISTRIBUTION OF STEP 4 HEARINGS BY CLASSIFICATION LEVEL, 1973-1977

Classification Level		1973	1974	1975	1976	1977	Total/Average
14	F	1	1	1	4	3	10
	R	1.8	1.8	1.8	6.6	4.6	3.3
15	F	0	0	1	1	1	3
	R	0.0	0.0	1.8	1.7	1.8	1.1
16	F	0	2	2	4	0	8
	R	0.0	5.2	5.0	9.8	0.0	4.0
17	F	0	0	0	1	2	3
	R	0.0	0.0	0.0	3.3	9.4	2.5
18	F	0	0	0	0	0	0
	R	0.0	0.0	0.0	0.0	0.0	0.0
19	F	0	0	0	0	0	0
	R	0.0	0.0	0.0	0.0	0.0	0.0
20	F	0	0	0	0	0	0
	R	0.0	0.0	0.0	0.0	0.0	0.0
21	F	0	0	0	0	0	0
	R	0.0	0.0	0.0	0.0	0.0	0.0
Totals		142	198	217	323	360	1240

Source: Calculated from employment data reported in Appendix F, Table 51.

Note: Weighted averages are not used because they do not differ significantly from the unweighted averages reported here.

TABLE 27

DISTRIBUTION OF STEP 4 DECISIONS BY
TYPE OF EMPLOYER ACTION GRIEVED, 1973-1977

Action Grieved*	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
Discharge	22	13.2	29	13.7	37	15.4	58	17.4	70	18.9	216	16.3
All Other Discipline	20	12.0	23	10.9	45	18.7	65	19.5	54	14.6	207	15.6
Appointment	22	13.2	26	12.3	25	10.4	40	12.0	57	15.4	170	12.8
Assignment	21	12.6	42	19.9	33	13.7	42	12.6	44	11.9	182	13.8
Lay Off	3	1.8	3	1.4	1	0.4	7	2.1	12	3.2	26	2.0
Termination	14	8.4	12	5.7	8	3.3	7	2.1	12	3.2	53	4.0
Leave	24	14.4	26	12.3	24	10.0	30	9.0	44	11.9	146	11.2
Compensation	18	10.8	29	13.7	42	17.4	57	17.1	53	14.3	199	15.0
Evaluation	8	4.8	5	2.4	8	3.3	14	4.2	9	2.4	44	3.3
Order Regulation	15	9.0	16	7.6	18	7.5	13	3.9	16	4.3	78	5.9
Totals	167	100.0	211	100.0	241	100.0	333	100.0	371	100.0	1323	100.0

176

*Refer to Appendix H for a definition of terms.

Source: Tabulated from data obtained from Hearings Division records of decisions issued.

TABLE 28
DISTRIBUTION OF STEP 4 GRIEVANCES BY
TYPE OF DECISION, 1973-1977

Decision	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
Sustained	25	14.9	54	25.6	46	19.0	53	15.9	77	20.8	255	19.2
Partly Sustained	4	2.4	3	1.4	12	5.0	15	4.5	5	1.3	39	2.9
Modified	23	13.7	22	10.4	19	7.9	26	7.8	33	8.9	123	9.3
Denied	80	47.6	118	55.9	152	62.8	233	70.0	230	62.0	813	61.4
Rewarded	5	3.0	9	4.3	7	2.9	0	0.0	9	2.4	30	2.3
Settled	9	5.4	2	0.9	1	0.4	2	0.6	15	4.0	29	2.2
Withdrawn	22	13.1	3	1.4	5	2.1	4	1.2	2	0.5	36	2.7
Totals	168	100.0	211	100.0	242	100.0	333	100.0	371	100.0	1325	100.0

Source: Tabulated from data obtained from Hearings Division records of decisions issued.

TABLE 29
DISTRIBUTION OF STEP 4 HEARINGS BY TIME ELAPSED
FROM DATE OF APPEAL TO DATE OF HEARING, 1973-1977*

Weeks Elapsed	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
1	0	0.0	0	0.0	1	2.0	0	0.0	0	0.0	1	0.4
2	0	0.0	0	0.0	0	0.0	0	0.0	1	1.3	1	0.4
3	2	6.3	0	0.0	1	2.0	1	1.6	2	2.5	6	2.3
4	2	6.3	3	9.4	0	0.0	7	11.1	4	5.1	16	6.3
5	4	12.5	9	28.1	8	16.0	10	15.9	6	7.6	37	14.5
6	5	15.6	6	18.8	6	12.0	7	11.1	12	15.2	36	14.1
7	5	15.6	4	12.5	6	12.0	6	9.5	12	15.2	33	12.9
8	0	0.0	0	0.0	6	12.0	7	11.1	11	13.9	24	9.4
9	3	9.4	1	3.1	2	4.0	3	4.8	8	10.1	17	6.6
10	2	6.3	0	0.0	3	6.0	2	3.2	5	6.3	12	4.7
11	0	0.0	1	3.1	2	4.0	3	4.8	3	3.8	9	3.5
12	0	0.0	0	0.0	1	2.0	4	6.3	3	3.8	8	3.1
13	1	3.1	1	3.1	3	6.0	2	3.2	2	2.5	9	3.5
14	2	6.3	3	9.4	3	6.0	1	1.6	2	2.5	11	4.3
15	1	3.1	0	0.0	1	2.0	2	3.2	1	1.3	5	2.0
16	1	3.1	0	0.0	1	2.0	3	4.8	0	0.0	5	2.0
17	1	3.1	0	0.0	2	4.0	1	1.6	1	1.3	5	2.0
18+	3	9.4	4	12.5	4	8.0	4	6.3	6	7.6	21	8.2
Totals	32	100.0	32	100.0	50	100.0	63	100.0	79	100.0	256	100.0

*Estimates based on a 20% representative sample.

Source: Calculated from data obtained from Hearings Division records of decisions issued.

TABLE 30

DISTRIBUTION OF STEP 4 DECISIONS BY TIME ELAPSED
FROM DATE OF HEARING TO DATE OF DECISION, 1973-1977

Weeks Elapsed	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
1	3	1.8	0	0.0	0	0.0	0	0.0	4	1.1	7	0.5
2	17	10.4	9	4.3	5	2.1	23	6.9	17	4.6	71	5.4
3	34	20.7	36	17.1	35	14.7	42	12.7	19	5.2	166	12.7
4	26	15.9	54	25.6	26	10.9	51	15.4	30	8.2	187	14.3
5	22	13.4	45	21.3	19	8.0	27	8.1	41	11.2	154	11.7
6	16	9.8	32	15.2	12	5.0	13	3.9	32	8.7	105	8.0
7	13	7.9	7	3.3	23	9.7	13	3.9	35	9.6	91	6.9
8	13	7.9	6	2.8	24	10.1	28	8.4	36	9.8	107	8.2
9	1	0.6	9	4.3	26	10.9	26	7.8	44	12.0	106	8.1
10	4	2.4	8	3.8	19	8.0	25	7.5	39	10.7	95	7.2
11	3	1.8	1	0.5	17	7.1	17	5.1	25	6.8	63	4.8
12	1	0.6	2	0.9	7	2.9	17	5.1	14	3.8	41	3.1
13	2	1.2	0	0.0	9	3.8	10	3.0	13	3.6	34	2.6
14	2	1.2	0	0.0	2	0.8	16	4.8	4	1.1	24	1.8
15	0	0.0	0	0.0	2	0.8	8	2.4	10	2.7	20	1.5
16	3	1.8	0	0.0	6	2.5	3	0.9	1	0.3	13	1.0
17	1	0.6	0	0.0	1	0.4	5	1.5	0	0.0	7	0.5
18+	3	1.8	2	0.9	5	2.1	8	2.4	2	0.5	20	1.5
Totals	164	100.0	211	100.0	238	100.0	332	100.0	366	100.0	1311	100.0

Source: Calculated from data obtained from Hearings Division records of decisions issued.

TABLE 31

STEP 4 DECISIONS APPEALED AND NOT APPEALED
TO THE CIVIL SERVICE COMMISSION, 1973-1977

Year	Action After Step 4 Hearing Officer Decision					
	Appealed To Commission		Not Appealed To Commission		Totals	
	f	%	f	%	f	%
1973	32	19.0	136	81.0	168	100.0
1974	57	27.0	154	73.0	211	100.0
1975	62	25.6	180	74.4	242	100.0
1976	106	31.8	227	68.2	333	100.0
1977	98	26.4	273	73.6	371	100.0
Totals	355	26.8	970	73.2	1325	100.0

Source: Tabulated from data obtained from Hearings Division records on Commission decisions.

TABLE 32

STEP 4 DECISIONS APPEALED AND NOT APPEALED
TO THE CIVIL SERVICE COMMISSION, 1977

Step 4 Decision	Not Appealed		Appealed	
	f	%	f	%
Sustained	58	75.3	19	24.7
Partly Sustained	4	80.0	1	20.0
Modified	27	81.8	6	18.2
Denied	158	68.7	72	31.3
Remanded	9	100.0	0	0.0
Settled	15	100.0	0	0.0
Withdrawn	2	100.0	0	0.0
Totals	273	73.6	98	26.4

Source: Tabulated from data obtained from Hearings Division records of Commission decisions.

TABLE 33
COMMISSION DECISIONS ON CASES APPEALED BY LEAVE, 1973-1977

Commission Decisions	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
Leave Granted												
Grievance Denied	5	31.2	1	5.5	0	0.0	0	0.0	0	0.0	6	2.5
Grievance Sustained	1	6.2	0	0.0	4	8.8	6	7.4	3	2.4	13	5.3
Grievance Remanded	3	18.8	1	5.5	4	8.8	4	4.9	7	9.4	20	8.2
Leave Denied	7	43.7	16	88.8	37	82.2	71	87.6	75	88.2	206	84.1
Totals	16	100.0	18	100.0	45	100.0	81	100.0	85	100.0	245	100.0

Source: Hearings Division Records on Commission Decisions.

Note: The records indicate that during the period of 1973-1977 the Civil Service Commission granted leave to appeal in 39 cases: The Commission affirmed the Hearings Officer's decision to sustain the grievance in 6 cases, to deny the grievance in 6 cases, and to modify the grievance in 2 cases; the Commission overruled the Hearings Officer's decision to deny the grievance in 6 cases; the Commission remanded the Hearings Officer's decision to sustain the grievance in 5 cases, to deny the grievance in 10 cases, and to modify the grievance in 4 cases.

