

**TITLE 186
PROCEDURAL RULE
GOVERNOR'S COMMITTEE
FOR THE PURCHASE OF COMMODITIES AND SERVICES
FROM THE HANDICAPPED**

**SERIES 2
VIOLATIONS AND GRIEVANCES**

186-2-1. 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. -- W. Va. Code '5A-3A-4.

1.3. Filing Date. -- September 18, 1990.

1.4. Effective Date. -- October 19, 1990.

186-2-2. 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:

2.1.1. 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.

2.1.2. 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.

2.1.2.a. 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.

2.1.2.b. 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.

2.3.1. 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.

2.3.2. 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.

186-2-3. Grievances.

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

3.1.1. 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.

3.1.2. 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.

3.2.1. 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.

3.2.2. 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.

186-2-4. Hearings.

4.1. Generally.

4.1.1. 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.

4.1.2. 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.

4.1.3. 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.