

## TRUMBULL COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

### Procedure

### Section 6.6

#### EMPLOYEE DUE PROCESS HEARING OUTLINE

1. My name is (state name and title). I have been designated by the Superintendent to serve as the hearing officer in this hearing. The hearing officer is a neutral party who is charged with sorting out the facts in this case.
2. Do you know everyone here?
3. Are you aware this is an employee due process hearing?
4. Did you receive written notification of the allegations at least 48 hours before this hearing?
5. Do you have a representative? For the record, please state his/her name.
6. Do you wish to call any witnesses? If yes, please identify them.
7. (Name and Title of Leadership representative) has investigated the allegation(s), and considered the evidence sufficient to request an employee due process hearing which may result in your suspension, reduction or termination.
8. Does Leadership have any witnesses? If yes, please identify them.
9. The neutral hearing officer will then read the opening statement as outlined below.

#### **The Procedure We Will Use Will Be:**

1. (Name and title of Leadership Representative) will present the allegation(s) and evidence for Leadership.
2. You may then explain why you believe the allegation(s) are unjust or if there are any unusual circumstances involved that I should be aware of.
3. Both sides will be permitted to ask questions of their witnesses and will be given the opportunity to question the opposing party's witnesses. Witnesses will be called one at a time and the testimony will be heard only if it has a direct bearing on the incident(s) being discussed. In addition, each witness will be required to sign a Statement of Truth form.
4. At the conclusion of the hearing, I will consider all of the evidence presented and submit my findings of fact based on the evidence presented to the Superintendent. This summary will be in writing and the Superintendent and the Union President will receive a copy of this summary within twenty (20) calendar days of the close of this hearing. If you want your own individual copy of my summary, you must contact your Union.
5. Within twenty (20) calendar days of receiving the hearing officer's report, the Superintendent will determine what discipline, if any, is warranted based upon the facts determined by the hearing officer. If discipline is warranted, i.e., a suspension,

reduction, or termination, you will be notified by a letter from the Superintendent, which will be sent to you prior to the effective date of the disciplinary action.

6. “ \_\_\_\_\_, (Leadership representative’s name & title) would you present the allegation(s) and evidence for Administration.”

**Remember to have each witness sign a Statement of Truth form.**

*(After each employer witness completes direct testimony, state the following.)*

7. Mr./Ms. \_\_\_\_\_ (Union Representative) do you have any questions for the witness?...Go ahead.

*(After each cross examination is completed state the following.)*

8. Mr./Ms. \_\_\_\_\_ (Leadership representative’s name), do you have any questions?...Go ahead.

*(After redirect, ask the Union Representative if he or she has any further questions. If not, go on to the next witness. The hearing officer may ask questions at any time. Realize the hearing officer’s question(s) may trigger further questions by either party.)*

9. Thank you for your testimony. Call your next witness please.

*(Same procedure until completion of Employer’s case.)*

10. Thank you for your presentation.

11. Mr./Ms. \_\_\_\_\_ (Union Representative) are you ready to proceed? (The parties may want to take a short break. If so, state the exact time on your watch and at what time you expect to reconvene.)

12. Mr./Ms. \_\_\_\_\_ (Union Representative) you may proceed with your case. Call your first witness.

*(The same procedure on cross examination and redirect is to be utilized for each Union witness.)*

At the conclusion of the Union’s case:

13. Thank you for your presentation.

14. Is there anything further by either party?

15. That concludes our hearing. I want to thank both parties for their cooperation today. It is \_\_\_\_\_ a.m./p.m. I will review my notes of this proceeding and have my report drafted within the 20 day time period.

Adopted: 6/25/2012

**Opening Statement for an Employee Due Process Hearing**

1. The purpose of an employee due process hearing is to identify facts specific to the incident.

2. Both parties will be afforded the opportunity to present their side of the issue without interruption from the opposing party.
3. Sworn affidavits are permissible if the opposing party has been provided a copy of the affidavit at least 24 hours prior to the hearing.
4. Children and adults with disabilities may testify but direct questioning is not permitted. Questions from either party must be directed to the hearing officer who can choose to question the person or designate someone to conduct the questioning who will maximize child/adult participation and comfort level. Video or audio testimony may be used. A union representative may be present during the tapings as an observer only.
5. A witness must have direct knowledge of the incident. Hearsay is inadmissible.
6. I have the ability to limit witnesses to those that have direct knowledge of the incident(s) that led to this hearing and that their testimony has a direct bearing on the incident being discussed.
7. I also have the ability to limit testimony of an individual witness if the witness has already testified to the fact or if another witness has already provided the testimony, or that the testimony is irrelevant.
8. I may question any witness, at any time, if I need additional information or if I need clarification of an issue or statement.
9. The hearing officer, the union representative, or the management representative may only question witnesses.
10. Extensions of this hearing are permissible, but usually only once and for just cause.
11. A hearing record can be held open or continued for additional information that is forthcoming.
12. There is no confidentiality regarding the information disclosed at the hearing except for medical information and information about children or adults with disabilities.