TABLE 34
COMMISSION DECISIONS ON CASES APPEALED BY RIGHT, 1973-1977

Commission Decisions	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
Grievance Denied	14	87.6	23	60.0	10	58.8	17	68.0	12	92.3	76	69.1
Grievance Sustained	1	6.2	15	38.5	3	17.6	4	16.0	0	0.0	23	20.9
Grievance Remanded	0	0.0	1	2.5	2	11.7	3	12.0	1	7.7	7	6.4
Grievance Settled	1	6.2	0	0.0	2	11.7	1	4.0	0	0.0	4	3.6
Totals	16	100.0	39	100.0	17	100.0	25	100.0	13	100.0	110	100.0

183

Source: Tabulated from data obtained from Hearings Division records on Commission decisions.

TABLE 35
HEARING OFFICER DECISIONS
REGULAR VS. EXPEDITED HEARINGS, 1977

Decision	Regular		Expedited		Totals	
	f	%	f	%	f	%
Sustained	44	20.9	33	20.6	77	20.8
Partly Sustained	3	1.4	2	1.2	5	1.3
Modified	27	12.8	6	3.7	33	8.9
Denied	127	60.2	103	64.4	230	62.0
Remanded	1	0.5	8	5.0	9	2.4
Withdrawn	0	0.0	2	1.2	2	0.5
Settled	9	4.3	6	3.7	15	4.0
Totals	211	100.0	160	100.0	371	100.0

Source: Tabulated from data obtained from Hearings Division records on Commission decisions.

TABLE 36

CASES DECIDED BY REGULAR AND AD HOC HEARING OFFICERS, 1973-77

Hearing Officer Type	1973		1974		1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%	f	%	f	%
Ad Hoc	55	32.7	116	55.0	27	11.2	18	5.4	31	8.4	247	18.6
Regular	113	67.3	95	45.0	215	88.8	315	94.6	340	91.6	1078	81.4
TOTALS	168	100.0	211	100.0	242	100.0	333	100.0	371	100.0	1325	100.0

Source: Tabulated from data obtained from Hearings Division records of decisions issued.

TABLE 37

STEP 4 HEARING OFFICER DECISIONS ON DISCHARGE CASES,
AD HOC VS. FULL TIME HEARING OFFICERS, 1973-1977

Step 4 Decisions	Regular		AD HOC		Totals	
	f	%	f	%	f	%
Sustained	26	16.9	11	17.2	37	17.0
Partly Sustained	6	3.9	3	4.7	9	4.1
Modified	25	16.2	16	25.0	41	18.8
Denied	92	59.7	29	45.3	121	55.5
Remanded	1	0.6	3	4.7	4	1.8
Settled	2	1.3	1	1.6	3	1.4
Withdrawn	2	1.3	1	1.6	3	1.4
Totals	154	100.0	64	100.0	218	100.0

Source: Tabulated from data obtained from Hearings Division records of decisions issued.

TABLE 38

CIVIL SERVICE COMMISSION DECISIONS ON DISCHARGE GRIEVANCES
FULL TIME VS. AD HOC HEARINGS OFFICERS, 1973-1977

Commission Decision	Regular		Ad Hoc		Total	
	f	%	f	%	f	%
Cases Appealed by Leave						
Leave Denied	24	15.7	5	7.8	29	13.4
Grievance Upheld	1	0.7	0	0.0	1	0.5
Grievance Remanded	5	3.3	1	1.6	6	2.8
Cases Appealed by Right						
Grievance Denied	22	14.4	19	29.7	41	18.9
Grievance Sustained	6	3.9	6	9.4	12	5.5
Grievance Remanded	1	0.7	0	0.0	1	0.5
Grievance Settled	2	1.3	0	0.0	2	0.9
Totals	61	100.0	64	100.0	92	100.0

Source: Tabulated from Hearings Division records on commission decisions.

TABLE 39
DISTRIBUTION OF ARBITRATION DECISIONS
BY ACTION GRIEVED, 1973-1977

Action Grieved	1973-1977 Totals	
	f	%
Discipline (Other than Discharge)	11	31.4
Appointment	3	8.6
Assignment	8	22.8
Termination (Other than Discharge)	2	5.7
Leave	2	5.7
Compensation	7	20.0
Evaluation	1	2.8
Order Regulation	1	2.8
Totals	35	100.0

Note: Prior to May, 1978, discharge grievances were not appealable to arbitration. Starting in May, 1978, the Civil Service Commission allowed discharge grievances to be appealed to arbitration.

Source: Tabulated from Arbitration Officer's records of decisions issued.

TABLE 40
DISTRIBUTION OF ARBITRATION DECISIONS
BY DEPARTMENT INVOLVED, 1973-1977

Department	1973-1977 Totals	
	f	%
Labor	1	2.8
Mental Health	17	48.5
Natural Resources	1	2.8
Public Health	1	2.8
Social Services	15	42.8
Totals	35	100.0

Source: Tabulated from Arbitration Officer's records of decisions issued.

APPENDIX F

DATA ON EMPLOYMENT AND EMPLOYEE ORGANIZATION MEMBERSHIP

TABLE 41
DISTRIBUTION OF ARBITRATION DECISIONS
BY EMPLOYEE ORGANIZATION, 1973-1977

	1973-1977 Totals	
	f	%
A.F.S.C.M.E.	19	54.3
31-M	1	2.8
Welfare Employees	15	42.8
Totals	35	100.0

Source: Tabulated from Arbitration Officer's records of decisions issued.

TABLE 42
DISTRIBUTION OF ARBITRATION DECISIONS
BY CLASSIFICATION OF GRIEVANT, 1973-1977

Classification Level	1973-1977 Totals	
	f	%
3	3	8.6
4	3	8.6
5	10	28.5
6	6	17.1
7	4	11.4
8	1	2.8
9	6	17.1
11	2	5.7
Totals	35	100.0

Source: Tabulated from Arbitration Officer's records of decisions issued.

TABLE 43
ELAPSED TIME OF ARBITRATION
HEARINGS AND DECISIONS, 1973-1977

Mean Number of Days from Date of Appeal to Date of Hearing:	164.2
Minimum Days Recorded:	48.0
Maximum Days Recorded:	965.0
Mean Number of Days from Date of Hearing to Date of Decision:	70.2
Minimum Days Recorded:	12.0
Maximum Days Recorded:	167.0

Source: Tabulated from Arbitration Officer's records
of decisions issued.

TABLE 44
DISTRIBUTION OF ARBITRATION DECISIONS
BY DECISION, 1973-1977

Decision	1973-1977 Totals	
	f	%
Sustained	11	31.4
Partly Sustained	4	11.4
Modified	1	2.8
Denied	18	51.4
Remanded	1	2.8
Totals	35	100.0

Source: Tabulated from Arbitration Officer's records
of decisions issued.

TABLE 45

DISTRIBUTION OF ARBITRATION DECISIONS
BY COMMISSION APPEALS ACTIVITY, 1973-1977

Action	1973-1977 Totals	
	f	%
Not Appealed	28	80.0
Appealed by Leave:		
Leave Denied	5	14.4
Leave Granted,		
Grievance Remanded	1	2.8
Grievance Sustained	1	2.8
Total	35	100.0

Source: Tabulated from Arbitration Officer's records of decisions issued.

TABLE 46
DISTRIBUTION OF TECHNICAL HEARINGS OFFICER DECISIONS
BY ACTION APPEALED, 1975-1978

Decision Appealed	1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%
Classification	76	72.4	198	77.0	164	82.0	438	77.9
Testing	28	26.7	31	12.1	23	11.5	82	14.6
Compensation	0	0.0	1	0.4	2	1.0	3	0.5
Selection	1	1.0	2	1.0	11	5.5	39	6.9
Totals	105	100.0	257	100.0	200	100.0	562	100.0

Source: Tabulated from Hearings Division records of decisions issued.

TABLE 47
TECHNICAL HEARING OFFICER DECISIONS, 1975-1977

Decision on Grievance	1975		1976		1977		Totals	
	f	%	f	%	f	%	f	%
Sustained	18	17.1	43	16.7	36	18.1	97	17.3
Partly Sustained	10	9.5	32	12.5	10	5.0	52	9.3
Modified	0	0.0	0	0.0	5	2.5	5	0.9
Denied	63	60.0	165	64.2	137	68.8	365	65.1
Remanded	4	3.8	16	6.2	2	1.0	22	3.9
Settled	9	8.6	1	0.4	6	3.0	16	2.9
Withdrawn	1	1.0	0	0.0	3	1.5	4	0.7
Totals	105	100.0	257	100.0	199	100.0	561	100.0

Source: Tabulated from Hearings Division records of decisions issued.

TABLE 48
TECHNICAL HEARING OFFICER DECISIONS
APPEALED TO THE COMMISSION, 1976-1977

Commission Decision	1976 - 1977 Totals	
	f	%
Leave to Appeal Denied	55	91.7
Appeal Denied	1	1.7
Appeal Sustained	3	4.9
Appeal Settled	1	1.7
Totals	60	100.0

Source: Tabulated from Hearings Division records of decisions issued.

APPENDIX F

DATA ON EMPLOYMENT AND EMPLOYEE ORGANIZATION MEMBERSHIP

TABLE 49
AVERAGE ANNUAL EMPLOYMENT BY DEPARTMENT, 1973-1977

Department	1977	1976	1975	1974	1973
Agriculture	746	746	770	773	815
Attorney General	331	308	283	240	204
Civil Rights	278	266	260	249	236
Civil Service	332	312	308	302	281
Commerce	1670	1622	1587	1520	1462
Corrections	3829	3025	2733	2567	2407
Education	2345	2357	2380	2337	2172
Labor	5512	5676	5274	4369	3939
Auditor General	162	160	155	150	140
Licensing and Regulation	230	203	196	195	198
Management and Budget	1772	1719	1598	1452	
Mental Health	14194	13224	13500	13871	14062
Military Affairs	331	354	342	303	302
Department of Natural Resources	3002	2772	3122	2578	2465

TABLE 49 (cont.)

AVERAGE ANNUAL EMPLOYMENT BY DEPARTMENT, 1973-1977

Department	1977	1976	1975	1974	1973
Public Health	1814	1746	1682	1597	1531
Social Services	13124	12093	11419	10530	9888
State	2200	2008	1956	1964	1950
State Highways	4332	4650	4577	4526	4523
State Police	2818	2806	2821	2731	2598
Treasury	1633	1588	1597	1619	1597

199

Source: Averages estimated on the basis of data reported on Michigan Department of Civil Service Form CS-452,176, 1973-1977.

TABLE 50

AVERAGE ANNUAL MEMBERSHIP BY EMPLOYEE ORGANIZATION, 1973-1977

Employee Organization	1977	1976	1975	1974	1973
M.S.E.A.	21104	20088	19356	18422	18064
A.F.S.C.M.E.	5765	6525	7309	7215	6970
31-M	1449	1540	1382	1175	1140
State Troopers	1398	1328	1315	1278	1155
Corrections Organization	972	929	730	734	723
Highway Engineers	384	395	400	406	403
Welfare Employees	1071	1029	886	868	774

Source: Averages estimated on the basis of membership data reported on Michigan Department of Civil Service Form CS-452,176, 1973-1977.

