

Policy GAE: Complaints and Grievances

Status: DRAFT

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SECTION 1. PURPOSE; INFORMAL RESOLUTION PREFERRED

It is the purpose of this policy to implement the provisions of O.C.G.A. 20-1-989.5 et seq. Certified personnel shall have the right to present and resolve complaints relating to certain matters affecting the employment relationship at the lowest organizational level possible. The Board of Education encourages all employees to resolve their complaints informally in a spirit of collegiality where possible. This policy and procedure is available where such efforts do not succeed ~~or, where for any other reason, the certificated employee desires to pursue this procedure.~~

SECTION 2. DEFINITIONS

- a. "Level One Administrator" means the principal of a school with respect to teachers and other certificated personnel assigned to that school. With respect to the certified Administrators supervised by the Superintendent, the "Level One Administrator" shall be the Superintendent. In any case not covered by this paragraph, the "Level One Administrator" shall be the supervisory certificated person designated by the Board or in the absence thereof, by the Superintendent.
- b. "Central Office Administrator" means the local school system Superintendent.
- c. "Complaint" means any claim or grievance by a certificated employee of this school district which is filed pursuant to this policy and which comes within the scope of this policy.
- d. ~~"Notification" means delivery in person to the party entitled to notification, sent by certified mail, return receipt requested or statutory overnight delivery, to the last known address of the party notified.~~

SECTION 3: SCOPE OF COMPLAINT; EXCLUSIONS

- a. Scope. Unless excluded by paragraph (b) hereof, this complaint and grievance procedure is applicable to any claim by any professional employee certificated by the Professional Standards Commission who is affected in his or her employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of this school district with which the district is required to comply.
- b. Exclusions. The procedure shall not apply to:
 - 1. Performance rating contained in personnel evaluation ~~and professional development plans~~ pursuant to Code Section 20-2-210; ~~however, such exclusion shall not apply to procedural deficiencies on the part of the school or system in conducting the evaluation;~~
 - 2. ~~Professional development plans;~~
 - 3. Job performance;
 - 4. Termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940;
 - 5. The revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5.
- c. A certified employee who chooses to appeal under Code Section 20-2-1160, shall be barred from pursuing the same complaint under this policy.

SECTION 4: HEARING RIGHTS; EVIDENCE; REPRESENTATION; DECISIONS; RECORDS

- a. Hearing Evidence. The complainant shall be entitled to an opportunity to be heard, to present relevant evidence, and to examine witnesses at each level, but the complainant may not present additional evidence at the Second or Third Hearing levels unless notice of the Complainant's intention and the evidence to be presented are submitted in writing five (5) days prior to the hearing to the Administrator who will preside at such level, and in the case of the local board, to the Superintendent. When hearing an appeal from a prior level, the Newton County Board of Education shall hear and decide all appeals de novo.

- b. Representation. The complainant and the administrator against whom the complaint is filed or whose decisions appealed shall be entitled to the presence of an individual, including an attorney to assist in the presentation of the complaint and the response thereto, at the central office administrator and at the local Board of Education level. The presence of any individual other than the Complainant and the Administrator at Level One is prohibited, except witnesses who present testimony or documents.
- c. Hearing Officer. The Newton County Board of Education may appoint a member of the State Bar to serve as law officer who shall rule on all issues of law and other objections, but such attorney shall not assist in the presentation of the case for either party.
- d. Overall Hearing Time Schedules. The overall time frame from the initiation of the complaint until rendition of the decision by the Newton County Board of Education and notification thereof to the complainant shall not exceed sixty (60) days.
- e. Automatic Referral To Next Level. Any complaint not processed by the administrator or the local unit of administration within the time frame required by this policy shall be forwarded to the next level for determination.
- f. Records. Accurate records of the proceedings at each level shall be kept; the proceedings shall be recorded by mechanical means; all evidence shall be preserved and made available to the parties at all times; and all costs and fees shall be borne by the party incurring them unless otherwise agreed upon by the parties; except that the cost of preparing and preserving the record of the proceedings shall be borne by the Newton County Board of Education; provided however, the cost of transcribing the transcript of evidence and proceedings before the Newton County Board of Education shall be borne by the party requesting same, and all costs of the record on appeal to the superior courts and appellate courts shall be paid by the party required to do so by the laws relating thereto.
- g. Decisions. Each decision shall be made in writing and dated, and shall contain findings of fact and reasons for the particular decision reached.
- h. Notice. The decision at each level shall be delivered to the complainant by a person designated by the Superintendent, either by (1) being hand delivered; (2) being deposited in the U.S. Mail (certified mail, return receipt requested); or, (3) being sent by statutory overnight delivery. Notice to the Complainant shall be deemed to have been made on the date of hand delivery or on the date of deposit in the U.S. Mail by certified mail, return receipt requested or on the date of delivery to a statutory overnight delivery service to the address stated in the complaint or, if not contained in the complaint, to the last known address of the Complainant on file with the Board of Education.

