
Type: Policy
Descriptor Code: GAE
Title: **Complaints and Grievances**
Status: ADOPTED



1. **PURPOSE; INFORMAL RESOLUTION PREFERRED**

It is the purpose of this policy to implement the provisions of the Act of the General Assembly of 1992, O.C.G.A. § 20-2-989.5 et seq. In accordance with the foregoing, it is the policy of the Board of Education that 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.

2. **DEFINITIONS**

- a. "Administrator" means the principal of a school with respect to teachers and other certificated personnel assigned to that school. With respect to central office certificated personnel, the Superintendent shall be the "Administrator". In any case not covered by this paragraph, the "Administrator" should be some 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 system which is filed pursuant to this policy; which comes within the scope of the policy; and is not excluded here from as hereinafter provided.

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 State Board of Education 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 system or with which the system is required to comply.
- b. Exclusions. This procedure shall not apply to:
 - 1. Performance ratings contained in personnel evaluation and professional development plans pursuant to Code § 20-2-210;
 - 2. Job performance;

3. Termination, non-renewal, demotion, suspension, or reprimand of any employee, as set forth in Code § 20-2-940;
4. The revocation, suspension, or denial of certificates of any employee, as set forth in Code § 20-2-984.5;
5. Any complaint which has already been the subject of a hearing under the tribunal statute, O.C.G.A. § 20-2-1160, regardless of whether any appeal was taken to the State Board of Education or to the courts.

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 it is 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 local board of education shall hear all appeals de novo.
- b. Representation. The Complainant and the administrator 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 any lower level is prohibited.
- c. Hearing Officer. The local 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 participate in the presentation of the case for either party.
- d. Overall Hearing Time Schedules; Automatic Referral to Next Level. The overall time frame from the initiation of the complaint until rendition of the decision by the local board and notification thereof to the Complainant shall not exceed sixty (60) days. 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.
- e. 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 local board of education; provided however, 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.
- f. Decisions. Each decision shall be made in writing and dated, and shall contain findings of fact and reasons for the particular decision reached.

- g. Service. The decision at each level shall be sent to the Complainant by certified mail or statutory overnight delivery or hand delivered by a person designated by the Superintendent or his designee within five (5) days of the decision.

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 and;
- 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;
- e. A statement of the relief desired.

The Superintendent is authorized to have prepared forms for use hereunder in accordance with the foregoing requirements.

6. FIRST LEVEL HEARING AND DECISION

The Level One Administrator shall stamp 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 Board of Education. The decision shall be made on the complaint within six (6) calendar days of the hearing; shall be dated, and shall be rendered and a copy shall be sent to the Complainant in the manner provided in Section 4 hereof.

NOTE: For certified personnel such as principals and central office personnel, the Level One Administrator is the Superintendent. Where the initial hearing is before the Superintendent as the first level, any appeal would be taken directly to the Board of Education in the manner provided in Section 8 hereof.

7. SECOND LEVEL; APPEAL FROM FIRST LEVEL TO LEVEL TWO ADMINISTRATION

A Complainant dissatisfied with the decision of the first level shall be entitled to appeal to the Level Two 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 date of the decision from Level One. The Level Two Administrator shall stamp 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 a 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 his attorney in accordance with Section 4 hereof.

8. THIRD LEVEL, APPEAL TO THE BOARD OF EDUCATION

A Complainant or Level One Administrator dissatisfied with the decision of the Level Two Administrator may appeal to the Board of Education by filing written notices of appeal with the Office of the Superintendent. The appeal must be filed within ten (10) calendar days after the date of the decision. The Superintendent shall stamp 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 Administrators shall be entitled to appear before the Board of Education, or any hearing officer designated by it, 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 local board shall render its decision in writing within ten (10) calendar days after the hearing, and perfect service thereof on the Complainant and his attorney, all in accordance with Section 4 hereof.

9. APPEALS TO STATE BOARD

Appeals from the decision of the local Board to the State Board of Education shall be governed by the State Board policy governing appeals and O.C.G.A. § 20-2-1160.

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 Practices Commission.

11. COLLECTIVE BARGAINING DISCLAIMER

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

12. REPEALS

All policies and parts of policies in conflict herewith are hereby repealed.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Note: *The State of Georgia requires acceptance of Terms and Conditions before reviewing the code. To 'accept' click here: [State of Georgia Terms and Conditions](#) After accepting, return here and click on the links below to be taken to each specific code. You should only have to do this one time per session.*

State Reference	Description
O.C.G.A 20-02-0940	<u>Grounds/procedure for terminating or suspending contract of employment (Fair Dismissal Act)</u>
O.C.G.A 20-02-0989.5	<u>Complaints policy; legislative intent</u>
O.C.G.A 20-02-0989.6	<u>Complaints - Definitions</u>
O.C.G.A 20-02-0989.7	<u>Complaints - Performance Ratings/Evaluations</u>
O.C.G.A 20-02-0989.8	<u>Complaints - Policy</u>
O.C.G.A 20-02-0989.9	<u>Complaints - Supplemental rules and policies</u>
O.C.G.A 20-02-1160	<u>LBOE tribunal power to determine local school controversies; appeals; special ed provisions</u>
O.C.G.A 45-01-0004	<u>Complaints or information from public employees as to fraud, waste, and abuse in state programs and operations</u>
Rule 160-1-3-.04	<u>School Law Tribunals and Appeals</u>
Federal Reference	Description
18 USC 1513	<u>Retaliating against a witness, victim, or an informant</u>
42 USC 2000e-2	<u>Unlawful employment practices</u>