

STAFF DEVELOPMENT
Level II Hearings



PARTICIPANT GUIDE

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STAFF DEVELOPMENT

LEVEL II HEARINGS

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TJJD MISSION

Transforming young lives and creating safer communities.

CORE VALUES

JUSTICE	SAFETY	INTEGRITY	PARTNERSHIP	INNOVATION
We do the right thing, in all things, with all people.	We commit to a culture that protects youth, employees, and the public.	We build trust through transparency and ethical behavior.	We achieve best results through collaboration with counties, stakeholders, youth and their families.	We proactively create opportunities to improve the juvenile justice system.

TJJD VISION

An effective and integrated juvenile justice system that:

1. Advances public safety through rehabilitation.
2. Equitably affords youth access to services matching their needs to enhance opportunities for a satisfying and productive life.
3. Employs a stabilized and engaged workforce fully empowered to be agents of change.
4. Operates safe and therapeutic environments with positive peer cultures emphasizing mutual accountability.
5. Is a model system with innovative, data-driven, and successful programming.

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INTRODUCTION

This course provides participants with an understanding of the purpose, the process, and disposition options of Level II Hearings for youth.

PERFORMANCE OBJECTIVES

1. Understand the due process and procedures of Level II hearings.
2. Compare the roles of those involved in the hearing process.
3. Correctly apply Level II hearing procedures.

NOTES

SECTION I: DUE PROCESS

- Fairness
 - dependent upon the level of charge
- Notice
 - allegation against youth
 - evidence list
 - date and location of hearing
- Right to be heard
 - youth advocate may question evidence and witnesses against youth
 - youth advocate may present evidence and witnesses for youth
- Hearing manager
 - impartial individual
 - listen to arguments and evidence of TJJ and youth
 - make a final determination

DUE PROCESS

A set of procedures that must be completed within a certain timeframe to protect the constitutional rights of an individual.

Hearing Purpose

- Level I Hearing
 - parole revocation

- Level II Hearing
 - institutions
 - imposing major consequences
 - taking contraband money
 - admitting youth to Crisis Stabilization Unit (CSU)
 - extending youth time in CSU
 - transferring youth for non-disciplinary concerns
 - placing youth in Redirect Program (RDP)
 - placing youth in Phoenix
 - putting rule violations on youth disciplinary records

- Level III Hearing
 - institutions
 - admitting youth to Security
 - extending youth time in Security
 - halfway House (HWH) and Parole
 - addressing rule violations
 - assigning minor consequences

- Level IV Hearings
 - institutions
 - detaining youth pending criminal charges, court hearing, or trial
 - HWH
 - detaining youth pending Level I or Level II hearings
 - parole
 - detaining youth pending Level I Hearing

NOTES

SECTION II: FROM INCIDENT TO LEVEL II HEARING**Incident Occurs**

- CCF-225: Incident Report
 - major rule violation
 - minor rule violation resulting in Security referral
 - first page completed by staff member witnessing incident
 - second page completed by Security staff
- CCF-500: Continuation
 - completed by additional staff and youth witnesses or participants
- Minor consequences may be imposed
 - restriction of one privilege for 7 days
 - restriction of all privileges for 3 days
 - must converse with youth first
- MDT reviews incident
 - may modify consequences
 - may restrict one or more privileges up to 14 days

CCF-225

If staff runs out of space when completing the report summary on first page, the summary should be finished on CCF-500.

Referred to Security

- Security caseworker conducts Level III Hearing
- Security caseworker completes second page of CCF-225
- Level III Process
 - read CCF-225
 - read additional written statements
 - interview witnesses
 - allow youth to present evidence
 - make finding

LEVEL III HEARING FINDINGS

reasonable belief that a rule violation was committed and which one

Security admission criteria

Admission criteria

- there is reasonable belief the youth committed either:
 - a major rule violation
 - a minor rule violation requiring referral to security;
- the youth meets one of the following:
 - presents a serious and continuing escape risk;
 - presents a serious and immediate physical danger which can only be protected by admission;
 - presents imminent and substantial property damage;
 - requires confinement to control behavior that disrupts programming that can only resume if the youth is admitted to security;
 - interferes or is likely to interfere with a pending or ongoing investigation or hearing.

TIME IN SECURITY

A Level III Hearing will be held every 24 hours to extend youth time in Security.

No more than 4 extensions may be granted without division director or designee approval.