TABLE 51

AVERAGE ANNUAL EMPLOYMENT BY CLASSIFICATION LEVEL, 1973-1977

Classification Level	1977	1976	1975	1974	1973
1	3052	1667	2086	2665	3028
2	4724	3312	1089	596	377
3	6383	4904	4906	4901	4928
4	10513	9563	9111	8434	8287
5	7714	7715	8274	8015	7820
6	3421	3570	3640	3097	2287
7	6324	7240	6752	7159	6976
8	3463	3264	3036	2320	1694
9	5099	5826	6543	6285	6232
10	2859	2945	3186	3233	3110
11	3275	3423	3442	3135	2894
12	2056	1918	1814	1639	1467
13	1452	1408	1348	1243	1147
14	658	603	568	546	557
15	549	579	559	537	482
16	351	406	398	388	376
17	213	300	315	299	280
18	98	120	118	109	104
19	50	72	70	72	78
20	16	16	16	14	12
21	15	29	32	33	34

Source: Calculated on the basis of monthly data reported in Michigan Department of Civil Service, Bureau of Planning and Research report 211, K-D10-008P.

APPENDIX G

**OCCUPATIONS AND SALARY RANGES OF
STATE EMPLOYEES, 1978**

TABLE 52

OCCUPATIONS AND SALARY RANGES OF STATE EMPLOYEES, 1978

CLASSIFICATION LEVEL	TYPICAL OCCUPATION	SALARY RANGE (Min. to Max.)
01, 01	Entry level clerical, unskilled labor, and domestic aids	\$ 6,400-\$11,100
03	Entry level skilled labor and resident institutional case staff, journey level domestic, clerical and unskilled labor	\$10,000-\$12,400
04	Journey level resident institutional case staff	\$10,000-\$13,900
05	Senior level clerical, journey level paraprofessional, supervisory domestics, highway technicians	\$10,900-\$14,400
06	Supervisory clerical, paraprofessional, and institutional resident case staff, journey level paraprofessionals	\$11,100-\$15,100
07	Journey level skilled labor, paraprofessional case workers in mental health and social services, supervisory clerical	\$12,100-\$15,000
08 - 12	Professionals at the entry level through the senior level	\$12,700-\$21,800
13 - 17	Middle level managers	\$18,500-\$35,100
17 - 21	Top level management, staff physicians	\$28,700-\$47,200

Source: Michigan Department of Civil Service, Classifications Bureau

APPENDIX H

INDEX OF PERSONNEL ACTIONS

INDEX OF HEARING OFFICER AND ARBITRATOR DECISIONS

Personnel Action

The specific index terms included in this category identify the nature of the personnel activity frame work in which the dispute arose.

- A. Discipline - Including dismissal. Corrective or penalty action for misconduct or performance failure.
- B. Appointment - Original entry appointment, promotion, demotion, and lateral transfer to a different class; also involves recall from layoff.
- C. Assignment - Assignment or reassignment to selection of specific duties within a class, and as between locations within a building or within the State; shift assignment, shift transfer; shift schedule or rescheduling of a shift; overtime work.
- D. Layoff - All personnel transactions caused by position abolishment or reduction-in-force.
- E. Termination - Forced resignation, constructive quit, retirement, or termination by certification.
- F. Leave - Approval or disapproval of administrative leave, sick leave, annual leave, and other authorized leaves; also includes lost time, forced leave, return from leave, and denial of leave.
- G. Compensation - This includes regular and premium pay for services rendered, reimbursement for expenses, fringe benefits, and holidays.
- H. Evaluation - Service ratings.
- I. Order-Regulation - Other personnel instructions or regulations, approvals or disapprovals, given employee on various conditions of employment, including supplementary employment and political activity.

Source: Department of Civil Service, Hearings Division.

APPENDIX I

COST SURVEY QUESTIONNAIRE

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
Office of the Director
South Kedzie Hall
East Lansing, MI 48824

August 17, 1978

To: Department Personnel Directors
Subject: Grievance Procedure Cost Survey

As part of the IPA study of the civil service grievance procedure, we are estimating certain of the costs to the state of operating the procedure. In order to complete these estimates, we need the cost information requested in the attached questionnaire.

We would appreciate your cooperation by completing the questionnaire and returning it to us by September 6, 1978.

With many thanks,

Kent Murrmann
Research Assistant

Jack Stieber, Professor
and Project Director

KM/sk

Attachment

Please return completed questionnaire to:

Kent Murrmann
School of Labor and Industrial Relations
403 South Kedzie Hall
Michigan State University
East Lansing, MI 48824

GRIEVANCE PROCEDURE COST SURVEY

This questionnaire requests you to make estimates of the staff time, overhead costs, and administrative leave devoted by your department to the operation of the grievance procedure. Please base your estimates on records or other types of objective data wherever feasible. Some of your estimates, however, may have to be based on the judgement of those personnel in your department that are most informed about the operation of the grievance procedure.

For assistance in completing this questionnaire call Kent Murrmann at (517) 353-3908 or at 355-1800.

I. The Cost of Staff Time To Your Department

Please list in the space provided below:

- A. The individual clerical or administrative positions, located in the Department Personnel Division, in which the incumbent(s) spend(s) time on behalf of the department typing, investigating, analyzing, representing, traveling or otherwise working on grievances at department step 3, and above (i.e., at Department step 3, Civil Service step 4, Civil Service step 5, and in Arbitration).
- B. The percentage of each incumbent's work time spent working on grievances at step 3 and above during the last twelve months.¹
- C. The current annual salary of each incumbent (include longevity bonus, if paid).

A.	<u>Position Title</u>	B.	<u>Percentage of Work Time Spent on Grievances at Step 3 and Above</u>	C.	<u>Annual Salary</u>
1.					
2.					
3.					
.					
.					
.					

¹Wherever in this questionnaire you are asked to base an estimate on the last twelve months experience, use the period from October 1, 1977 through September 30, 1978 as the basis for the estimate, and use your experience to date to project the estimate to cover the few weeks remaining until September 30, 1978.

II. The Cost of Overhead Items To Your Department

What is the cost to your department during Fiscal Year 1978 of overhead items that are attributable to the operation of the grievance procedure? This cost area should include such items as office space, materials, supplies, copying service, insurance and retirement contributions, travel expenses, and contractual services.

Calculate as follows:

- A. Identify the total cost of overhead items attributable to the Department Personnel Division as a whole. Data included in the Department Personnel Director's budget provides a good basis for estimating this cost.
- B. Identify the percentage of total staff time of the Personnel Division that is used to process grievances at step 3 and above. For example, if the Department Personnel Director's staff includes 15 full time people and three of these employees spend 50 percent of their work time processing grievances at the third step and above, then 1.5 out of 15 or 10 percent of the staff's time is devoted to working on grievances at those levels of the procedure.
- C. Attribute overhead cost to the grievance procedure in an amount equal in percentage to the percentage of total staff time devoted to the grievance procedure at step 3 and above. In the above example, 10 percent of staff time is devoted to processing grievances at step 3 and above; accordingly, 10 percent of the total overhead budget in that example would be attributable to the operation of the grievance procedure at step 3 and above.

In your response to this question please provide to the extent feasible the following data:

Overhead costs for the Department Personnel Division:

Materials and Supplies, office space

Copying Service

Insurance Contributions

Retirement Contributions

Travel Expenses

Others

Total cost = _____

Number of full time employees (or the equivalent) on the Department Personnel Director's staff

= _____

Percentage of total staff time devoted to handling grievances at step 3 and above (Base this estimate on your responses to item I.B. on page 1.)

= _____

Overhead cost attributable to the grievance procedure at step 3 and above

= _____

III. The Cost of Administrative Leave To Your Department

- A. During the last twelve months, what percentage of third step grievances involved a hearing, a conference, or other grievance proceeding, attended by the opposing parties and necessary witnesses? _____

Is your estimate based on: _____ case records? ()

or personal judgement? ()

- B. During the last twelve months, what was the average number of grievant witnesses per third step hearing (or other third step proceeding) that received Administrative Leave to attend the hearings? _____

(Do not include the fellow employee representative in this estimate.)

Is your estimate based on: _____ case records? ()

or personal judgement? ()

- C. During the last twelve months, what was the average number of department witnesses per third step hearing (or other third step proceeding) that received Administrative Leave to attend the hearings? _____

(Do not include the department's third step representative in this estimate.)

Is your estimate based on: _____ case records? ()

or personal judgement? ()

- D. On the basis of your experience for the last twelve months, please estimate and report in the space provided below the average number of hours of Administrative Leave received per hearing by grievants, fellow employee representatives, grievant's witnesses, and department's witnesses for travel to and attendance at hearings at department step 3, civil service step 4, and in arbitration.

Are your estimates based on:

_____ records of Administrative Leave? ()

or personal judgement? ()

Average No. of hours
of Administrative
Leave Received per
Hearing during the
Last 12 Months by:

Department step 3
hearings (or other
third step
proceedings)

Civil
Service
step 4
hearings

Arbitration
hearings

Grievants

Fellow Employee
Representatives

Grievant's Witnesses

Department's
Witnesses

APPENDIX J

AGGREGATE RESULTS OF
DEPARTMENT AND EMPLOYEE ORGANIZATION SURVEY

Michigan State University
School of Labor and Industrial Relations
Office of the Director
South Kedzie Hall
East Lansing, MI 48824

RE: RESEARCH QUESTIONNAIRE

This questionnaire is part of a study of the Michigan State Civil Service grievance and appeals procedure being conducted by a research group at the Michigan State University School of Labor and Industrial Relations. The research is supported by a federal grant received under the authority of the Intergovernmental Personnel Act.

This questionnaire will be answered by officials of employee associations and unions that represent state civil service employees in Michigan and by Michigan state government department personnel directors or their designated representatives.

Your responses to the questionnaire will be held in strict confidence. No individuals other than the undersigned will have access to your responses. The completed questionnaires will be combined in aggregate form for analysis. After completion of the full study, a public report containing a summary of the aggregate data and statement of conclusions will be issued.

Your cooperation in completing this questionnaire and returning it in the enclosed envelope will be greatly appreciated.

With many thanks,

Kent Murrmann
Research Assistant

Jack Stieber
Professor and Project Director

The Michigan State Civil Service grievance and appeals procedure is made up of a number of written provisions, grievance and appeal forms, and administrative practices. Listed on the following pages are references to a number of these provisions, forms, and practices. Please indicate your satisfaction or dissatisfaction with each provision, form, or practice by putting a check in the space (✓) indicating whether you are:

VS = very satisfied with it.

