



Board Policy GAE(2): Complaints and Grievances, Certified Employees

Status: DRAFT

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RECOMMENDATION TO RESCIND THIS POLICY

Purpose

All certified employees shall have the right to present and resolve complaints relating to certain matters affecting the employment relationship at the lowest organizational level possible. The DeKalb County Board of Education encourages all employees to resolve complaints informally in a spirit of collegiality whenever possible. This policy is available when such efforts do not succeed or when, for any other reason, the employee desires to utilize this procedure.

Definitions

- a. "Board " shall mean the DeKalb County Board of Education.
- b. "Superintendent" means the Superintendent of the DeKalb County School District.
- c. "Administrator" means a supervisory individual, at each pertinent level, who has been implicitly or specifically named by the Superintendent to preside over and make decisions with respect to complaints. The Office of Internal Affairs is the Superintendent's official designee to manage the resolution of workplace disputes, including coordination of Level One, Level Two, and Level Three hearings.
 - i. The "Level One Administrator" shall be the immediate supervisor of the complaining party, unless the Superintendent determines that the nature of the Complaint or the lack of availability of the immediate supervisor requires that another administrator be named.
 - ii. The "Level Two Administrator" will be such member of the central office administrative staff whom the Superintendent or the Office of Internal Affairs shall designate to hear a particular complaint.
- d. "Complaint" means any claim by a certified employee of the Board who is affected in the employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of the Board with which the administration is required to comply. The following shall not be subject to complaint pursuant to the provision of this policy:
 - i. Personnel evaluation job performance ratings and professional development plans pursuant to O.C.G.A. § 20-2-210;
 - ii. The termination, nonrenewal, demotion, suspension, or reprimand of any employee pursuant to O.C.G.A. § 20-2-940, et seq;
 - iii. The revocation, suspension, or denial of certification of any employee pursuant to O.C.G.A. § 20-2-790, et seq;
 - iv. A matter that has already been presented directly to the Board pursuant to O.C.G.A. § 20-2-1160; and
 - v. A sexual harassment, or hostile work environment complaint that may be submitted pursuant to Board Policy GAEB.
- e. "Complainant" means any certified employee of the Board who files a Complaint pursuant to this policy.
- f. A document is "filed" when it is physically received in the Superintendent's office via U.S. Mail, e-mail, facsimile, or hand-delivery.
- g. "Notice" may be accomplished by certified mail, e-mail, facsimile, or hand delivery. If the written Complaint form does not include an address, notice to the Complainant is accomplished by certified mail to the

Complainant's last known physical address submitted to the Board. If the notice is sent by certified mail, it is deemed delivered upon its deposit in the United States mail; it must be adequately addressed and must contain adequate postage.

- h. "Notice of Summary Dismissal Letter" may be accomplished by certified mail or hand delivery. If the written Complaint form does not include an address, "notice" to the Complainant is accomplished by certified mail to the Complainant's last known address or e-mail address submitted to the Board. If the notice is sent by certified mail, it is deemed delivered upon its deposit in the United States mail; it must be adequately addressed and must contain adequate postage. A Complaint shall be subject to a "Notice of Summary Dismissal" Letter from the Office of Internal Affairs for the following reasons:
- i. Complainant's failure to submit a complete and/or timely Complaint to the Office of Internal Affairs within ten (10) days of the most recent incident upon which the Complaint is based pursuant to O.C.G.A. § 20-2-989.8;
 - ii. Complainant's failure to submit a complete and/or timely appeal to the Office of Internal Affairs within ten (10) days of the most recent Level One or Level Two hearing decision pursuant to O.C.G.A. § 20-2-989.8;
 - iii. Complaints regarding personnel evaluation performance ratings and professional development plans pursuant to O.C.G.A. § 20-2-210 and job performance;
 - iv. Complaints regarding the termination, non-renewal, demotion, suspension, or reprimand of any employee pursuant to O.C.G.A. § 20-2-940, et. seq.;
 - v. Complaints regarding the revocation, suspension, or denial of certification of any employee pursuant to O.C.G.A. § 20-2-790, et. seq.; and
 - vi. A matter that has already been presented directly to the Board pursuant to O.C.G.A. § 20-2-1160.

Form of Complaint

The Complaint must be in writing and shall include the following components:

- a. The mailing address and e-mail address of the Complainant to which notices and all other documents may be delivered;
- b. A statement of intent of the Complainant to utilize this Complaint procedure;
- c. A reference to or a description of the statute, policy, rule, regulation, or written agreement that is alleged to have been violated, misapplied, or misinterpreted;
- d. A brief statement of the facts on which the Complaint is based that explains how such statute, policy, rule, regulation, or written agreement was violated, misapplied, or misinterpreted, and how it affects the employment relationship of the Complainant; and
- e. A statement of the relief desired.