Extension criteria

- one of the following situations exists
 - one or more admission criteria is still present
 - documented evidence youth is not complying with Security program rules

Level II Hearing Purpose

Non-Disciplinary

- parole
 - to move youth from a home placement to a medium-restriction facility
- institution
 - move youth medium-restriction facility to high-restriction facility
 - admit youth to CSU
 - extend youth time in CSU

- Disciplinary
 - institution
 - major rule violation committed
 - minor rule violation committed with referral to Security
 - youth found with contraband money

Disposition Options

- One or more of the following may be imposed
 - major suspension of privileges
 - all privileges restricted for 30 days
 - loss of transition eligibility
 - 30 day postponement
 - stage demotion
 - reduced one or more stages
 - admission to Redirect Program
 - admission to Phoenix Program
 - placement of contraband money in Student Benefit Fund
 - institution-status youth, only
 - disciplinary transfer from HWH to Institution

Phoenix Program Eligible Violations

- Assault causing moderate/serious bodily injury to youth
- Assault causing substantial bodily injury to staff
- Fighting causing moderate/serious bodily injury to youth
- Chunking bodily fluids
- Any major rule violation with circumstances justifying placement
- 3 separate assault within 90 days
 - 2nd assault after 1st Level II with no extenuating circumstances (EC)
 - 3rd assault after 2nd Level II with no EC

Phoenix Admission Decisions

- Committee reviews each youth referred
 - dorm supervisor
 - mental health specialist
 - Phoenix case manager
 - other staff members as appropriate
- Approval recommended if
 - current mental health treatment isn't contradicted by program requirements
 - most appropriate intervention

Redirect Program Eligible Violations

- Assault
- Fighting
- Escape
- Attempted escape
- Vandalism, major rule violation only
- Sexual misconduct, excluding kissing
- Possessing or threatening others with weapon
- Possessing or threatening others with item as a weapon
- Chunking bodily fluids
- Tampering with safety equipment
- Phoenix referral
- Major rule violation circumstances justify placement

Redirect Admission Decisions

- Youth poses a continuing risk for the admitting behavior
- Less restricted interventions have been attempted, failed, and documented
- Youth mental status assessed and no therapeutic needs exist to contradict the program

Special Education Rules

- Special education designation youth
 - notices sent to all relevant parties
 - level II hearing follows same timeline requirements
 - manifestation determination review (MDR) completed follows timeline requirements
 - youth only placed in Redirect or Phoenix if determined appropriate by MDR
 - MDR is not required if
 - possession of weapon
 - infliction of serious bodily injury to another

NOTES

SECTION III: PRE-HEARING DECISIONS

Pre-Hearing Investigation

- Must begin within 24 hours of alleged violation
- Must complete within 24 hours of beginning investigation
- Must be conducted by non-witnessing staff member

CCF-225

- Marked violation(s) not binding
- Is evidence

Requesting Hearing

- Must request hearing within 24 hours of investigation completion
- Must request permission from Superintendent or designee

Request & Approval

- Depends on following questions
 - How serious was offense?
 - How strong is evidence?
 - Did youth have major/minor role in offense?
 - What is youth’s disciplinary and behavioral history?
 - Have lesser disciplinary options been attempted?
 - Is major consequence fair for severity and history?

NOTES

SECTION IV: LEVEL II HEARINGS

Hearing Timeline

- Held as soon as practical
- No more than 7 business days after allegation
- Timeline Exceptions
 - admitted to security due to possible interference with a hearing, hearing will be held within 5 work days
 - if released before 5th day, returns to regular timeline
 - delays
 - must be justified with written documentation

Youth Rights

- Right to remain silent
- Right to be assisted by advocate
- Right to question
- Right to present
- Right to appeal

Staff Roles

- Witness
- Staff representative
- Youth advocate
- Hearing manager

Staff Witness

- Must appear at designated time/place
- Must answer questions
- May testify by phone
- Must be “readily available” if working at hearing location
- If unavailable
 - hearing may be postponed or continued
 - hearing may proceed without witness
 - all reasons must be documented in hearing record

Staff Representative

- Presents evidence against youth
- Responsibilities
 - gather evidence
 - determines who testifies
 - provides notices
- Proof
 - preponderance of the evidence
 - more likely to have occurred than not
- All credible evidence, irrespective of form

Youth Advocate

- Who
 - TJJD employee
 - contract employee
 - trained advocate volunteer
- Youth may choose
- Youth primary language proficient; or interpreter used
- Understands youth rights
- Presents youth case
- May not plea “true” for youth
- Hearing preparation
- Questioning evidence
- Establishing possible defenses

Hearing Manager

- Who
 - impartial TJJD employee
 - not a witness or involved
 - does not supervise the youth
- Ensures required notice provided
- Provides hearing explanation
- Reviews allegation into hearing record
- Takes youth’s plea
- Reviews written evidence
- Administers oath
- Directs hearing
- Determines credibility of witnesses
- Exclusion for cause
- Ensures witness safety
- Protects youth testimony
- Grants continuances

Summary Statements

- Staff representative
- Youth advocate
- Provide summaries
- Addresses credibility/reliability
- Summarize level of proof

Decision Making

- Weighing evidence
 - hearing manager determines evidence weight
 - only credible evidence considered

Assessing Credibility

- Consider inconsistencies
- Witness demeanor
- Witness stories too consistent
- Plausibility
- Witness access to incident