FS = fairly satisfied with it.

N = neither satisfied nor dissatisfied with it.

FD = fairly dissatisfied with it.

VD = very dissatisfied with it.

If you feel that you do not understand a provision, form or practice please do not indicate your satisfaction or dissatisfaction with it, but put a check in the space (✓) indicating that you:

NU = do not understand it.

In addition, in several items you are asked to indicate a "Yes" or a "No" response rather than satisfaction or dissatisfaction.

Please check only one space for each item in the questionnaire. Refer as needed to the attached copy of the Michigan State Civil Service grievance and appeals procedure.

DEPARTMENT RESPONSES FOR QUESTIONS 1 TO 12

Please keep in mind that the following questionnaire items refer to provisions, forms, or practices under the Michigan State Civil Service grievance and appeals procedure.

	NU	VS	FS	N	FD	VD
1. The definition of a grievance under the Michigan procedure.	(0)	(3)	(8)	(2)	(2)	(5)
2. Time limitations on filing and processing grievances.	(0)	(4)	(10)	(3)	(1)	(2)
3. Shortened steps.	(1)	(4)	(9)	(4)	(1)	(1)
4. Waiver of steps.	(0)	(6)	(7)	(6)	(0)	(1)
5. The rights of grievants, grievant representatives, and grievant witnesses to use administrative leave to attend hearings.	(0)	(3)	(11)	(5)	(0)	(1)
6. The rights of grievants to have state employees appear at grievance conferences and hearings as witnesses.	(1)	(2)	(11)	(5)	(1)	(0)
7. The procedure at department step 1.	(0)	(4)	(11)	(0)	(5)	(0)
8. Grievance form CS-G1.	(0)	(2)	(8)	(3)	(2)	(5)
9. The procedure at department step 2.	(0)	(5)	(12)	(2)	(1)	(0)
10. Grievance form CS-G2.	(0)	(3)	(8)	(2)	(2)	(5)
11. Should Michigan State Civil Service employees have the right to have a fellow employee representative at meetings with supervisors that may result in disciplinary action?						

Yes 5 No 13 Undecided 1

12. Should the oral conference at department step 2 always be mandatory?

Yes 7 No 11 Undecided 1

If no, should such conferences be mandatory if requested by either party?

Yes 6 No 3 Undecided 1

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 1 TO 12

Please keep in mind that the following questionnaire items refer to provisions, forms, or practices under the Michigan State Civil Service grievance and appeals procedure.

	NU	VS	FS	N	FD	VD
1. The definition of a grievance under the Michigan procedure.	(0)	(1)	(3)	(0)	(1)	(1)
2. Time limitations on filing and processing grievances.	(0)	(0)	(2)	(2)	(0)	(2)
3. Shortened steps.	(0)	(0)	(5)	(0)	(1)	(0)
4. Waiver of steps.	(0)	(0)	(4)	(0)	(2)	(0)
5. The rights of grievants, grievant representatives, and grievant witnesses to use administrative leave to attend hearings.	(0)	(1)	(2)	(0)	(2)	(1)
6. The rights of grievants to have state employees appear at grievance conferences and hearings as witnesses.	(0)	(3)	(1)	(0)	(1)	(1)
7. The procedure at department step 1.	(0)	(1)	(3)	(0)	(1)	(1)
8. Grievance form CS-G1.	(0)	(0)	(4)	(0)	(1)	(1)
9. The procedure at department step 2.	(0)	(0)	(2)	(0)	(2)	(2)
10. Grievance form CS-G2.	(0)	(1)	(1)	(2)	(1)	(1)
11. Should Michigan State Civil Service employees have the right to have a fellow employee representative at meetings with supervisors that may result in disciplinary action?						

Yes 6 No 0 Undecided 0

12. Should the oral conference at department step 2 always be mandatory?

Yes 3 No 2 Undecided 1

If no, should such conferences be mandatory if requested by either party?

Yes 2 No 0 Undecided 0

DEPARTMENT RESPONSES FOR QUESTIONS 13 TO 21

	NU	VS	FS	N	FD	VD
13. The procedure at department step 3.	(0)	(8)	(9)	(0)	(2)	(0)
14. Should an oral conference always be mandatory for discharge and suspension grievances filed at department step 3?						
Yes <u>9</u> No <u>9</u> Undecided <u>1</u>						
If no, should such conferences be mandatory if requested by either party?						
Yes <u>6</u> No <u>3</u> Undecided <u>0</u>						
15. Do you agree with the provision that oral conferences for department step 3 grievances, other than dismissal and suspension grievances filed at step 3, may be held only at the discretion of the department?						
Yes <u>13</u> No <u>6</u> Undecided <u>1</u>						
If no, should such conferences be mandatory if requested by either party?						
Yes <u>4</u> No <u>1</u> Undecided <u>1</u>						
16. The procedure for filing redetermination appeals to the Classification Bureau.	(0)	(2)	(9)	(5)	(2)	(2)
17. The Classification Bureau appeal form CS-212T.	(0)	(1)	(9)	(6)	(1)	(3)
18. The redetermination process in the Classification Bureau.	(0)	(1)	(7)	(3)	(3)	(6)
19. The procedure for filing redetermination appeals to the Selection Bureau.	(1)	(1)	(8)	(4)	(4)	(1)
20. The Selection Bureau appeal form CS-409.	(1)	(1)	(7)	(6)	(3)	(1)
21. The redetermination process in the Selection Bureau.	(1)	(0)	(7)	(5)	(3)	(3)

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 13 TO 21

	NU	VS	FS	N	FD	VD
13. The procedure at department step 3.	(0)	(1)	(1)	(0)	(2)	(2)
14. Should an oral conference always be mandatory for discharge and suspension grievances filed at department step 3?						
Yes <u>4</u> No <u>2</u> Undecided <u>0</u>						
If no, should such conferences be mandatory if requested by either party?						
Yes <u>2</u> No <u>0</u> Undecided <u>0</u>						
15. Do you agree with the provision that oral conferences for department step 3 grievances, other than dismissal and suspension grievances filed at step 3, may be held only at the discretion of the department?						
Yes <u>1</u> No <u>5</u> Undecided <u>0</u>						
If no, should such conferences be mandatory if requested by either party?						
Yes <u>3</u> No <u>0</u> Undecided <u>2</u>						
16. The procedure for filing redetermination appeals to the Classification Bureau.	(0)	(0)	(1)	(0)	(2)	(3)
17. The Classification Bureau appeal form CS-212T.	(0)	(1)	(0)	(2)	(0)	(3)
18. The redetermination process in the Classification Bureau.	(0)	(0)	(1)	(1)	(0)	(4)
19. The procedure for filing redetermination appeals to the Selection Bureau.	(0)	(0)	(1)	(0)	(1)	(4)
20. The Selection Bureau appeal form CS-409.	(0)	(1)	(1)	(0)	(1)	(3)
21. The redetermination process in the Selection Bureau.	(0)	(0)	(1)	(0)	(1)	(4)

DEPARTMENT RESPONSES FOR QUESTIONS 22 TO 26

	NU	VS	FS	N	FD	VD
22. The adequacy of Classification Bureau redetermination decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(0)	(2)	(7)	(3)	(5)	(3)
- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	(0)	(2)	(6)	(3)	(6)	(3)
- in terms of timeliness.	(0)	(0)	(3)	(4)	(1)	(12)
23. The adequacy of Selection Bureau redetermination decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(1)	(1)	(3)	(9)	(4)	(1)
- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	(1)	(1)	(2)	(9)	(6)	(0)
- in terms of timeliness.	(1)	(0)	(3)	(7)	(2)	(6)
24. The procedure for appealing Selection and Classification Bureau redetermination decisions to the Hearings Division.	(0)	(2)	(8)	(7)	(2)	(1)
25. The Hearings Division redetermination appeal form CS-403	(2)	(1)	(7)	(5)	(4)	(1)
26. The conduct of hearings by Technical Hearings Officers:						
- in terms of the completeness of the facts received by Technical Hearings Officers.	(0)	(4)	(9)	(3)	(4)	(0)
- in terms of the impartiality of the Technical Hearings Officers.	(0)	(2)	(10)	(4)	(4)	(0)

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 22 TO 26

	NU	VS	FS	N	FD	VD
22. The adequacy of Classification Bureau redetermination decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(0)	(0)	(2)	(0)	(2)	(2)
- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	(0)	(0)	(2)	(0)	(2)	(2)
- in terms of timeliness.	(0)	(0)	(1)	(0)	(2)	(3)
23. The adequacy of Selection Bureau redetermination decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(0)	(0)	(1)	(1)	(2)	(2)
- in terms of logical consistency among stated facts, conclusions, and supporting reasons.	(0)	(0)	(2)	(1)	(1)	(2)
- in terms of timeliness.	(0)	(0)	(1)	(0)	(2)	(3)
24. The procedure for appealing Selection and Classification Bureau redetermination decisions to the Hearings Division.	(0)	(0)	(4)	(0)	(0)	(2)
25. The Hearings Division redetermination appeal form CS-403.	(0)	(1)	(1)	(1)	(2)	(1)
26. The conduct of hearings by Technical Hearings Officers:						
- in terms of the completeness of the facts received by Technical Hearings Officers.	(0)	(1)	(1)	(0)	(0)	(3)
- in terms of the impartiality of the Technical Hearings Officers.	(0)	(0)	(0)	(2)	(0)	(3)

DEPARTMENT RESPONSES FOR QUESTIONS 27 TO 33

	NU	VS	FS	N	FD	VD
27. The adequacy of Technical Hearings Officers written decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(0)	(2)	(9)	(7)	(2)	(0)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	(0)	(2)	(9)	(5)	(4)	(0)
- in terms of timeliness.	(0)	(1)	(6)	(3)	(5)	(4)
28. The procedure for appealing a grievance to Civil Service step 4.	(0)	(3)	(11)	(5)	(1)	(0)
29. The limitations on what types of grievances may be appealed to the Hearings Division, Civil Service step 4.	(1)	(1)	(10)	(1)	(3)	(4)
30. The criteria used by the Hearings Division to administratively dismiss a grievance without a Civil Service step 4 hearing.	(2)	(0)	(9)	(2)	(5)	(1)
31. The procedure a grievant may use to appeal a Hearings Division decision to dismiss a grievance without a hearing.	(1)	(0)	(6)	(8)	(3)	(1)
32. The procedure for conciliation of grievances appealed to step 4 Civil Service hearings.	(3)	(0)	(5)	(7)	(3)	(1)
33. The conduct of Civil Service step 4 hearings:						
- in terms of the completeness of the records of facts established through the hearings.	(1)	(3)	(15)	(1)	(0)	(0)
- in terms of the impartiality of the Civil Service Hearings Officer.	(1)	(4)	(10)	(2)	(3)	(0)