The Superintendent may develop standardized Complaint forms, the use of which may be required.

Overall Time Limit for Resolution of Complaint; Failure to Meet Time Limit

- a. The total time frame for the proceedings under this policy shall not exceed sixty (60) calendar days from the date the Complaint is filed to the date a copy of the Board's decision is delivered to the Complainant, unless time limits have been mutually waived by the parties through a written agreement.
- b. Any complaint not processed within the timetable required by this policy shall be forwarded to the next level designated in this policy.

- c. The time restraints contained in this policy may be extended by the mutual, written agreement of the Complainant and the administrator or the Board. The extension, by agreement, of any time limit herein shall automatically extend the overall sixty (60) day time limit by the same number of days.

Informal Resolution Conference

To expedite the resolution of Complaints at the lowest possible level, employees are encouraged, to first file a request for an Informal Resolution Conference ("IRC") with the Office of Internal Affairs, prior to requesting a Level One Hearing. Provided that the request for an IRC is filed with the Office of Internal Affairs within ten (10) calendar days from the occurrence of the most recent alleged incident on which the Complaint is based, an employee preserves all rights to a Level One through Level Three Hearing. The employee must file his Complaint within ten (10) calendar days of the conclusion of an IRC.

Level One Hearing

- a. The Complaint shall be filed in the Office of Internal Affairs within ten (10) calendar days from the occurrence of the most recent alleged incident or other matter on which the Complaint is filed, or within ten (10) calendar days of the conclusion of an IRC. The Office of Internal Affairs shall stamp the date of filing on the Complaint. If the Complaint is filed timely, a hearing shall be scheduled before an appropriate Level One Administrator who shall give written notice to the Complainant of the time and place of the hearing. Such notice shall be delivered to the Complainant at least three (3) calendar days prior to the date of the hearing.
- b. The Complainant shall be afforded an opportunity at the hearing to be heard, to present relevant evidence, and to examine witnesses. The Level One Administrator may consider evidence from any other source the administrator deems relevant. In all cases in which the Complainant is contending that another employee acted improperly, such employee shall always be a proper witness.
- c. The written decision of the Level One Administrator shall be made within ten (10) calendar days of the filing of the Complaint, shall be dated, and shall set forth findings of the fact, the decision made, and a brief statement of the reasons for that decision. A copy of the decision shall be delivered to the Complainant in the same manner provided for the giving of notice, within ten (10) calendar days of the filing of the Complaint.

Level Two Hearing-Appeal from Level One

- a. A Complainant dissatisfied with the decision of the Level One Administrator may appeal that decision to the Level Two Administrator. The appeal must be filed in the Office of Internal Affairs, in writing within ten (10) calendar days after the date the Level One Administrator's decision is delivered to the Complainant. The Appeal shall clearly set forth the questions and issues involved and the reasons why the Complainant is not satisfied with the Level One Administrator's decision. The Office of Internal Affairs shall stamp the date of the filing on the appeal. If the appeal is filed timely, a Level Two hearing shall be scheduled before an appropriate Level Two Administrator who shall give written notice to the Complainant of the time and place of the hearing. Such notice shall be delivered to the Complainant at least three (3) calendar days prior to the date of the hearing.
- b. The Level Two Administrator shall obtain the record of the proceedings and evidence introduced at the Level One hearing, as well as a copy of the Complaint, and shall conduct a hearing within ten (10) calendar days of the date of the filing of the appeal.
- c. The Complainant shall be afforded an opportunity to be heard. The Complainant cannot present evidence at the Level Two hearing which was not presented at the Level One hearing unless such additional evidence is submitted to the Level Two Administrator in writing at least five (5) calendar days prior to the date set for the Level Two hearing. If such additional evidence will involve the presentation of new witnesses, the Complainant must provide in writing the names of such witnesses and the matters about which they are expected to testify. Unless these conditions are met, the Complainant shall not be entitled to present the relevant new evidence. The Level Two Administrator may consider evidence from any other source deemed relevant. In all cases in which the Complainant is contending that another employee acted improperly, such employee shall always be a proper witness.
- d. The written decision of the Level Two Administrator shall be made within ten (10) calendar days of the date of

the filing of the appeal, shall be dated, and shall set forth findings of fact, the decision made, and a brief statement of the reasons for that decision. A copy of the decision shall be delivered to the Complainant in the same manner provided for the giving of notice, within ten (10) calendar days of the filing of the appeal.

