

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED
1990 SEP 18 AM 9:37
OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

Department of Administration and
AGENCY: Division of Rehabilitation Services TITLE NUMBER: 186

CITE AUTHORITY: West Virginia Code Section 5A-3A-4

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES , NO

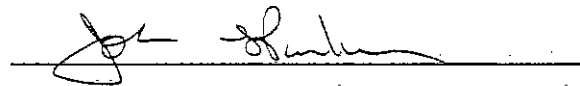
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

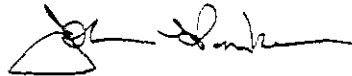
IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: Two (2)

TITLE OF RULE BEING ADOPTED: Violations and Grievances: Committee
for the Purchase of Commodities and Services from the Handicapped.

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS Oct 19, 1990



There was a comment period on these rules, and we received no comments. There has been no changes made from the original filing.

A handwritten signature in black ink, appearing to be "John Doe" or similar, written in a cursive style.



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

August 6, 1990

Honorable Ken Hechler
Secretary of State
Suite 157-K
Capitol Building
Charleston, West Virginia 25305

Re: Procedural Rules For Handling Violations
And Grievances By The Committee For The
Purchase Of Commodities And Services
From The Handicapped

Dear Mr. Hechler:

Approval is hereby given for filing of procedural rules of the Committee for the Purchase of Commodities and Services from the Handicapped, entitled "Procedural Rules for Violations and Grievances ", as enclosed, in accordance with West Virginia Code, 5A-3A-4.

Sincerely,

Chuck Polan
Secretary

CP:bt

Attachment

SUMMARY OF PROPOSED RULE

To provide for the handling of violations and grievances by the Committee for the Purchase of Commodities and Services from the Handicapped.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Violations And Grievances

Type of Rule: Legislative Interpretive X Procedural

Agency Rehabilitation Services Address Capitol Complex

Charleston, W.V. 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates: No additional costs are anticipated by promulgating these rules.

3. Objectives of these rules: To provide for the handling of violations and grievances by the Committee for the Purchase of Commodities and Services from the Handicapped, "Committee."

CSR

TITLE 186

GOVERNOR'S COMMITTEE
FOR THE PURCHASE OF COMMODITIES AND SERVICES
FROM THE HANDICAPPED

SERIES 1

VIOLATIONS AND GRIEVANCES

Section - -1. GENERAL

1.1 Scope.--The scope of these procedural rules involves the handling of violations and grievances by the Committee for the Purchase of Commodities and Services from the Handicapped, "Committee."

1.2 Authority.--West Virginia Code Section 5A-3A-4.

1.3 Filing Date.--

1.4 Effective Date.--

Section - -2. VIOLATIONS

2.1 Generally.

When any regulation of the Committee or any of the applicable sections of the West Virginia Code has been violated, the following actions may be taken by the Committee:

(a) In the event an alleged violation by a State purchasing agent is presented to the Committee, the agent shall be provided with information to correct the violation. If the alleged violation is deemed serious, the Committee, or a designee of the Committee, may conduct a conference with all parties involved, and report the findings to the Director of Purchasing for appropriate action.

(b) In the event of an alleged violation by a participating workshop or rehabilitation facility, the Committee shall notify the participating workshop or rehabilitation facility of the violation and afford it an opportunity to submit a statement of facts and any other pertinent information.

(i) Upon receipt of the statement of facts and any other pertinent information from the participating workshop or rehabilitation facility, the CNA shall also submit a statement of facts and any other pertinent information to the Committee, if requested.

(ii) The Committee shall issue a ruling on the materials submitted, unless a hearing is requested. Upon request that a hearing be held, the hearing shall be conducted in accordance with Section 4 of these regulations.

2.2 Violations by CNA.

In the event of an alleged violation of the regulations of the Committee or the pertinent provisions of the West Virginia Code or in matters of serious breach of duty by the Central Nonprofit Agency, "CNA", the Committee may recommend appropriate disciplinary action to the Director of the Division of Rehabilitation Services.

2.3 Cancellation of Contract.

(a) A contract with a workshop or rehabilitation facility may be canceled by the CNA for non-compliance with the terms and conditions of the contract, such as failure to meet State specifications, quality assurance standards, quantity or delivery requirements, or payment of obligations to materials vendors or the CNA. Prior to any contract cancellation, the facility shall be informed of the problem and given a reasonable period of time to correct the non-compliance. A facility may protest to the Committee a cancellation by the CNA in the form of a grievance.