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTION 27 TO 33

	NU	VS	FS	N	FD	VD
27. The adequacy of Technical Hearings Officers written decisions:						
- in terms of clearness of stated facts, conclusions, and supporting reasons.	(0)	(0)	(2)	(0)	(0)	(3)
- in terms of the logical consis- tency among the stated facts, conclusions, and supporting reasons.	(0)	(0)	(2)	(0)	(0)	(3)
- in terms of timeliness.	(0)	(0)	(2)	(0)	(2)	(2)
28. The procedure for appealing a grievance to Civil Service step 4.	(0)	(1)	(4)	(0)	(0)	(1)
29. The limitations on what types of grievances may be appealed to the Hearings Division, Civil Service step 4.	(0)	(0)	(0)	(0)	(2)	(4)
30. The criteria used by the Hearings Division to administratively dismiss a grievance without a Civil Service step 4 hearing.	(0)	(0)	(0)	(0)	(3)	(3)
31. The procedure a grievant may use to appeal a Hearings Division decision to dismiss a grievance without a hearing.	(0)	(0)	(1)	(1)	(1)	(3)
32. The procedure for conciliation of grievances appealed to step 4 Civil Service hearings.	(0)	(0)	(3)	(1)	(1)	(1)
33. The conduct of Civil Service step 4 hearings:						
- in terms of the completeness of the records of facts established through the hearings.	(0)	(1)	(3)	(0)	(1)	(1)
- in terms of the impartiality of the Civil Service Hearings Officer.	(0)	(1)	(0)	(1)	(3)	(1)

DEPARTMENT RESPONSES FOR QUESTIONS 34 TO 39

	NU	VS	FS	N	FD	VD
34. The adequacy of Civil Service step 4 Hearings Officers written decisions:						
- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	(1)	(4)	(12)	(0)	(1)	(2)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	(1)	(4)	(10)	(0)	(3)	(2)
- in terms of timeliness.	(1)	(1)	(4)	(1)	(7)	(5)
35. The availability of transcripts of Civil Service step 4 hearings.	(2)	(1)	(7)	(6)	(2)	(2)
36. The procedure for appealing a grievance to arbitration.	(2)	(2)	(6)	(6)	(1)	(3)
37. The conduct of pre-arbitration conferences in terms of enhancing a fair and timely resolution of grievances.	(4)	(1)	(8)	(5)	(1)	(1)
38. The conduct of arbitration hearings:						
- in terms of the completeness of the records of facts established through the hearings.	(5)	(4)	(6)	(4)	(0)	(0)
- in terms of the impartiality of the arbitrators.	(5)	(4)	(6)	(4)	(0)	(0)
39. The adequacy of the written decisions of arbitrators:						
- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	(3)	(4)	(7)	(5)	(0)	(0)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	(3)	(3)	(8)	(5)	(0)	(0)
- in terms of timeliness.	(3)	(3)	(3)	(7)	(2)	(1)

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 34 TO 39

	NU	VS	FS	N	FD	VD
34. The adequacy of Civil Service step 4 Hearings Officers written decisions:						
- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	(0)	(1)	(1)	(2)	(1)	(1)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	(0)	(1)	(2)	(1)	(1)	(1)
- in terms of timeliness.	(0)	(0)	(1)	(2)	(2)	(1)
35. The availability of transcripts of Civil Service step 4 hearings.	(0)	(0)	(1)	(3)	(0)	(2)
36. The procedure for appealing a grievance to arbitration.	(0)	(1)	(2)	(0)	(1)	(2)
37. The conduct of pre-arbitration conferences in terms of enhancing a fair and timely resolution of grievances.	(0)	(0)	(2)	(2)	(1)	(1)
38. The conduct of arbitration hearings:						
- in terms of the completeness of the records of facts established through the hearings.	(1)	(1)	(1)	(0)	(0)	(2)
- in terms of the impartiality of the arbitrators.	(1)	(0)	(2)	(0)	(0)	(2)
39. The adequacy of the written decisions of arbitrators:						
- in terms of the clearness of the stated facts, conclusions, and supporting reasons.	(1)	(1)	(1)	(0)	(1)	(1)
- in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.	(1)	(1)	(1)	(0)	(1)	(1)
- in terms of timeliness.	(1)	(0)	(2)	(0)	(1)	(1)

DEPARTMENT RESPONSES FOR QUESTIONS 40 TO 46

40. Should dismissal grievances be appealable to arbitration?

Yes 9 No 6 Undecided 5

41. Should Classification and Selection Bureau redetermination decisions be appealable to arbitration?

Yes 3 No 12 Undecided 5

42. About how many grievances have been appealed to arbitration during the last five years by employees in your department (if you are a department official) or by employees you represent (if you are an employee organization official)?

None 9 1-3 7 4-6 1

7-9 1 10-14 0 15 or more 2

43. Note: This question was eliminated from the survey and replaced with addendum question 50.

NU VS FS N FD VD

44. The procedure for appealing Technical Hearings Officers, Civil Service Hearings Officers, and Arbitrator decisions to the Civil Service Commission.

(0) (1) (11) (3) (2) (3)

45. The criteria used by the Civil Service Commission in deciding whether to grant leave to appeal.

(2) (0) (6) (7) (2) (3)

46. All in all, does the Michigan Civil Service Commission provide an effective check on:

- the clarity and logical consistency of decisions that it denies leave to appeal?

Yes 3 No 8 Undecided 9

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 40 TO 46

40. Should dismissal grievances be appealable to arbitration?

Yes 6 No 0 Undecided 0

41. Should Classification and Selection Bureau redetermination decisions be appealable to arbitration?

Yes 5 No 0 Undecided 1

42. About how many grievances have been appealed to arbitration during the last five years by employees in your department (if you are a department official) or by employees you represent (if you are an employee organization official)?

None 1 1-3 2 4-6 0

7-9 1 10-14 2 15 or more 0

43. Note: This question was eliminated from the survey and replaced with addendum question 50.

NU VS FS N FD VD

44. The procedure for appealing Technical Hearings Officers, Civil Service Hearings Officers, and Arbitrator decisions to the Civil Service Commission.

(0) (1) (1) (0) (3) (1)

45. The criteria used by the Civil Service Commission in deciding whether to grant leave to appeal.

(0) (0) (0) (1) (3) (2)

46. All in all, does the Michigan Civil Service Commission provide an effective check on:

- the clarity and logical consistency of decisions that it denies leave to appeal?

Yes 0 No 5 Undecided 1

DEPARTMENT RESPONSES FOR QUESTIONS 46 (CONT.) TO 48

- the clarity and logical consistency of the decisions that it grants leave to appeal or reviews through appeal of right?

Yes 4 No 8 Undecided 8

- the fairness of decisions it denies leave to appeal?

Yes 0 No 9 Undecided 11

- the fairness of decisions that it grants leave to appeal or reviews through appeal of right?

Yes 5 No 5 Undecided 10

47. If there are any aspects of the Michigan grievance and appeals procedure that you consider to be important that have not been identified in the questionnaire, please use the space below to briefly state your views on them. Attach additional pages if needed to complete your response to this question.

No comments were received in response to this question.

NU VS FS N FD VD

48. All in all, how satisfied are you with the record of the Michigan State Civil Service grievance and appeals procedure in providing:

- a fair resolution of redetermination appeals? (0) (0) (11) (4) (4) (1)
- a timely resolution of redetermination appeals? (0) (0) (5) (3) (6) (6)
- a fair resolution of grievances? (0) (1) (16) (2) (0) (1)
- a timely resolution of grievances? (0) (1) (6) (3) (6) (4)

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTIONS 46 (CONT.) TO 48

- the clarity and logical consistency of the decisions that it grants leave to appeal or reviews through appeal of right?

Yes 0 No 4 Undecided 2

- the fairness of decisions it denies leave to appeal?

Yes 0 No 3 Undecided 3

- the fairness of decisions that it grants leave to appeal or reviews through appeal of right?

Yes 0 No 3 Undecided 3

47. If there are any aspects of the Michigan grievance and appeals procedure that you consider to be important that have not been identified in the questionnaire, please use the space below to briefly state your views on them. Attach additional pages if needed to complete your response to this question.

No comments were received in response to this question.

NU VS FS N FD VD

48. All in all, how satisfied are you with the record of the Michigan State Civil Service grievance and appeals procedure in providing:

- | | | | | | | |
|---|-------|-------|-------|-------|-------|-------|
| - a fair resolution of redetermination appeals? | (0) | (0) | (1) | (2) | (1) | (2) |
| - a timely resolution of redetermination appeals? | (0) | (0) | (1) | (2) | (0) | (3) |
| - a fair resolution of grievances? | (0) | (0) | (3) | (1) | (0) | (2) |
| - a timely resolution of grievances? | (0) | (0) | (0) | (2) | (2) | (2) |

DEPARTMENT RESPONSES FOR QUESTION 49

49. If your response to any of the questionnaire items indicated that you are fairly dissatisfied or very dissatisfied with the grievance and appeals procedure, please describe briefly below the reason for your dissatisfaction. Also, if you indicated that you do not understand an aspect of the procedure, please explain to the extent possible the reason why it is not understood.

First list the number of the questionnaire item and then adjacent to each number provide a brief description of the reason for the dissatisfaction or lack of understanding. Please attach additional pages if needed to complete your response to this question.

No comments were received in response to this question.

EMPLOYEE ORGANIZATION RESPONSES FOR QUESTION 49

49. If your response to any of the questionnaire items indicated that you are fairly dissatisfied or very dissatisfied with the grievance and appeals procedure, please describe briefly below the reason for your dissatisfaction. Also, if you indicated that you do not understand an aspect of the procedure, please explain to the extent possible the reason why it is not understood.

First list the number of the questionnaire item and then adjacent to each number provide a brief description of the reason for the dissatisfaction or lack of understanding. Please attach additional pages if needed to complete your response to this question.

No comments were received in response to this question.

50. Under the Michigan State Civil Service grievance and appeals procedure, grievances may be heard by:

- (1) Full-time Civil Service Hearing Officers at Civil Service step 4, or
- (2) Ad hoc Civil Service Hearing Officers at Civil Service step 4, or
- (3) Arbitrators in Grievance to Arbitration

In the questions below, please briefly describe your preference for the use of full-time Civil Service Hearing Officers, ad hoc Civil Service Hearing Officers, or Arbitrators in terms of the performance each type provides on such factors as:

- the timeliness of hearings and decisions
- the fairness of hearings and decisions
- the clearness and logical consistency of the facts, conclusions and supporting reasons stated in decisions
- acceptability to state employees or other grievance procedure constituents
- or any other factors your consider important.

