

TERMINATION OF EMPLOYMENT

DM
(REGULATION)

**Presentation
Procedures**

Level Two Hearing
Procedures

Level Two hearing procedures are as follows:

1. The hearing shall be conducted by a hearing officer appointed by the College District.
2. The hearing is to be tightly focused on the issues that are the subject of the grievance. Evidence and testimony that is not relevant to that issue shall not be permitted. Determination of whether evidence and testimony are relevant will be determined at the sole discretion of the hearing officer. That decision shall be based upon the hearing officer's determination of whether the proposed evidence or testimony will assist the panel in making a fair determination of the facts.
3. Character witnesses and witnesses seeking to testify as to the employee's behavior or performance (unless relevant to the grievance) shall not be permitted.
4. The hearing shall be completed in one day, even if that means the proceedings exceed eight hours in length.
5. Interrogatories, requests for disclosure and/or production, depositions and any other pre-hearing discovery shall not be permitted.
6. Except as hereinafter provided, the parties shall exchange witness lists and copies of all documents to be provided to the panel not less than ten business days prior to the hearing. Each party shall provide the hearing officer with a copy of all of the foregoing simultaneously.
7. The employee may appoint a third party to represent him or her in the hearing; provided, however, if the representative appointed is an attorney, the representative also shall be subject to the provisions set forth below.
8. Each party shall make opening and closing statements, each not to exceed ten minutes in length. The employee may, but is not required to, make a final rebuttal statement not to exceed five minutes in length after the College District's closing statement.
9. Other than attorney-client privilege principles, neither the Texas Rules of Evidence nor the Texas Rules of Civil Procedure shall apply to the hearing proceedings. The hearing officer alone shall determine questions of privilege and the relevance of testimony and evidence offered, if disputed by either party. The hearing officer will determine any questions of appropriate procedure or issues of decorum that arise during the

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hearing, and in all cases his or her determination shall be final.

10. The hearing officer does not have subpoena power, but the College District shall require current employees to appear at the hearing if approved by the hearing officer.
11. Each party may call up to five witnesses.
12. Each witness may be examined for up to 30 minutes and may be cross-examined for up to 30 minutes, including any re-direct or re-cross questioning. For example, if Party A's examination of a witness lasted 15 minutes, and Party B's cross-examination of that witness lasted 30 minutes, Party A may conduct re-direct questioning for up to 15 minutes, but Party B may not recross that witness.
13. If both parties call the same witness, the time limits on testimony shall not be extended.
14. Time for the elements of the hearing will be kept by a College District employee and will be strictly observed.
15. The parties shall bring ten hard copies of the documents previously exchanged to the hearing for distribution to the appeals committee and other participants.
16. Members of the appeals committee shall be permitted to ask questions of the parties, their counsel, the witnesses, and the hearing officer during the hearing.
17. Upon completion of the hearing proceedings, the appeals committee shall confer privately.
18. Thereafter, the appeals committee shall render a written decision, either affirming the Level 1 appeal decision or returning the appeal to the Chancellor for further consideration.
19. An audio recording shall be made of the hearing. Upon written request and without charge, the employee will be provided a copy of the recording.

Level Three
Hearing Procedures

Level Three hearing procedures are as follows:

1. If the employee is dissatisfied with the decision of the appeals committee, on or before ten business days after the date of the Level Two hearing, the employee may appeal the decision to the Board.
2. The appeal shall be in writing and shall specify the grounds for appeal.

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3. The hearing will be held before a quorum of the Board at either an open or closed session, at the election of the employee.
4. The hearing shall be conducted by a hearing officer appointed by the College District.
5. Each party shall make a ten-minute statement to the Board.
6. Time for each party's statement will be kept by a College District employee, and the time limit will be strictly enforced.
7. The statement must be relevant to the issue of the employee's grievance. Determination of whether a statement is relevant will be determined at the sole discretion of the hearing officer.
8. Issues not raised at the Level Two hearing may not be raised at the Level Three hearing.
9. The employee may, but is not required to, make a final rebuttal statement not to exceed five minutes in length after the College District's statement.
10. Members of the Board may (but are not required to) ask questions of the employee, the employee's representative, or the College District's representative.
11. Not less than five business days prior to the hearing, parties shall exchange with each other any documentation they intend to submit for the Board's consideration during the hearing. Only documentation previously submitted at the Level Two hearing may be submitted.
12. The parties shall bring ten hard copies of the documents previously exchanged to the hearing for distribution to the Board and other participants.
13. After each party has made its statement, the Board may (but is not required to) respond or take any action it deems necessary.
14. Within five business days after the hearing, the Board shall render a written decision regarding any action taken or decision to take no action. A copy of this decision will be provided to the employee.
15. A video recording shall be made of the hearing if it is conducted in an open session. An audio recording shall be made

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of the hearing if it is conducted in a closed session. Upon request and without charge, the employee will be provided a copy of the recording.

Appeal Attorney
Representation

Pursuant to DM(LOCAL), an employee engaged in the appeal process may be represented by an attorney. An attorney representative may participate in any appeal hearing or conference on behalf of the employee, including, if applicable, as an advocate. However, the following limitations and requirements will apply to all attorney representatives:

1. If an employee elects to be represented by an attorney at any point in the DM (LOCAL) appeal process, it will be at the sole cost and expense of the employee.
2. Only an attorney designated in writing as a representative by the employee at least 15 business days prior to the hearing or conference may participate in the hearing or conference as an advocate.
3. Only one attorney representative may participate in any grievance proceeding as an advocate on behalf of the employee, and once that participation has commenced, only the designated attorney representative will be allowed to participate in that proceeding as an advocate.
4. If an attorney is designated as an employee's representative to advocate on behalf of the employee during a Level Two appeal hearing before the appeals committee, in addition to the submittal requirements referenced above, the attorney representative must submit the following to the Office of the General Counsel at least five business days before the hearing:
 - a. A detailed list of all topics and subtopics to be addressed by the attorney advocate, with each witness; and
 - b. A copy of the attorney advocate's written opening, closing, and rebuttal statements.¹
5. Notwithstanding the foregoing, the hearing officer shall not permit questions irrelevant to the proceedings or outside the scope of reasonably foreseeable questions based on the topics timely submitted.
6. If an attorney is designated as an employee's representative to advocate on behalf of the employee during a Level Three appeal hearing before the Board, the attorney representative must submit the following to the Office of the General Counsel at least five business days before the hearing:

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- a. A written copy of the advocate's statement to the Board;
and
 - b. Copies of all exhibits to be used by the advocate during
the hearing.²
7. Failure to comply with any of the above requirements may result in the attorney representative not being allowed to participate as an advocate in the scheduled hearing or the postponement of the hearing until the attorney representative has complied with the requirements, at the discretion of the hearing officer.

¹ If TCCD chooses to have an attorney advocate during the Level Two appeal hearing, the same requirements will apply to TCCD's counsel, which will provide the required documents to the employee's attorney advocate.

² If TCCD chooses to have an attorney advocate during the Level Three appeal hearing, the same requirements will apply to TCCD's counsel, which will provide the required documents to the employee's attorney advocate.