(b) If a contract with a workshop or rehabilitation facility has been canceled under this Section, the facility may present evidence to the CNA that it is capable of meeting the terms and conditions of the contract, that it has paid any and all damages incurred by the State or amounts due to vendors, and that necessary steps have been taken to avoid failures in the future. The CNA must document the readiness or capability of the facility to resume production according to the terms and conditions of the contract and present same to the Committee for resolution before the contract may be resumed.

Section - -3. GRIEVANCES.

3.1 Presentation of Grievances Regarding Actions of Committee by Workshop or Rehabilitation Facility.

(a) A workshop or rehabilitation facility with a grievance regarding actions of the Committee under the West Virginia Code or its regulations should discuss the issue with the Chairman of the Committee. If the matter is not satisfactorily resolved

within forty-eight (48) hours after the request is made, the complaining agency or the CNA may submit written appeal to the Committee Chairman who will refer the matter to the full Committee for resolution. Upon receipt of the appeal, the Committee shall decide whether to grant a hearing or support the decision rendered by the Chairman at its next regular meeting.

(b) All grievances, responses and appeals to the Committee shall be in writing. In the event a hearing is granted, the hearing shall be conducted in accordance with the provisions of Section 4 of these regulations.

3.2 Presentations of Grievances Regarding Actions of the CNA by Workshop or Rehabilitation Facility.

(a) A workshop or rehabilitation facility with a complaint or grievance regarding actions of the CNA under the West Virginia Code or regulations of the Committee should discuss the matter with the Executive Director of the CNA. If the matter is not satisfactorily resolved within forty-eight (48) hours after the request is made, the workshop or rehabilitation facility may submit written appeal to the CNA Executive Committee. If the matter is not resolved within ten (10) days at this level, the matter may be appealed to the Committee for resolution. Upon receipt of the appeal, the Committee shall decide whether to grant a hearing or support the decision of the CNA management or Executive Committee.

(b) All grievances, responses and appeals to the Committee shall be in writing. In the event the Committee grants a hearing, the hearing shall be conducted in accordance with the provisions of Section 4 of these regulations.

3.3 Presentations of Grievances of Actions of CNA by Purchasing Agencies or Purchasing Division.

In the event of a grievance against the action of the CNA by a Purchasing Agency, "PA", or the Purchasing Division, "PD", the PA or PD shall first attempt to resolve the matter with the CNA. If the matter is not resolved within ten (10) days, the PA or PD shall notify the Committee in writing of its position, requesting a hearing, if desired, and sending a copy of the written materials to the Director of Purchasing. The Committee shall notify the CNA of the complaint and afford it an opportunity to submit a statement of facts and other pertinent information. Upon receipt of the statement of facts and other pertinent information from both parties, the Committee shall conduct a hearing in accordance with Section 4 of these regulations.

Section - -4. HEARINGS.

4.1 Generally.

(a) In the event a hearing is requested, the Committee shall determine whether a hearing shall be granted. The Committee shall have the authority to refuse to review for lack of merit.

(b) In the event a hearing is granted, the Committee, or a hearing examiner designated by the Committee, shall conduct the hearing and make findings of fact and conclusions of law in issuing its ruling. If the hearing is conducted by a hearing examiner, the ruling of the examiner shall not become effective until approved by the Committee.

(c) Hearings shall consider written and oral presentations, as well as objective, documented evidence supporting the grievance and attempt(s) to seek resolution. A record of the grievance hearing shall be taken by the Recorder of the Committee, shall include copies of all written evidence submitted, and shall be duly filed with the Recorder. Appeals of rulings of the Committee shall be made in accordance with the West Virginia Code.

4.2 Rulings.

The Committee shall issue its ruling in writing within ten (10) days following the conclusion of the hearing, unless otherwise stipulated.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

STATE OF WEST VIRGINIA

SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

OK

TO: Diana Stout

AGENCY: Dept. of Administration

FROM: Judy Cooper, Director, Administrative Law Division

DATE: August 25, 1992

Recently our office sent to you the following rule to be reviewed, proofed and returned:

SERIES: 2 **TITLE:** 186

As of today, we still have not received the proofread rule from you. This is a very important step in our process to get the rules into our legislative computer system and out to our subscribers in a monthly supplement. We would appreciate the rule being reviewed, proofed and returned to us immediately so that we can continue keeping our records and their records up-to-date. The rule is enclosed for proofing.

Thank you very much for your prompt attention to this matter. If you have any questions, please call.