For what reasons, or in what circumstances, if any, do you prefer the use of:

- (a) Full-time Civil Service Hearing Officers over ad hoc Civil Service Hearing Officers?
- (b) Full-time Civil Service Hearing Officers over Arbitrators?
- (c) Ad hoc Civil Service Hearing Officers over full-time Civil Service Hearing Officers?
- (d) Ad hoc Civil Service Hearing Officers over Arbitrators?

(e) Arbitrators over full-time Civil Service Hearing Officers?

(f) Arbitrators over ad hoc Civil Service Hearing Officers?

APPENDIX K

**CRITICAL COMMENTS PROVIDED
IN RESPONSE TO QUESTION NR. 49
BY DEPARTMENT AND EMPLOYEE
ORGANIZATION REPRESENTATIVES**

Note: For all items in this appendix, (M) indicates a response by a department representative, and (U) indicates a response by an employee organization representative.

1. The definition of a grievance under the Michigan procedure.

- The definition is too broad. (M)
- The term "personnel law" is too vague - meaningless. (M)
- The terms "past practice" and "conditions of employment" are too broad. (M)
- The definition is unworkable, too broad. It should be limited to violation of specific rules and regulations. As it is it allows too many "meet and confer" issues to be grieved. (M)
- The definition does not limit grievances to matters which the department has control over. Some matters are controlled by the Department of Civil Service or the Department of Management and Budget (i.e., physical conditions). (M)

2. Time limitations on filing and processing grievances.

- The time limits are too short for cases in which a conference is required or may be beneficial. (M)
- The time limits are too tight to resolve some grievances at the lower steps. It takes longer to collect information and meet with the parties than is allowed. The parties must be in agreement to extend time limits and working out an extension may be impossible when there is a heavy case load and the parties are difficult to contact. (M)
- The time limits are too tight for grievances involving field operations that are far flung.

3. Shortened steps.

- Although it is appropriate that grievances of dismissal, suspension, demotion and layoff be appealed directly to step three the procedure should be more explicit in stating that the grievance is appealable to step three, rather than

using the language "initially grievable at the next higher step of the grievance procedure above the official acting". Even in instances where the Director has personally taken an adverse action, a step three grievance conference is not only beneficial but is an essential part of the basic philosophy of resolving grievances at the lowest possible level. In other types of grievances where action is taken by management at the level higher than that of the immediate supervisor, the grievance should be initiated at step two with the individual taking the action. It is just as absurd to bypass the individual taking the action in such situations as it would be to bypass the immediate supervisor when that individual takes the action. (M)

4. Waiver of steps.

- Why should the department have to ask the State Personnel Director for permission to waive steps? It is in the employees interest to delay, and it is in the department's interest to expedite fourth step hearings to keep the witnesses intact - witnesses drift away. (M)

5. The rights of grievant, grievant representatives, and grievant witnesses to use administrative leave to attend hearings.

- Sometimes witnesses are superfluous - not material. However, once they attend the hearing they must be paid administrative leave. The problem is insoluble because it is difficult to predict beforehand whether a witness will be needed. (M)

6. No comments were received.

7. The procedure at department step 1.

- The first step is too informal, no record. This makes it difficult to prove timeliness issues and dates. (M)
- Grievances should be formally initiated in writing at step one since the verbal nature of the current step one procedure causes considerable confusion. I would suspect that fully half of our grievances are improperly filed, according to the procedure, since most individuals prepare a grievance form prior to notifying the first line supervisor of their intent to grieve. Frequently, the employee expresses dissatisfaction with the action taken, but fails to explicitly state that a grievance is being filed, a discussion between the supervisor and the employee occurs, and the employee feels that step one has been complied with, while the supervisor had no knowledge or awareness that the

discussion was being considered a part of the grievance procedure. We have seen absolutely no evidence that the verbal stage allows for the informal resolution of grievances prior to committing the grievance to writing. (M)

- While the procedure at step 1 indicates that an oral conference is to be held prior to reducing anything to writing, I believe that the actual practice which has evolved is that supervisors are presented with written grievances at step 1 of the procedure. I feel that this oftentimes stands in the way of an effective resolution of the grievance. The oral conference requirement must be enforced and therefore should be more strongly stressed somehow through the grievance procedure directions. (M)
- The dissatisfaction is largely based on the confusing wording of the procedure. i.e.,
 - Step 1 is oral discussion and supervisory response.
 - Step 2 is initiated by filing written grievance back with step 1 supervisor on CS-G1.

Many grievants and supervisors are confused by the awkwardness of this requirement and don't know which step they're at. (M)

8. Grievance form CS-G1.

- Too confusing. Even those who use them regularly don't understand them. (M)
- The instructions on the form are confusing. You don't know what step you are at. (M)
- Too complex; more so than necessary. (M)
- The grievant is not required to indicate the specific complaint or the specific remedy sought. (M)

9. The procedure at department step 2.

- Nebulous. Who is the step 2 supervisor? This is difficult to pinpoint when there are several layers of management. (U)
- Department step 2 isn't too bad as written -- however, in practice, the "oral conference" is not always held, and the written answer is often delayed several days beyond the specified 10 weekdays. (U)
- This is a conference, not an adversarial hearing. Therefore,

witnesses should not be needed. A problem solving approach should be emphasized at this step. (M)

10. Grievance form CS-G2.

- Too confusing. Even those who use them regularly don't understand the instructions. (M)
- The grievant is not required to indicate the specific complaint. (M)

11. No comments were received.

12. No comments were received.

13. The procedure at department step 3.

- The step 3 conference is held only on dismissals and suspensions. This should be changed to permit the grievant to demand such a conference on other grievances -- or the step should be eliminated. In any case, the time limits could stand tightening on cases where no conference is held. (U)

14. No comments were received.

15. No comments were received.

16. The procedure for filing redetermination appeals to the Classification Bureau.

- This step is so formidable that many employees are overawed by it and will not file because of it. In particular, since Classification Bureau insists that percentages of time in particular duties has nothing to do with proper classification, the section for breakdown by hours or percentage of the week spent in each duty is worthless. Filing should be simpler, with an oral review at each step. This would make it easier for many employees who are far more fluent verbally than in written form. (U)

17. The Classification Bureau appeal form CS-212T.

- In all cases, the employee doesn't receive enough data from Classification Bureau to be able to handle this form. Either the form should be simplified, or the determination report should be detailed. I'd prefer the latter, and streamlined appeal process where the PD has already been filed by the employee. (U)
- Poorly designed. Does not provide enough space for narrative comments. (M)

18. The redetermination process in the Classification Bureau.

21. The redetermination process in the Section Bureau.

(These comments are representative of the views expressed about both 18 and 21.)

- The process is bogged down, no due process, no expertise. (U)
- The employee is limited to whatever is in writing, while there is clearly free interchange between Classification Bureau and management. The employee is handicapped by a lack of technical knowledge/jargon, and suffers. A review conference might make this more meaningful, by providing a freer interchange and giving the employee a chance to get his ideas out, even if he doesn't know the technical language. (U)
- Kangaroo Court - not impartial and too slow. (M)
- This procedure is not predictual, not evidentiary, not adversarial, not impartial, and it is self serving to the Department of Civil Service. (M)
- Departments are not allowed access to Department of Civil Service files. (M)
- I have no confidence in the reliability and consistency of the reviewers. (M)
- The redetermination process is confusing and seldom seems to result in resolution of any problems. (M)
- The problem is you go back to the same person who made the initial decision, and you have already made your best case to that person. (M)
- The redetermination process which is utilized in the Classification Bureau is one which does not provide significant information to the appellant. Responses are often very limited and the process tends to be one of the auditor saying "I've said it once and I'm saying it again" for the same rationale. (M)
- The redetermination process lacks credibility since "Redetermination Officer" is perceived by many as "rubber-stamping" the classifier's original determination. (M)
- The process is confusing and seldom results in the resolution of any problems. (M)

19. The procedure for filing redetermination appeals to the Selection Bureau.

- This is kind of a sloppy set-up. There is no real formal notices of selection, and the CS-409 is unavailable in most cases. Information on the process is sketchy and pretty much hidden. For all practical purposes, there is no procedure. (U)
- Written procedure provides for seeking redetermination on form CS-409. Selection Bureau practice is to not provide a form but to require a less formal inquiry. Practice and procedure should coincide. (M)

20. The Selection Bureau appeal form CS-409.

- Form CS-409 should be more available. I think I've seen one, and recall little about it. (U)
- Narrative letter or memo form preferred to the required form. (M)

21. Consolidated with 18.

22. The adequacy of Classification Bureau redetermination decisions:

in terms of clearness of stated fact, conclusions and supporting reasons.

in terms of logical consistency among stated facts, conclusions, and supporting reasons.

in terms of timeliness.

- Classification redeterminations are usually very short, lacking detail, and a bit condescending. I can't say I've seen one which really covered "stated facts . . . and supporting reasons." They're not much better than Commission decisions. The timeliness is a funny thing -- I've known the Classification Bureau to put off one for over a year by claiming they were waiting for further information. The time limits don't begin until "after receipt of all information" and are undermined by an "if possible" tacked on. (U)
- The auditors that write the decision tend to defend the original decision rather than take an objective fresh look at the case. (M)
- Extremely long time delays, decisions poorly written and lack consistency. (M)

- Some are good, some are bad; it depends on the auditor you get. The decisions are too brief, not enough analysis. (M)
- Again the justification and conclusions supporting the auditor's position are not clearly stated in most redetermination decisions issued by the Classification Bureau. They tend to be very limited in their information justifying the original decision. The most significant criticism of the classification redetermination process is in the area of timeliness. We have been experiencing up to a year's delay in receiving redetermination decisions. This is totally unfair to the incumbent and to the department. (M)
- Classification redeterminations are way untimely and lack consistency. (M)
- Many redeterminations involve an unconscionable amount of delay. I am aware of several cases still pending after 15 months. (M)

23. The adequacy of Selection Bureau redetermination decisions:

in terms of clearness of stated facts, conclusions, and supporting reasons.

in terms of logical consistency among stated facts, conclusions, and supporting reasons.

in terms of timeliness.

- I've never seen one. Are such things issued? (U)
- We are still waiting for some cases filed as much as two years ago. (M)
- Many of these decisions are very unclearly defined in terms of facts, conclusions, and supporting reasons. Some of the decisions lack logical consistency. (M)

24. No comments were received.

25. No comments were received.

26. The conduct of hearings by Technical Hearings Officers:

in terms of the completeness of the facts received by Technical Hearings Officers.

in terms of the impartiality of the Technical Hearings Officers.

27. The adequacy of Technical Hearings Officers written decisions:

in terms of clearness of stated facts, conclusions, and supporting reasons.

in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.

in terms of timeliness.

(The comments received applied to both 26 and 27.)

