



LOCAL BOARD HEARINGS: WTFNG?

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Employee Grievances

Walker v. North East ISD

(No. 035-R10-1111) (2013)

The standard for determining whether documents should be allowed in at a Level II or III hearing that were not presented at the Level I hearing is whether the documents at issue are “material, relevant, or not unduly repetitious” and that “the party, for good cause, was unable to adduce at the local hearing.” Pursuant to 19 Tex. Admin. Code § 157.1073(f).

The Commissioner determined that she did not have good cause for failing to timely produce the medical records. She did, however, have good cause for not providing the doctor’s opinions concerning the surveillance video because she only learned of the video at the Level 1 grievance hearing.

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The employee also objected to the attorney and Superintendent attending the closed session deliberation of the grievance.

The Commissioner stated that an attorney may be in closed session to provide legal advice, but may not act as an advocate for either party to a grievance. There was no evidence to suggest the attorney attempted to sway the Board's decision in closed session.

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The employee also took issue with the fact that both the attorney for the Board and the attorney representing the administration were from the same law firm.

The Commissioner opined that having two attorneys from the same firm individually represent the administration and the school board does not by itself establish that a violation has occurred.

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First appeared as part of the conference materials for the
31st Annual School Law Conference session
"Board Hearings: What the FNG?"