



Board Policy GAE(3): Complaints and Grievances, Non-certified Employees

Status: DRAFT

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RECOMMENDATION TO RESCIND THIS POLICY

1. Purpose

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

2. 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 meeting the following requirements at each pertinent level, such individual to be 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 the 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 Office of Internal Affairs 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 Office of Internal Affairs shall designate to hear a particular complaint.
- d. "Complaint" means any claim by a non-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. A matter that has already been presented directly to the Board pursuant to O.C.G.A. § 20-2-1160 (a) shall not be subject to complaint pursuant to the provisions of this policy. A sexual harassment or hostile work environment complaint, which shall be submitted according to Board Policy GAEB, shall not be subject to complaint pursuant to the provisions of this policy.
- e. "Complainant" means any non-certified employee of the Board who pursues a complaint pursuant to this policy.
- f. A document is "filed" when it is physically received in the Office of Internal Affairs via U.S. Mail, e-mail, facsimile, or hand delivery.
 - a. "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.
 - b. "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 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.

- g. A Complaint shall be subject to a Notice of Summary Dismissal Letter from the Office of Internal Affairs for the following reasons:
- h. Complainant's failure to submit a complete and/or timely Complaint to the Office of Internal Affairs within 10 days of the most recent incident upon which the Complaint is based;
 - a. Complainant's failure to submit a complete and/or timely appeal to the Office of Internal Affairs within 10 days of the most recent Level One or Level Two hearing decision; or
 - b. The matter has already been presented directly to the Board pursuant to O.C.G.A. § 20-2-1160.

3. Form of Complaint

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

- a. The mailing 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.

4. 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 forty-five (45) calendar days from the date the Complaint is filed to the date a copy of the Level Two Administrator's decision is delivered to the Complainant, unless time limits have been mutually waived by the parties.
- 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. The extension, by agreement, of any time limit herein shall automatically extend the overall forty-five (45) 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.

5. Level One Hearing

- a. The Complaint shall be filed in the Office of Internal Affairs within ten (10) calendar days after the occurrence of the most recent alleged incident or other matter on which the Complaint is filed. 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 fifteen (15) calendar days of the filing of the Complaint, 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 fifteen (15) calendar days of the filing of the Complaint.

6. 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 dissatisfied 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 two (2) 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 include 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 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.
- e. The decision of the Level Two Administrator shall be final.

7. Record

- a. The proceedings at Levels One and Two shall be recorded accurately 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.

8. Time Limits

The administrator 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.

9. Representation and Collective Bargaining

- a. At the Level One hearing, 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 at Level Two.
- b. Nothing herein shall be interpreted as authorizing or permitting collective bargaining by or on behalf of any employee or group of employees.

10. Available Remedies

The Administrator may take any remedial action which is supported by the facts of the case, Board policy, or state or federal law.

11. 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.

12. Reprisals

A Complainant shall not be the subject of any reprisal, or retaliation, as a result of filing a complaint under this policy.

13. Effective Date

This policy shall apply retroactively to all Complaints under existing Board of Education Policy GAE that have not been finally resolved at the time this Policy is adopted by the Board of Education.

14. Repealer

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