Standard of Proof

- Preponderance of evidence

ALLEGATIONS

Hearing manager finds allegation
True or Not True before moving
on to disposition

NOTES

SECTION V: DISPOSITION

Extenuating Circumstances (EC)

- HM instructs youth to present EC
 - provide reasonable explanation for behavior
- HM determines if EC exist
- EC do not exist
 - requested disposition imposed
- EC exists
 - requested dispositions not imposed
 - finding remains on youth record for treatment consideration

Decision Final

- Subject to appeal
- Imposed, regardless of pending appeal

Hearing Manager’s Report

- CCF-170: Level II Hearing Report
 - copy immediately provided to youth
 - reviewed by superintendent or assistant superintendent

Hearing Record

- Recorded
 - becomes official record
 - preserved for 6 months following the hearing at the facility where the hearing was conducted

Appeal

- Youth informed of right to appeal
- Youth may request staff assistance to appeal
 - hearing record becomes available
 - hearing pack emailed to hearing appeals

NOTES

SECTION VI: RULES

Allegations

- All elements of rule violation
- Give specific notice

Elements

- Mental state
- Action
- Required result

Intentionally

- Acts with conscious objective or desire
 - to engage in conduct
 - to cause result

Knowingly

- Awareness of conduct and result

Recklessly

- Disregards awareness
- Substantial/unjustifiable risk

It is a Violation To

- Commit
- Attempt to commit
- Help someone commit

Attempt

- Engage in action
- Fail to commit intended rule violation

Help to Commit

- More than encouragement
 - Engage in action
 - Assists another in committing violation
 - Show major rule violation was committed AND assisted in committing the violation
- Examples
 - helping to plan
 - distracting staff

Violations

- Assault unauthorized physical contact
 - no resulting injury
- Assault bodily injury
 - result in bodily injury to another individual
- Fighting
 - no resulting bodily injury
 - result in bodily injury
- Assault Phoenix Program
 - assault of youth
 - moderate or serious bodily injury
 - assault of staff
 - substantial bodily injury
- Chunking bodily fluids
 - intent to harass, alarm, or annoy
 - result in a person to contact bodily fluids of another person

Bodily Injury
Physical pain, illness, or
impairment of physical condition

- Extortion or blackmail
 - demanding or receiving something of value
 - exchange for protection, avoidance, or not reporting

- Fleeing apprehension
 - running from
 - refusing to respond
 - result in disruption

- Major disruption of facility operations
 - result in substantial disruption of operations

- Attempted escape
 - act, but fail to escape

- Escape
 - leaving a facility without permission
 - failure to return to facility after approved leave

- Possession of Prohibited Items
 - intentionally possess prohibited items
 - cell phone
 - matches/lighters
 - jewelry
 - money
 - pornography
 - items to create tattoos or piercings
 - cleaning products

- Prohibited substances or paraphernalia
 - intentionally possess or use unauthorized substance
 - controlled substances/intoxicants
 - medications not prescribed to youth
 - paraphernalia to deliver or make prohibited substance

- Distribution of prohibited substance
 - intentionally distribute prohibited substance or item

- Misuse of medication
 - use medication inconsistently with instruction

- Refuse drug screen
 - refuse to provide sample
 - contaminate sample

- Refuse a search
 - failure to submit to an authorized search

- Possession of a weapon
 - intentionally possess a weapon
 - object intended as a weapon

- Threaten with a weapon
 - threaten another with a weapon

WEAPON
Object capable of inflicting bodily injury.

- Sexual misconduct contact
 - act causing contact
 - between penis and vagina or anus
 - between mouth and penis, vagina, or anus
 - acting causing penetration of anal or genitals
 - by finger, hand, or other object
 - if consensual, both youth may be charged

 - Sexual misconduct touching
 - touch or fondle
 - through clothing or direct contact with another's
 - genitalia
 - anus
 - groin
 - breast
 - inner thigh
 - buttocks
 - if consensual, both youth may be charged

 - Sexual misconduct kissing
 - kiss another for sexual stimulation

 - Sexual misconduct exposure
 - expose anus, buttocks, breasts, or genitals
 - intending to be observed by another

 - Sexual misconduct masturbating
 - intentionally masturbate in an open and obvious way
 - aggressive versus incidental behavior
-
-

- Stealing
 - taking property without permission
 - valued \$100.00 or more

- Tampering with safety equipment
 - tamper, damage, or block any safety device
 - safety equipment includes
 - locking device
 - item providing security access or clearance
 - fire alarm/suppression
 - video camera
 - radio
 - phone
 - handcuffs/shackles

- Tattooing or body piercing
 - new tattooing or piercing self or another
 - refer to body sheets of youth

- Vandalism
 - conduct causing damage to property of another or state
 - valued \$100 or more

- Violation of any law
 - violating a Texas or federal law not already defined as a major or minor rule violation

NOTES
