

## **701 KAR 5:055. Removal hearing procedures.**

RELATES TO: KRS 156.132

STATUTORY AUTHORITY: KRS 156.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.132 authorizes the Kentucky Board of Education to remove local board of education members, superintendents, and public school officers upon a finding of misconduct or certain other offenses. This administrative regulation establishes procedures to be followed prior to and during the evidentiary hearing regarding the charges brought for removal.

Section 1. Definition. "Officer being charged" or "officer charged" means a district board member, superintendent of schools, or other public school officer who is charged with an offense under KRS 156.132.

Section 2. Preliminary Matters. Before the matter is submitted for final decision, the statement of charges may be amended or supplemented. If the amended or supplemented statement of charges presents new charges, the officer being charged shall be afforded a reasonable opportunity, and not less than twenty (20) days, to prepare his defense.

Section 3. Prehearing Procedures.

- (1) The testimony of a material witness may be taken by deposition if:
  - (a) The witness will be unavailable at the time and date of the scheduled hearing or the witness cannot be compelled to attend; and
  - (b) Written authorization of the hearing officer is provided or there is agreement of the parties.
- (2) If there is no agreement between the parties, the party requesting the deposition shall file a written request with the hearing officer stating:
  - (a) The name and address of the witness whose testimony is desired;
  - (b) The nature and materiality of the testimony; and
  - (c) The reasons why the witness will be unable or cannot be compelled to attend the hearing.
- (3) Upon a proper showing, the hearing officer may issue an interim order requiring the witness to appear and to testify by deposition.
- (4) The request for deposition shall be filed as soon as it becomes known that a witness will be unavailable at the time and date of the scheduled hearing. An objection shall be filed no more than three (3) days after the filing of the written request.
- (5) The cost of the deposition shall be paid by the party requesting the deposition.

Section 4. Hearing Procedures.

- (1) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B.
  - (2) At the request of a party or on his own volition, the hearing officer may reschedule a hearing if there is good cause or the parties agree to reschedule the hearing.
  - (3) The party seeking the continuance shall file with the hearing officer a written request stating the reason for the request or a statement indicating the agreement of the parties. If the request to reschedule is made by a party, the requesting party shall file the request at least ten (10) days prior to the scheduled hearing. An objection to the request shall be filed within three (3) days after the filing of the request.
- (21 Ky.R. 3377; eff. 8-4-1994; 23 Ky.R. 1423; 2465; eff. 12-5-1996; Crt eff. 11-16-2018.)