

R 1-14-4 Appeals Procedures for Citizens

In the event that a member of the public believes the Board or one of its agents has violated a state law or state or county board policies, a formal grievance procedure is provided through *State Board Policy 7211 - Appeals Procedure for Citizens*.

Definitions

- ❖ **Appeal.** An "appeal" is a claim by one or more citizens of a violation of State law or the policies of the State or County Board of Education. The written appeal will identify the specific State law or Policy which is claimed to be violated, and shall include as much information as possible to describe the alleged violation. The term "appeal" shall not apply to any situation where the Board is without authority to act or where the method of appeal is specifically established by law. Additionally, the term "appeal" shall not apply when a citizen has a personal complaint about a school employee. In those cases, *R 1-14-2 Complaints Regarding Employees* shall be followed.
- ❖ **Days.** Days shall mean the days the business office is open. Concerns related to a single school should be brought to the attention of the school principal during the school term.
- ❖ **State law.** State law shall mean the constitutional principles, statutory provisions, judicial law, and administrative law of the State of West Virginia.
- ❖ **Days.** Days shall mean the days the business office is open. Concerns related to a single school should be brought to the attention of the school principal during the school term.
- ❖ **State law.** State law shall mean the constitutional principles, statutory provisions, judicial law, and administrative law of the State of West Virginia.

Procedures

- ❖ **Distribution of Appeals procedure.** Copies of the appeals procedure shall be accessible to citizens at the Office of the State Superintendent of Schools, the Office of the Preston County Board of Education, and each public school.
- ❖ **Appeal form.** Forms shall be available at the Office of the State Superintendent of Schools, the Office of the Preston County Board of Education, and each public school.
- ❖ **Filing of appeals.** The citizen making the written appeal shall provide as much information as possible at the time the appeal is filed; however, additional information may be presented at any level. Once an appeal has been filed, the claim itself may not be altered greatly in content or wording. If such changes are necessary, a new appeal should be filed.
- ❖ **Time limits.** The number of days indicated at each level shall be considered the maximum. A time limit may be extended by mutual agreement.
- ❖ **Meeting, public/private.** All meetings and hearings shall be conducted in private except that hearings before the Preston County Board of Education or the State Superintendent of Schools may be open at the request of either party. The hearing may be closed if the hearing officer feels that either party is discussing matters of a personal nature.
- ❖ **Representation.** The citizen filing the appeal may have the assistance of as many as three representatives at conferences and meetings held at Levels I and II. Not more than three persons may represent the administration at Levels I and II. At Levels III and IV, any number of representatives may be present. If either party is to be represented by legal counsel,

sufficient advance notice must be given the other party.

- ❖ **Written decisions.** All decisions rendered shall be in writing, setting forth the decision and the reasons therefore. The decision shall be transmitted promptly to all parties.

Processing of appeals

Citizens will first informally discuss their concerns with the proper administrator prior to filing a formal appeal under this procedure. If the matter cannot be resolved informally, the administrator shall provide the citizen with the proper appeal form.

Level I

A formal written appeal may be filed with the principal or school administrator by the citizen or by a group of citizens in behalf of themselves and all others so affected. The appeal shall be on the prescribed form and will be signed by all persons filing this appeal.

Should the administrator be without authority to act on the appeal, it may be filed directly with the Superintendent of Schools. If, however, the Superintendent feels that the appeal can be resolved at Level I, it will immediately be referred to the proper administrator.

A written decision by the Level I administrator shall be made within ten days after receipt of the appeal. Should either party request a conference at this level, the Level I administrator will have five additional days to provide the written decision. When the decision is not in favor of the citizens, a copy of the Level II appeal form shall be included with the decision.

Level II

Within 15 days after receiving the decision of the Level I administrator the aggrieved citizens may appeal the decision in writing on the prescribed form to the Superintendent of Schools. Within ten days there shall be a conference with the citizens in an attempt to resolve the appeal. The Superintendent or his/her designee shall issue a written decision within 10 days following this conference. When the decision is not in favor of the citizens, a copy of the Level III appeal form shall be included with the decision.

Level III

Within 15 days after receiving the decision of the Superintendent, the aggrieved citizens may appeal the decision in writing on the prescribed form to the Board. The appeal shall be transmitted to the Superintendent who shall, within three days, provide a copy to each member of the Board. Copies of all prior decisions and all other written materials related to the grievance also will be provided.

For an appeals hearing held before the Board, the usual and customary procedures for administrative hearings will prevail, including proper notice of the hearing, the opportunity to be represented by counsel, the opportunity to present evidence and testimony, the opportunity to call witnesses, and the opportunity to cross-examine adverse witnesses. Either party may provide a court recorder.

When a hearing is held the decision of the Board will be made by a majority vote of those members participating in the hearing and shall rest solely upon the evidence properly presented at the

hearing.

The Board shall render a decision within 25 days following receipt of the Level III appeal. The Board may affirm, modify, or reverse the Level II decision and require such remedial actions, as it deems necessary. When the decision is not in favor of the citizens, a copy of the Level IV appeal form shall be included with the decision.

Level IV

If the aggrieved citizens are not satisfied with the decision of the Board, the decision may be appealed to the State Superintendent of Schools. The appeal shall be submitted to within 30 days of receiving the decision of the Preston County Board of Education.

NOTE: An appeal cannot be heard at Level IV if a specific violation of state law or policy, rule or regulation of the State Board of Education has not been identified at Level I. Alleged violations of county policies will not be heard.

At the request of party, the State Superintendent or a designated hearing officer appointed by the State Superintendent shall conduct a hearing if the appeal contains a hearable issue for which relief may be granted.

Both the citizens and representatives of the Preston County Board of Education shall be permitted to appear before the State Superintendent of Schools. The hearing shall be conducted in accord with the rules governing administrative hearings and shall be held at a place designated by the State Superintendent of Schools. Upon agreement of the parties, the State Superintendent, or his/her designated Department of Education employees may visit Preston County to secure additional facts and information.

The decision of the State Superintendent of Schools shall be issued within 30 days of receipt of the appeal by the impartial review officer. The decision shall be final unless altered or set aside by a court of competent jurisdiction. The decision of the State Superintendent may be appealed to the appropriate court of review.

(SBP 7211)