- Technical hearings are limited to material covered in the documents mentioned above. No new subject matter may be introduced. Therefore, I feel, as explained above, that the employee is at a serious disadvantage. Also, the Classification Bureau is usually present as an advocate against the employee, along with the Department. I'm not impressed by the impartiality, if any, of Technical Hearings Officers. They obviously favor the bureaus, and seldom give favorable decisions for the employees. (U)
- Like the hearing, the decision is a rehash of written material already in the record. This is followed by a conclusion, period! They're quite slow about issuing decisions, as well. (U)
- Technical Hearings Officers are typically former Classification or Selection Bureau employees and are not always as impartial as they should be. (M)
- The impartiality of the Technical Hearings Officers is suspect because most are former employees of the bureau involved in the hearing process. (M)
- These decisions are poorly reasoned normally. Exceptional cases (often involving group appeals with appellants represented by legal counsel) may be assigned to an ad hoc hearing officer. My objection would not apply to such a case. (M)

28. No comments were received.

29. The limitations on what types of grievances may be appealed to the Hearings Division, Civil Service step 4.

- Probationary service ratings, probationary dismissals, and counseling or reprimands are all limited to step 3. I dislike this limitation and would like to see it gone entirely. At least for status employees, counseling and reprimands should be appealable, especially when they contain other

material ("Due to your attendance problems, you will only be allowed to use annual time under emergency conditons.") Also, it seems to me that when the probationary period has been extended, the restriction should be lifted. (U)

- Since the Department of Management and Budget maintains state buildings, grievances of employees of other departments concerning the physical work environment are dismissed without a hearing because the Department of Management and Budget is not the immediate employer. In general, a state employee has several "employers", thus their ability to obtain relief is more limited than an employee of, for example, General Motors. (U)
- As long as the Civil Service Commission chooses to provide a hearing process without cost to the employee, there must be some limitation on the types of grievances heard at step four simply to contain the number of grievances filed. However, it is my opinion that the practice of allowing free hearings is absurd and that the parties should share equally in the cost of all hearings. Cost then becomes the determining factor which prevents countless frivolous grievances from being appealed to the higher steps of the procedure rather than the arbitrary inclusion of certain categories of grievances. Frankly, some grievances regarding reprimands and counseling memoranda are far more significant than the issues involved in some grievances scheduled for hearings. Additionally, when grievances cannot be appealed beyond step three the management representative reviewing the grievance at step three is almost forced to take the position of "the judge" rather than the departmental advocate. This "switching of hats" causes serious credibility problems to employees and managers alike. (M)
- An employee should not be able to appeal a conditional service rating beyond step 3. I would add this to the existing limitations. (M)
- To my knowledge there are few limitations, if any, on the types of grievances that may be appealed to the Hearings Division. While I agree that probationary dismissals and disciplinary memorandas should not be appealable to the fourth step, I believe that further limitations should be specifically stated which would allow for the screening of what I would consider to be harassment grievances due to the type of grievances that are often scheduled for Civil Service fourth step hearings where the issue is stated as "Have the employee's rights been violated?". I believe that a specific Civil Service or departmental rule or regulation should be identified as having been violated before a fourth step hearing will be scheduled. (M)

- The limitation on the appeal to step 4 of the dismissal of a probationary employee has caused problems due to the Hearings Division's failure to require the grievant to do more than allege prohibited discrimination. (M)
30. The criteria used by the Hearings Division to administratively dismiss a grievance without a Civil Service step 4 hearing.
- The idea here, so far as I can tell, is simply to reduce the case load for Hearings Division. The clear intent here has always been to avoid hearings. (U)
 - Some cases should be heard that are not heard, and visa versa. The criteria are not clear and are not consistently applied. (U) (M)
 - The criteria are not spelled out as a well defined body of thought. (U) (M)
 - Almost anyone on any issue can get a formal hearing if they complain long and hard enough. (M)
 - To my knowledge there is no criteria by which the Hearings Division administratively dismisses grievances. There had, around a year ago, been an attempt to limit grievances at the fourth step, but I believe that the employee organizations have effectively neutralized that effort. (M)
 - Denying a hearing because the Hearings Officer lacks authority to grant relief is improper. (M)
31. The procedure a grievant may use to appeal a Hearings Division decision to dismiss a grievance without a hearing.
- There is no formal procedure, and 90% of the time the whole thing is a rubber stamp to the scheduling officer's decision. We're getting an increasing number of these referring to Employee Relations Policy Section 4.1. These are, in effect, a ruling of non-grievability. There should not, in my opinion, be such an option. Hearings Division shouldn't be able to make that decision. (U)
 - Not clearly spelled out in policy. There is no written procedure. (M)
 - Ex parte meetings between a grievant and the Hearings Division have sometimes resulted in a Civil Service decision to grant a step 4 hearing after an initial denial of a hearing. (M)
 - Too much ex parte communications between the grievant and

the Hearings Division personnel. A grievant can get a dismissal reversed and the department would not have an opportunity to present its position. (M)

32. The procedure for conciliation of grievances appealed to step 4 Civil Service hearings.

- I do not know of any cases in which there has been an effort to consiliate. (M)
- They don't use the procedure very much, if at all. If they were to use it, it would be most likely to succeed in cases in which neither party has much at stake. The parties positions are already fixed in most cases. (M)
- One attempt I know of was unsatisfactory, because of a lack of competence to conciliate. (M)

33. The conduct of Civil Service step 4 hearings:

in terms of the completeness of the records of facts established through the hearings.

in terms of the impartiality of the Civil Service Hearings Officers.

- The records of facts are pretty good. With a court reporter, they have to be. However, it is unusual to find a hearings officer seeking clarification or further information as arbitrators often do. This is frequently perceived as a desire to "get all the facts" and a genuine concern. Hearings Officers are usually perceived as egocentric, biased in favor of management, ritualistic, condescending, in-a-hurry-to-get-done, etc., ad infinitum. (U)
- I have serious question about the impartiality of certain Civil Service Hearings Officers, not because they are blatantly pro-employee, pro-union, or pro-management, but simply because they develop a bias on certain issues and they can no longer continue to look at similar cases objectively. I also believe that Civil Service Hearings Officers have a greater tendency to base the decision on their own gut feeling on how things should be rather than interpreting the facts, the rules, or whatever. (M)
- At least one Grievance Hearings Officer is perceived as being pro-employee; once ruled that "it didn't matter whether a rule had not been violated" by management, if the grievant, somehow wasn't treated "fairly" in comparison with another department's employees not similarly situated. This same

Hearings Officer showed a total lack of sensitivity to the ethics of the quasi-judicial nature of the grievance and appeals procedure when the Hearings Officer initiated telephone contacts with Commission Appeals Officer in an apparent attempt to sway the recommendation to be ultimately made to the Commission on the merits of our appeal. (M)

34. The adequacy of Civil Service step 4 Hearings Officers written decisions:

in terms of the clearness of the stated facts, conclusions, and supporting reasons.

in terms of the logical consistency among the stated facts, conclusions, and supporting reasons.

in terms of timeliness.

- Takes too long! (U) (M)
- Many decisions rendered by the full-time Hearings Officer do not contain a well reasoned analysis of the facts of a case; conclusions are unconnected with the reasoning given; the outcome and analysis are sometimes internally inconsistent; similar factual situations often lead to opposite results with little or no attempts to reconcile the conflict being made by the Hearings Officer in his/her written opinion; decisions are often incredibly delayed. (M)
- Civil Service Hearings Officers, in my opinion, tend to be far less thorough in their written opinion than an arbitrator would be, presumably because of the great volume of cases they handle. Frequently, the conclusions and supporting reasons are dismissed with phrases such as "common labor lay says . . .". With regard to timeliness, I find that a Civil Service Hearings Officer rarely responds to a grievance in the appropriate time limits. It is not unusual to wait longer than three months after the conclusion of the hearing to receive the Hearings Officer's decision. (M)

35. The availability of transcripts of Civil Service step 4 hearings.

- They take too long to obtain and are very costly because of the length of hearings that are allowed to ramble. (M)
- Too much delay involved in obtaining them. (M)

36. The procedure for appealing a grievance to arbitration.

37. The conduct of pre-arbitration conferences in terms of enhancing a fair and timely resolution of grievances.

(These comments are applicable to both 36 and 37.)

- The pre-arbitration conference should have more emphasis on mediation -- or it should be eliminated entirely. (U)
- The employee election of arbitration is subject to the certification of the Civil Service Arbitration Officer and limited to non-discharge grievances. Both of these limits should be removed so state employees may have the same alternative in electing arbitration as private sector employees. (U)
- This procedure does not offer the department any option of not becoming involved in a costly arbitration. The reasons for arbitration appear to be too equivocal with hardly any clearly defined standards of arbitrability. (M)
- The recent action by the Civil Service Commission to permit dismissal cases to be appealed to outside arbitration with no quid pro quo for management is an example of pro-employee bias that is disturbing to this observer. (M)
- In my opinion the pre-arbitration conference is little more than a waste of time. Issues are rarely, if ever, resolved at conference. Arbitrators have not seemed to feel bound by the parties' earlier statement of issues and the procedure seems to accomplish little more than allowing the employee an additional day of administrative leave. (M)

38. - 43. No comments were received.

- 44. The procedure for appealing Technical Hearings Officer, Civil Services Hearings Officer and Arbitrator decisions to the Civil Service Commission.
- 45. The criteria used by the Civil Service Commission in deciding whether to grant leave to appeal.

(Comments received are applicable to both 44 and 45.)

- I never learn from reading commission decisions, and I have no access to the process. (U)
- At times the Civil Service Commission renders decisions so inconsistent and/or inexplicable that I find it hard to believe that the individual Commissioners were actually aware of the opposing parties' contentions.

Example: Denial of leave to appeal to M.S.E.A. and Social Services in companion cases involving a severe blizzard in Washtenaw County in December of 1974. A.F.S.C.M.E. vs. D.S.S. went to an arbitrator who

ruled in favor of the grievants as to the granting of administrative leave to employees absent due to adverse weather. M.S.E.A. vs. D.S.S., (same location, storm, and applicable policies) was decided against the employees by an ad hoc Hearings Officer. By letting both decisions stand the inconsistencies became ratified by Commission Action. (M)

- The appeal process is too complex. (M)
- The Civil Service Commission can't keep up with the volume of cases, and thus many decisions are probably made by staff. (M)
- Commission decisions are supported with very little documentation or explanation of rationale. (M)
- The process depends too much on the staff. (M)
- I know the language they use and the criteria for decision, but I don't know how they apply it. (M)
- I doubt that they read the cases or really confront the issues involved. (M)
- I would urge that the Civil Service Commission follow the spirit of the state Open Meetings Act by holding its deliberations and decision-making sessions in open session when it considers employee or management appeals. The Commission's credibility would be immeasurably enhanced by this simple step; no longer would there be suspicions that "the fix was in" with deliberations moved out of the present secrecy.

