

*Repealed*

TITLE 126  
PROCEDURAL RULE  
BOARD OF EDUCATION

SERIES 5  
PROCEEDINGS TO ENFORCE SCHOOL LAWS,  
INCLUDING REMOVAL OF SCHOOL OFFICIALS (1341)

**126-5-1. General.**

1.1. Scope. -- This procedural rule establishes a formal method by which the State Superintendent of Schools may cause the investigation of public school officials in the performance of their duties and obligations and, where necessary, institute proceedings for removal of school officials.

1.2. Authority. -- W. Va. Code §18-2-5

1.3. Filing Date. -- December 27, 1982

1.4. Effective Date. -- December 27, 1982

**§126-5-2. Preamble.**

Recognizing the constitutional status of the State Superintendent as Chief School Officer of the State and further recognizing the considerable responsibility placed upon his office by West Virginia Code §18-3-4 to see that the schools of the State are conducted in a thorough and efficient manner of good quality, the West Virginia Board of Education adopts the policy herein as guidance for the State Superintendent of Schools in the exercise of this authority and as notice to school officials of their rights and obligations in carrying out their public trust.

**§126-5-3. Exercise of Powers and Duties.**

The State Superintendent of Schools shall exercise fair and impartial judgment in the execution of the powers and duties granted to him by Section 4, Article 3, of Chapter 18 of the Code of West Virginia, 1931, (§18-3-4) and related statutes and state educational policies. Enforcement proceedings--including proceedings for the removal of school officials under the aforementioned statute--shall be conducted, initially, in a manner of mediation and conciliation; however, where such processes provide no appropriate remedy, the State Superintendent shall conduct

the following proceedings and enlist the aid of judicial authorities if that should become necessary.

**126-5-4. Notice of Hearings.**

Due notice of the time and place of any hearing held in pursuance of these proceedings, and of the causes upon which the proceedings are being conducted, shall be given to the defending party or parties. The causes (charges/reasons) shall be stated with specificity. Hearings shall be conducted impartially.

**§126-5-5. Preliminary Proceedings.**

5.1. If the State Superintendent of Schools should believe that there is sufficient reason to institute proceedings under West Virginia Code §18-3-4 for the removal of a school official, he shall notify the official by certified mail, return receipt requested, of the causes (charges/reasons);

5.2. Thereupon, the State Superintendent shall appoint a fact-finding panel, of not less than three (3) persons, to investigate the matters at issue, and he shall set a date for the panel to present its findings to his office;

5.3. Upon receipt of the fact-finding panel's report, if in the judgment of the State Superintendent shall cause an inquiry to be conducted in which the defending school official and his representative(s) will have the opportunity of hearing the report of the fact-finding panel and of rebutting it by evidence, argument, and questioning of the panel;

5.4. The State Superintendent shall give the defending school official at least twenty (20) days advance notice of the date of the inquiry and also at least twenty (20) days' advance notice of the specific findings of the fact-finding panel;

5.5. Upon completion of the inquiry, the State Su-

perintendent shall make a tentative decision about whether to proceed further for the removal of the school official. He shall present his decision, together with his reasons therefor, to the West Virginia Board of Education within sixty ~~(60)~~ 60 days of the final day of the inquiry;

5.6. The West Virginia Board of Education shall review the report of the State Superintendent's inquiry within a reasonable period of time, returning it to the State Superintendent with its suggestions;

5.7. The State Superintendent of Schools shall review the suggestions of the West Virginia Board of Education and then decide whether to proceed further

with the proceedings for removal;

5.8. If the State Superintendent decides to proceed further, he shall request representation of the Attorney General in accordance with the provisions of West Virginia Code §5-3-2, and petition the proper circuit court, in pursuance of the provisions of West Virginia Code §18-3-4 and §6-6-7 for removal of the school official. He shall immediately notify the members of the West Virginia Board of Education if his decision is to institute judicial proceedings. Whatever the State Superintendent's final decision is shall be reported to the West Virginia Board of Education at its next meeting immediately following his decision.--2/8/80