

DISTRICT EXECUTIVE COMMITTEE HEARING PROCESS

The following guidelines apply to a DEC hearing regarding an alleged violation of UIL Constitution and Contest Rules (C&CR). In case of any conflict, state law and League rules control over these guidelines. These are guidelines are general and not meant as a substitutes for legal advice on a specific issue.

Agenda and Open Meetings –

Prior to any meeting, a district executive committee should post an agenda that complies with the Texas Open Meetings Act (Chapter 551, Tex. Gov't. Code) (the Act). The notice must be posted at least 72 hours before the scheduled meeting. The agenda should be posted at the physical location of the meeting and, for each school in the district, posted in the same location where a school's board would post an agenda.

1. The agenda must contain the date, hour, place and subject of each meeting. While the amount of detail required in an agenda may vary depending on the facts, the subject of the posted notice (the agenda items) has to be sufficient to alert the public, in general terms, of the subjects that will be considered at the meeting. Broad terms such as "old business" or "litigation matters" by themselves are usually not sufficient. Generally speaking, the more important a matter is to the community, the more specific the posted notice must be. A template for DEC agendas is attached. See DEC Agenda template below The DEC Agenda template, however, is merely a tool and cannot account for the particular facts of each meeting and the exact language that should be used in a posted agenda.

The Hearing-

1. Complaints or protests to a district executive committee that make allegations that UIL rules have been violated by schools or persons within the committee's jurisdiction can be received from a school that is self-reporting, a participant school or an individual as set forth in Sections 53, 54 and 55 of the C&CR.

2. As a general rule, before proceeding with an investigation into an allegation or protest, it should be determined as a threshold matter whether the allegation or protest made actually raises a possible violation.

3. A member school district and its school shall respond to a request for records from a district executive committee with jurisdiction over the matter in question. Schools should make every reasonable attempt to cooperate with any district executive committee inquiry. A hearing should only be held in cases where an initial investigation raises facts that if true would be a violation of the Constitution and/or Contest Rules. 1 Section 551.051 of the Tex. Gov't. Code (the Act) states "A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administration office in the district." Section 551.056 of the Act requires school districts, among other entities, to post notice on their internet websites. DEC's are not school districts, however, because current Open Meeting Law does not specifically account for DEC meetings, tracking what school districts do and applying those requirements of the Open Meetings Act to the DEC meeting context suggest that this is the best approach until a more specific statute is enacted.

4. When conducting a hearing concerning allegations against schools, school employees or students that League rules have been violated, a district executive committee should:

- (a) Timely post a proper agenda 72 hours in advance that gives the public notice of the hearing;
- (b) Also, at least five-business days before the hearing, the DEC should provide notice of the hearing to the student, school employee or representative of a school alleged to be in violation of UIL rules. In cases in which students are alleged to be in violation notice should be sent to the student and his or her parent(s) at the current address that the school the student attends has on file. In cases where a school employee or the school itself is alleged to be in violation, the notice should be sent to school

personnel or a school representative at the current address of the school. See notice of hearing template, below.

The notice should include –

- 1) Time, date and location of the hearing and the DEC chair's contact information;
- 2) The alleged rule violation that will be considered;
- 3) A copy of any documents or other evidence that the DEC may consider at the hearing, including any relevant Prior Athletic Participation Forms (PAPF's);
- 4) A list of persons who, to the best of the DEC chair's knowledge, are expected to testify at the hearing.
- 5) Absent sufficient evidence to the contrary, notice to a student is deemed received if sent via US mail or by private carrier to the last address on file for the student's parent(s) at the school attended by the student in question. Notice may be sent by email to a school or school personnel using a school email address. Notice to a student and parent(s) may be sent by email if the school the student currently attends has a policy that provides for notices to be sent to students and/or parents by email in lieu of regular mail.

Notice of Hearing Template

(c) If the student or parent is unable to attend the hearing, notice must be provided to the DEC chair as soon the conflict is known. The DEC chair may reschedule the hearing for good cause shown. However, in eligibility cases where the student and parents are, after being given notice, unable to attend a hearing as originally scheduled, a student may not participate in varsity competition until a DEC hearing is held and a decision reached. Postponed hearings shall be reset as soon as practical.

(d) Minutes or a recording must be made of all DEC meetings. If minutes are taken, they must include the subject of any deliberation and indicate every action taken.

(e) Generally speaking, absent specific authorization under the Open Meetings Act, a DEC should not go into a "closed" or "executive" session when conducting a hearing or any other DEC business. Students and parents should be allowed to hear all deliberations and discussion by the DEC regarding their case. The simple fact that someone is uncomfortable with the topic being discussed is not grounds for going into closed session.

(f) All votes by the DEC must be taken and recorded in an open session. Each participant or member school in a district has one vote. Committee members may not vote or participate in the hearing, except as witnesses, in cases where their school (or a school representative) is involved by:

- 1) presenting a formal protest or evidence or argument of an informal protest;
- 2) making a report of a violation;
- 3) being charged with a violation;
- 4) being the school that the student in question is leaving or is moving to.

(g) Students and their parents, school employees and representatives of schools that are the subject of a DEC hearing must be allowed an opportunity to tell their side of the story by giving testimony, providing documents or other types of evidence and calling other witnesses who have knowledge of relevant facts.

(h) Parties appearing before a DEC may represent themselves or be represented by legal counsel if they desire. However, an attorney's role is limited to advising their client(s), opening and closing statements on behalf of clients, requesting that the committee pose certain questions to witnesses and summarizing his or her client's position.

(i) While formal rules of evidence and procedure do not apply, a DEC Chair may limit or expand the time of the hearing and otherwise manage the hearing, including limiting repetitive or irrelevant testimony and other extraneous evidence, for purposes of efficiency and fairness.

(j) A district executive committee shall take testimony from witnesses as provided for in these guidelines in a question and answer format between committee members and witnesses and review any documents or other tangible evidence presented to it. Each party shall have the opportunity to make opening statements and the party in question shall also be given the opportunity to make a closing statement. No witness shall be cross-examined by another party or person representing another party.

(k) The order of presentation of witnesses and documentary evidence in a hearing shall generally be as follows:

1) Student and parents or school employee or representative(s) of school alleged to be in violation of rules (party in question);

2) In student eligibility cases involving a change of schools, as determined by the Chair, the representatives of the "sending" school (the school the student left) followed by representative of the "receiving" school (the school the student now attends/wishes to represent.)

3) Any other persons with knowledge of relevant facts.

4) The panel Chair may change the order of appearance for purposes of efficiency and fairness.

(l) The process set out in these rules does not create a property interest or any other legal interest or rights that a person or organization does not have under law absent this process.

(m) Except as provided otherwise by law, failure by a DEC to follow a particular procedure as set out herein, does not automatically nullify the DEC's decision. However, unless the DEC has final jurisdiction on a matter, such errors may be raised as part of an appeal made to the State Executive Committee.

(n) After announcing its decision on a case that may be appealed to the State Executive Committee, a district executive committee chair shall inform the parties, student and parents or school employees or any involved schools, that the case maybe appealed to the State Executive Committee and provide the parties the physical and email address of the University Interscholastic League (UIL) Director of Compliance.