# WEST VIRGINIA CODE: §48-26-408

**§48-26-408. Hearing procedures; judicial review.**

(a) When a license for a program is downgraded or discontinued through permanent or temporary closure, the program's governing body is entitled to a hearing before the board.

(b) Hearings shall be held in accordance with the provisions of article five, chapter twenty-nine-a of this code.

(c) The board may conduct the hearing or elect to have a hearing examiner or an administrative law judge conduct the hearing. If the hearing is conducted by a hearing examiner or an administrative law judge:

(1) The hearing examiner or administrative law judge shall be licensed to practice law in this state and shall conform to the Code of Conduct for Administrative Law Judges as set forth by the Ethics Commission in legislative rule;

(2) At the conclusion of a hearing, the hearing examiner or administrative law judge shall prepare a proposed written order containing recommended findings of fact and conclusions of law and may include recommended sanctions, including closure, if the board so directs;

(3) The board may accept, reject, modify or amend the recommendations of the hearing examiner or administrative law judge; and

(4) If the board rejects, modifies or amends the recommendations, the board shall state in the order a reasoned, articulate justification based on the record for the rejection, modification or amendment.

(d) Pursuant to the provisions of section one, article five, chapter twenty-nine-a of this code, informal disposition may also be made by the board by stipulation, agreed settlement, consent order or default. Further, the board may suspend its decision and place a license on conditional or provisional status.

(e) A licensee adversely affected by a decision of the board entered after a hearing may seek an appeal to the Circuit Court, in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code, and may appeal a decision of the Circuit Court to the West Virginia Supreme Court of Appeals, in accordance with the provisions of article six, chapter twenty-nine-a of this code.

WV Legislature