SECTION 5: FIRST LEVEL; PRESENTATION; TIME; CONTENTS

The complaint shall be presented in writing to the Level One Administrator within ten (10) calendar days after the most recent incident upon which the complaint is based. The complaint shall include the following:

- a. The mailing address of the Complainant to which all notices and other documents may be mailed.
- b. The intent of the Complainant to utilize this complaint procedure, clearly stated;
- c. A reference or description of the statute, policy, rule, contract provision or regulation that is alleged to have been violated, misinterpreted or misapplied;
- d. A brief statement of the facts reasonably calculated to show how such statute, policy, rule or regulation was violated or misapplied, and how it substantially affects the employment relationship of the Complainant; and
- e. A statement of the relief desired.

The Superintendent shall prepare forms for use in accordance with the foregoing requirements.

SECTION 6: FIRST LEVEL HEARING AND DECISION

The Level One Administrator shall record the date of filing on the complaint, and shall give notice to the Complainant of the time and place of the hearing, either by mail or hand delivery. When notice is given by mail, it shall be sent by

first class mail to the address set forth in the complaint. If no address was included in the complaint, then the notice shall be sent to the last known address of the Complainant on file with the Newton County Board of Education. The Level One Administrator shall conduct a hearing on the complaint and render a decision thereon within ten (10) days of the filing of the complaint. The decision shall be dated and a copy shall be sent to the complainant as provided in Section 4 above.

SECTION 7: SECOND LEVEL - APPEAL FROM FIRST LEVEL TO CENTRAL OFFICE ADMINISTRATOR

A Complainant dissatisfied with the decision of the first level shall be entitled to appeal to the Central Office Administrator by filing written notice of appeal with the Office of the Superintendent. The appeal must be filed within ten (10) calendar days after the Complainant is notified of the Level One decision. The Central Office Administrator shall record the date of the filing on the appeal and shall notify the Complainant in writing of the time and place of the hearing by mail or hand delivery. The Level Two Administrator shall obtain copies of all minutes, transcripts, documents and other records relating to the complaint and shall conduct a hearing and render decision within ten (10) calendar days of the date of the filing of the appeal, or the hearing may be conducted by any designated representative of the Level Two Administrator who shall promptly submit his or her recommendations and findings to the Level Two Administrator for final decision. The decision shall be rendered and served on the Complainant and attorney in accordance with Section 4(h).

SECTION 8: THIRD LEVEL; APPEAL TO THE BOARD OF EDUCATION

A Complainant of Level One Administrator dissatisfied with the decision of the Central Office Administrator may appeal to the Newton County Board of Education by filing written notice of appeal with the Office of Superintendent. The appeal must be filed within ten (10) calendar days after the date of the decision as provided in Section 4. The Superintendent shall record the date of filing on the appeal, and shall promptly give notice to the Complainant in writing of the time and place of hearing by mail or by hand delivery. The Complainant and the Administrators against whom the complaint is filed or whose decisions being appealed shall be entitled to appear before the Newton County Board of Education and be heard. The Board of Education may direct that a pre-hearing conference be held prior to the hearing to identify issues and facilitate presentation. The Board shall conduct a hearing and render its decision in writing within twenty (20) calendar days after the hearing, and perfect service thereof on the Complainant and his/her attorney, all in accordance with Section 4(h).

SECTION 9: APPEALS TO THE STATE BOARD

Appeals from the decision of the Newton County Board of Education to the State Board of Education shall be governed by the State Board Rules (BCAEA) governing appeals and O.C.G.A. 20-2-1160.

SECTION 10: REPRISALS PROHIBITED

No certificated personnel shall be subjected to reprisals as a result of filing any complaint under this policy. Any reprisals may be referred to the Professional Standards Commission.

SECTION 11: COLLECTIVE BARGAINING

Nothing in this policy shall be construed to permit or foster collective bargaining.

SECTION 12: REPEALS

All policies and parts of policies in conflict with this policy are repealed.