Secondly, a modern effective indexing system for grievance and appeals decisions is badly needed. It is now next to impossible to efficiently research past decisions in order to prepare for a hearing involving similar issues.

Finally, if the Commission itself was required to make findings of fact and conclusions of law on cases accepted for review, a body of case law would become available to assist managers to more correctly interpret and apply the web of rules, regulations and policies which exist today. (M)

APPENDIX L

**QUESTIONNAIRE TO GROUP A
(549 STATE EMPLOYEES)**

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
South Kedzie Hall
East Lansing, MI 48824

RE: GRIEVANCE PROCEDURE EVALUATION

We are evaluating the fairness and effectiveness of the Michigan State Civil Service grievance and appeals procedure. We need the help of Michigan State Civil Service employees, and would like to have you participate by filling out the attached questionnaire.

You were selected to receive this questionnaire as part of a large representative group of Michigan State Civil Service employees. We need your response in order to assure that the information we receive is representative of the views of Michigan State Civil Service employees. It is expected that the information received through this questionnaire will help identify some of the strengths and weaknesses of the grievance and appeals procedure.

Your response to the questionnaire will be entirely confidential. No persons other than the undersigned will have access to your completed questionnaire. No questionnaire will be studied individually; all will be combined together for analysis.

Your cooperation in completing this questionnaire and returning it in the enclosed return-addressed, stamped envelope will be greatly appreciated.

With many thanks,

Kent F. Murrmann
Research Assistant

Jack Stieber, Professor
and Project Director

KM/JS:ame

Enclosures

1. In your view, do employees at your place of employment typically have complete access to use of the grievance procedure?
Yes _____ No _____ Undecided _____
2. In your view, can employees at your place of employment typically request and receive a copy of the written grievance procedure without unreasonable delay?
Yes _____ No _____ Undecided _____
3. In your view, can employees at your place of employment typically request and receive grievance forms without unreasonable delay?
Yes _____ No _____ Undecided _____
4. All in all, how clear or unclear is your understanding of how to use the grievance procedure?
☐ Very clear
☐ Fairly clear
☐ Neither clear nor unclear
☐ Fairly unclear
☐ Very unclear
5. In your view, do Civil Service Step 4 Hearing Officers typically provide fair and impartial grievance decisions?
Yes _____ No _____ Undecided _____
6. Have you filed a grievance or a technical appeal in the Michigan State Civil Service grievance and appeals procedure during the last six years?
Yes _____ No _____ Undecided _____
7. How far through the procedure have you taken a grievance?
☐ Department step 1
☐ Department step 2
☐ Department step 3
☐ Civil Service step 4
☐ Appeal to arbitration
☐ Civil Service Commission
8. Are you a member of a union or an employee association that represents employees in the Michigan State Civil Service grievance and appeals procedure?
Yes _____ No _____

If yes, please indicate the name of the association or union by putting a check in the appropriate space (✓)

- ☐ Michigan State Employees Association (MSEA)
☐ American Federation of State, County, & Municipal Employees (AFSCME)
☐ 31-M
☐ State Troopers Association
☐ Corrections Organization

8. continued.

- ☐ Highway Engineers Association
 - ☐ Welfare Employees Union
 - ☐ Other--please provide organization's name
-

9. About how many persons are usually employed under your immediate supervisor? _____

10. About how many persons are usually employed by your department at your place of employment? _____

11. Please indicate the name of your department with a check in the appropriate space (✓).

- | | |
|---|--|
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Management and Budget |
| <input type="checkbox"/> Attorney General | <input type="checkbox"/> Mental Health |
| <input type="checkbox"/> Civil Rights | <input type="checkbox"/> Military Affairs |
| <input type="checkbox"/> Civil Service | <input type="checkbox"/> Natural Resources |
| <input type="checkbox"/> Commerce | <input type="checkbox"/> Public Health |
| <input type="checkbox"/> Corrections | <input type="checkbox"/> Social Services |
| <input type="checkbox"/> Education | <input type="checkbox"/> State |
| <input type="checkbox"/> Labor (admin.) | <input type="checkbox"/> State Highways |
| <input type="checkbox"/> M.E.S.C. | <input type="checkbox"/> State Police |
| <input type="checkbox"/> Auditor General | <input type="checkbox"/> Treasury |
| <input type="checkbox"/> Licensing and Regulation | |

12. The name of the person completing this questionnaire is:

APPENDIX M

**QUESTIONNAIRE TO GROUP B
(113 STEP 4 GRIEVANTS)**

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
Office of the Director
South Kedzie Hall
East Lansing, MI 48824

RE: Grievance Procedure Evaluation

We are evaluating the fairness and effectiveness of the Michigan State Civil Service grievance and appeals procedure. We need the help of Michigan State Civil Service employees who have had experience with the procedure, and would like to have you participate by filling out the attached questionnaire.

You and all other Michigan State Civil Service employees who have had a Civil Service Step 4 grievance hearing, a technical appeal hearing, or an arbitration hearing during the last several months are receiving this questionnaire. We need your response in order to assure that the information we receive is representative of the views of state employees who have had experience with the grievance and appeals procedure. It is expected that the information received through this questionnaire will help identify some of the strengths and weaknesses of the grievance and appeals procedure.

Your response to the questionnaire will be entirely confidential. No persons other than the undersigned will have access to your completed questionnaire. No questionnaire will be studied individually; all will be combined together for analysis.

Your cooperation in completing this questionnaire and returning it in the enclosed, return addressed, stamped envelope will be greatly appreciated.

With many thanks,

Kent F. Murrmann
Research Assistant

Jack Stieber, Professor
and Project Director

Please complete this questionnaire and return it in the enclosed envelope before you receive the decision of the Hearing Officer or arbitrator on your case.

Some of the following questions will ask you to indicate how satisfied or dissatisfied you are with the procedure. Other questions will ask you to provide a "Yes" or a "No" answer.

Please base all your answers on your own experience with the grievance and appeals procedure.

1. Other than your present case, have you processed any grievances or technical appeals under the Michigan State Civil Service grievance and appeals procedure during the last six years?

Yes _____ No _____ Don't Recall _____

If yes, please provide the information indicated below concerning your experience with the Civil Service grievance and appeals procedure.

Approximate number of grievances _____
 Approximate number of technical appeals _____
 Approximate number of grievance hearings _____
 Approximate number of arbitration hearings _____
 Approximate number of technical appeal hearings _____

2. How satisfied or dissatisfied are you with the overall procedure that must be followed in order to bring a case to a hearing?

In answering the question do not consider the conduct of the actual hearing; consider only the process that must be followed to bring a case from the starting point in the procedure to a hearing.

- () Very satisfied
- () Fairly satisfied
- () Neither satisfied or dissatisfied
- () Fairly dissatisfied
- () Very dissatisfied

If you are dissatisfied with any part of the procedure, please describe briefly below the reasons for your dissatisfaction.

3. Please evaluate your hearing in terms of the following factors:

- A. Was there a fair opportunity at your hearing for you or your representative to present witnesses, documents, and other evidence in support of your case?

Yes _____ No _____ Undecided _____

- B. Was there a fair opportunity at your hearing for you or your representative to cross-examine witnesses presented by the department?

Yes _____ No _____ Undecided _____

- C. Was the Hearing Officer or arbitrator sincerely interested in receiving all the facts that are important to your case?

Yes _____ No _____ Undecided _____

- D. Did the Hearing Officer or arbitrator make fair rulings on objections during the Hearing?

Yes _____ No _____ Undecided _____

- E. Did you understand the hearing procedure?

Yes _____ No _____ Undecided _____

- F. All in all, do you feel that the conduct of the hearing was fair and impartial?

Yes _____ No _____ Undecided _____

4. If you are dissatisfied with any part of your hearing, please describe briefly below the reasons for your dissatisfaction.

5. Please indicate with a check in the appropriate space the type of representation you received at your hearing:
- ☐ () A union steward, job representative, or staff representative of an employee association or union.
 - ☐ () A private attorney provided through an employee association or union.
 - ☐ () A private attorney employed by you.
 - ☐ () A fellow employee representative who was not provided through an employee association or union.
 - ☐ () You alone.
 - ☐ () Other, (please describe).
6. Please indicate with a check in the appropriate spaces the name of the union or employee association you are a member of, if any, and the name of the organization you received representation from if any:

	<u>Am a</u> <u>Member of</u>	<u>Received</u> <u>Representation From</u>
Michigan State Employees Association (MSEA)	()	()
American Federation of State, County, and Municipal Employees (AFSCME)	()	()
31 M	()	()
State Troopers Association	()	()
Corrections Organization	()	()
Highway Engineers Association	()	()
Welfare Employees Union	()	()
Other (Please specify name of organization)	()	()

7. In your view, do employees at your place of employment typically have complete access to use of the grievance procedure?
Yes _____ No _____ Undecided _____
8. In your view, can employees at your place of employment typically request and receive a copy of the written grievance procedure without unreasonable delay?
Yes _____ No _____ Undecided _____
9. In your view, can employees at your place of employment typically request and receive grievance forms without unreasonable delay?
Yes _____ No _____ Undecided _____
10. All in all, how clear or unclear is your understanding of how to use the grievance procedure?
() Very clear
() Fairly clear
() Neither clear nor unclear
() Fairly unclear
() Very unclear
11. About how many persons are usually employed under your immediate supervisor? _____
12. About how many persons are usually employed by your department at your place of employment? _____
13. Please provide the following information:
Your name _____
Your address _____
street _____
city, state, zip _____
Your department _____
Your agency _____
County in which you report for work _____
Your job classification and level _____

APPENDIX N

FOLLOW UP QUESTIONNAIRE COVER LETTER

MICHIGAN STATE UNIVERSITY
School of Labor and Industrial Relations
Office of the Director
South Kedzie Hall
East Lansing, MI 48824

June 19, 1978

Dear State Employee:

If you have returned the questionnaire on the grievance procedure, thank you. If not, would you do so as soon as possible? This follow-up letter is being sent out to all who received the questionnaire but did not return it to us prior to June 19, 1978.

We recognize that filling out a questionnaire on this topic may seem like an unnecessary task; however, information from employees is needed. By taking a few minutes of your time, you can provide us with information, from the employee point of view, that will help in the evaluation of the grievance procedure.

If, for some reason, you choose not to complete the questionnaire, would you please take just a moment to fill in the background information requested in questions 8, 9, 10, and 11, tell us why you are not responding, and mail the questionnaire back.

Sincerely,

Kent F. Murrmann
Research Assistant

Jack Stieber, Professor
and Project Director

KFM:sk

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