



**WEST VIRGINIA
SECRETARY OF STATE**

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ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY Education

RULE TYPE Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-

RULE NAME Conflict Resolution Process for Citizens (7211) 188

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d
839 (1988)

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839
(1988)

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

Monday, August 11, 2014

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-188



Rule Id: 9433



Document: 25999

TITLE 126
PROCEDURAL RULE
BOARD OF EDUCATION

SERIES 188
CONFLICT RESOLUTION PROCESS FOR CITIZENS (7211)

§126-188-1. General.

1.1. Scope. - The purpose of this conflicts resolution process is to provide a way for citizens to work with county school district administrative officials in seeking solutions to problems when there is a failure to provide a high quality education that resources permit the school district to provide or for violation of any other legal duty. Both the schools and the citizenry of the community are better served when a sincere effort is made to find constructive solutions to problems that arise. It is the intent of this process to provide a simple, straightforward, and easily understood method for resolving problems at the lowest possible administrative level, as fairly and as quickly as possible. The procedures set forth herein are not deemed to be a pre-condition to seeking relief in some other forum.

1.2. Authority. - W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5.

1.3. Filing Date. - July 11, 2014

1.4. Effective Date. - August 11, 2014

1.5. Repeal of Former Rule. - This procedural rule repeals and replaces W. Va. 126CSR188 West Virginia Board of Education Policy 7211, Appeals Procedure for Citizens, filed September 8, 1987, and effective October 9, 1987.

§126-188-2. Definitions.

2.1. Days. - Days shall mean the days the business office of the county board of education is open. Such offices are generally closed on Saturdays, Sundays, and official holidays. Claims appropriately brought to the school principal at Level 1 must be made at least ten days before the end of the school year. If this deadline cannot be met, a claim may be brought at the beginning of next school year.

2.2. Dispute Resolution Process. - The dispute resolution process is the method by which one or more citizens presents a claim of a violation of state law or the policies, rules and regulations of the West Virginia Board of Education ("WVBE"). The written claim must identify the specific state law or WVBE policy, rule or regulation which is alleged to be violated, and shall include as much information as possible to describe the violation. Copies of the policies, rules and regulations of the WVBE are to be available for public review at each county board of education office or at a link to <http://wvde.state.wv.us/policies/> on the county board of education website.

2.2.a. The dispute resolution process shall not apply to any situation where the school district is without authority to act, or where a remedy is specifically established by law, such as for the placement of exceptional children. Neither shall the term apply when a citizen has a personal complaint about a school employee. Each county board of education shall establish its own specific procedures to handle complaints about school employees and for other citizen complaints not governed by this policy.

2.3. State Law. - State law shall mean the constitution, statutes, judicial law, and administrative law of the State of West Virginia.

§126-188-3. Procedure.

3.1. Distribution of Conflict Resolution Process. - Copies of this policy will be readily accessible to citizens at the office of the State Superintendent of Schools (“State Superintendent”), the West Virginia Department of Education website, the office of each county board of education, the website for each county board of education and at each public school.

3.1.a. Each county shall notify parents annually of this policy and its contents. Notification may be accomplished by use of a student handbook, inclusion on the county website or other reasonable means.

3.2. Claim Forms. - The State Superintendent shall prepare and make available appropriate forms for each claim level. Such forms shall be available on the West Virginia Department of Education website, at the office of the State Superintendent, at the office of each county board of education, and at each public school.

3.3. Filing of Claims. - The citizen claimant making the written claim shall provide as much information as possible when the claim is filed; however, additional supportive information may be presented at any level.

3.4. Time Limits. - Since it is important that a claim be processed as rapidly as possible, the number of days indicated at each level should be considered the maximum. A time limit may, however, be extended by mutual agreement or by the unavailability of the citizen claimant.

3.5. Privacy of Conferences and Hearings. - All conferences and hearings held during the conflict resolution process shall be conducted in private.

3.6. Representation. - The citizen claimant may have the assistance of a representative at any level.

3.7. Written Decisions. - All decisions rendered shall be in writing, setting forth the decision and the reasons therefor. The decision shall be transmitted promptly to all parties.

§126-188-4. Processing of Claims.

4.1. Level 1. - A written claim shall be filed with the principal by the citizen or by a group of citizens. The claim shall be on the prescribed form and be signed by all persons making the claim. The principal or his/her designee (“Level 1 administrator”) shall meet with the citizen claimant for an informal conference within ten (10) days of receipt of the claim. A written decision by the Level 1 administrator shall be made within fifteen (15) days after the informal conference. A copy of the Level 2 claim form shall be included with the decision.

4.2. Level 2. - Within fifteen (15) days after receiving the decision of the Level 1 administrator, an aggrieved citizen claimant may request in writing a conference or a hearing with the county superintendent on the prescribed form. The county superintendent or his/her designee (“Level 2 administrator”) shall, within fifteen (15) days, conduct a conference or a hearing with the citizen claimant in an attempt to resolve the claim. In the event that the citizen claimant requests a hearing, he/she may present witnesses to testify under oath, and the Level 2 administrator may also take testimony from staff members deemed necessary to render a decision. Hearings shall be recorded. The Level 2 administrator shall issue a written decision within fifteen (15) days following a conference and twenty-five (25) days following a hearing. A copy of the Level 3 claim form shall be included with the decision.

4.3. Level 3. - If the citizen claimant is not satisfied with the decision of the Level 2 administrator, he or she may request in writing on the prescribed form a review by the State Superintendent within thirty (30) days of receipt of the decision. A copy of the Level 1 and 2 decisions and any supporting documents shall accompany the request for a review. In the event a Level 2 hearing was conducted, the Level 2 administrator shall forward a transcript of the hearing to the State Superintendent.

4.3.a. The State Superintendent or designee ("Level 3 administrator") shall conduct a review of the claim, which will, at a minimum, consist of reviewing the record from Levels 1 and 2. He/she may also conduct an additional inquiry if necessary for resolution of the claim by contacting the citizen claimant, the county superintendent or any other individual who may be of assistance and by requesting additional documents from any source.

4.3.b. Upon completion of the review, the Level 3 administrator shall render a written decision within thirty (30) days. The decision shall set out any information that the Level 3 administrator obtained during his/her additional inquiry and relied upon in making the decision. The decision by the Level 3 administrator shall be final.

§126-188-5. Severability.

5.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.