Level Three Hearing – Appeal to the Board of Education

- a. A Complainant dissatisfied with the decision of the Level Two Administrator may appeal that decision to the Board. The appeal must be filed in the Office of Internal Affairs in writing within ten (10) calendar days after the date the Level Two Administrator's decision is delivered to the Complainant. The appeal shall clearly set forth the questions and issues involved and the reasons why the Complainant is not satisfied with the Level Two Administrator's decision.
- b. The Office of Internal Affairs shall stamp the date of filing on the appeal and transmit it to the Chair of the Board. If the appeal is filed timely, the Chair of the Board or, in the absence of the Chair, the Vice-Chair shall set a meeting time, date, and place for the Board to conduct a Level Three hearing. A majority of the Board must be present in order for hearing to proceed. If both the Chair and Vice-Chair are unable to attend the hearing, the Chair shall designate a Presiding Member to conduct the Level Three hearing. The Chair shall give the Complainant written notice of the time and place of the hearing. Such notice shall be delivered to the Complainant at least three (3) calendar days prior to the date of the hearing.
- c. The Level Three hearing shall be conducted by the Board within ten (10) calendar days of the date of the filing of the appeal. At the hearing, the Complainant must present the case de novo, but may not present any evidence which was not presented at the previous level hearing, unless such new evidence has first been submitted to the Presiding Member in writing at least five (5) calendar days prior to the date set for the Level Three hearing. If such additional evidence will involve the presentation of new witnesses, the Complainant must provide in writing the names of such witnesses and the matters about which they are expected to testify.

Unless these conditions are met, the Complainant shall not be entitled to present relevant, new evidence. The Board may consider evidence from any other source it deems relevant. Notwithstanding the above, in all cases in which the Complainant is contending that another employee acted improperly, such employee shall always be a proper witness.

- d. Within ten (10) calendar days of the date of the filing of the appeal, the Board shall deliver its written findings of fact, decision, and a brief statement of the reasons for that decision to the Superintendent.
- e. The written decision of the Board shall be made no later than sixty (60) calendar days after the filing of the initial Complaint, unless the time limits have been mutually extended by the parties through a written agreement, shall be dated, and shall set forth findings of fact. The Board shall also set forth the decision made and a brief statement of the reasons for the decision. A written copy of the decision of the Board shall be delivered to the Complainant in the same manner provided for the giving of notice, within sixty (60) calendar days after the filing of the initial Complaint, unless the time limit has been mutually extended by the parties through a written agreement.

Appeals to the State Board of Education.

A Complainant dissatisfied with the decision of the Board may appeal that decision to the State Board of Education. Such appeals shall be governed by the applicable State Board policy and O.C.G.A. § 20-2-1160.

Record

- a. The proceedings at Levels One through Three shall be accurately recorded by mechanical means, and all evidence introduced at each level shall be preserved. The record of the proceedings and the evidence introduced shall be made available at all times to the complainant and the administrators.
- b. The recording of the Level One hearing may not be done by a third party.

Time Limits

The administrator and the Presiding Member shall have the authority to maintain order at any hearings provided for

under this policy and to limit the time within which the Complainant or any other party presenting evidence or examining witnesses must be completed. Time limits may be imposed at the outset of the hearing or at any time during the hearing.

Representation and Collective Bargaining

- a. At Level One, the presence of any individual other than the Complainant, the Level One Administrator, and any witnesses that may be called to testify by either of them is specifically prohibited. The Complainant and the administration are entitled to the presence of an individual of their choice to assist them in the presentation of the Complaint and the administration's response thereto at Levels Two and Three.
- b. At the Level Three hearing, the panel of Board members may choose to have an attorney present to serve as law officer who shall rule on issues of law, but who shall not participate in the presentation of the case of either side.
- c. Nothing herein shall be interpreted as authorizing or permitting collective bargaining by or on behalf of any employee or group of employees.

Costs

Except for the cost of preparing and preserving the record of the proceedings conducted under this policy, which shall be borne by the Board, all costs and fees shall be borne by the party incurring them unless otherwise agreed upon by the parties involved.

Reprisals

A Complainant shall not be the subject of any reprisals or retaliation as a result of filing a Complaint under this policy. Should any such reprisal occur, the Complainant may refer the matter to the Professional Standards Commission.

Repealer

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