Regulation GAE-R(1): Complaints and Grievances **Status:** ADOPTED

Original Adopted Date: 08/18/2022 **| Last Reviewed Date:** 08/18/2022

A. PURPOSE

The purpose of this Regulation is to implement the provisions of O.C.G.A. § 20-2-989.5 et seq. In accordance with the foregoing, certificated personnel will be able to present and resolve complaints relating to certain matters affecting their employment at the lowest organizational level possible. The Board of Public Education for Bibb County ("Board") encourages all employees to resolve their complaints informally in a spirit of collegiality where possible. This Regulation is available where such efforts do not succeed or, where for any other reason, the certificated employee desires to pursue this procedure.

B. DEFINITIONS

1. "Level One Administrator" is defined as the principal of a school with respect to teachers and other certificated personnel assigned to that school. With respect to certified administrators supervised by the Superintendent, the "Level One Administrator" will be the Superintendent. In any case not covered by this paragraph, the "Level One Administrator" will be the supervisory certificated personnel designated by the Superintendent.

2. "Central Office Administrator" for the Bibb County School District ("District") means the Superintendent or the Superintendent's designee. The Central Office Administrator will conduct the Level Two Hearing if a certificated employee elects to appeal the Level One decision.

3. "Complaint" means any claim by a certified employee who is affected in their employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies rules, regulations, or written agreements of this District with which the District is required to comply. Certificated employees are encouraged to use the Complaint Form found at Exhibit GAE-E(1) when filing a complaint.

4. "District Representative" means an individual designated by the Superintendent to represent the interests of the District in any level of review called for under Policy GAE or this Regulation.

5. "Notification" or "notice" means delivery in person to the party entitled to notification, or deposit in the United States mail, certified mail, return receipt requested, to the last known address of the party notified. When notice is provided by mail, the District will use the last known address of the certificated employee on file with the District's Human Resources Department. Email may be used if the certificated employee provides an email address. Certificated employees that fail to provide timely notification as provided in this Regulation waive any rights provided under this Regulation.

6. "Board" means the Board of Public Education for Bibb County . The Board or designee as provided herein will hear any appeals taken to a Level Three Hearing.

7. "Calendar Day" is defined as all days in the month, including weekends and holidays. A "Work Day" is defined as a day, other than a Saturday, Sunday, or legal holiday, on which District offices are open for the transaction of business. The end of a work day is 5PM (EST) and as such, deadlines are based on the final work day at 5PM (EST).

C. SCOPE OF REGULATION

The complaint and grievance procedures provided in this Regulation are applicable to to any Complaint by a professional employee certificated by the Professional Standards Commission.

However, this procedure will not apply to:

1. Performance ratings contained in personnel evaluations pursuant to O.C.G.A. §20-2-210; however, such exclusion shall not apply to procedural deficiencies on the part of the District or the school in conducting an evaluation pursuant to O.C.G.A § 20-2-210;

2. Professional development plans;

3. Job performance;

4. Termination, non-renewal, demotion, suspension, or reprimand of any employee, as set forth in O.C.G.A. § 20-2-940;

5. The revocation, suspension, or denial of certificates of any employee, as set forth in O.C.G.A. § 20-2--984.5.

Matters involving allegations of discrimination or sexual harassment shall be addressed through Policy GAAA, Equal Employment Opportunity and its Regulation GAAA-R(1).

A certificated employee who chooses to exercise the right to appeal any matter of local controversy regarding the construction or administration of a school law pursuant to O.C.G.A. § 20-2-1160 will be barred from pursuing the same complaint under this Regulation.

D. HEARING RIGHTS; EVIDENCE; REPRESENTATION; DECISIONS; RECORDS

1. Hearing; Evidence. The complainant will be entitled to an opportunity to be heard, to present relevant evidence, and to examine witnesses at each level of review as provided herein, but the complainant may not present additional evidence at the Level Two or Level Three Hearings unless notice of the complainant's intention and the evidence to be presented are submitted in writing five (5) Calendar Days prior to the hearing to the administrator who will preside at such level, or in the case of the hearing before the Board, to the Superintendent. When hearing an appeal from a prior level, the Board will hear and decide all appeals de novo.

2. Hearing Officer. The Board may appoint a member of the State Bar to serve as a Hearing Officer for a Level Three hearing. The Hearing Officer will rule on all issues of law and other objections but will not assist in the presentation of the case for either party.

3. Overall Hearing Time Schedules. Unless otherwise impractical or agreed to by the complainant, the total time frame from the initiation of the complaint until rendition of the decision by the Board and notification thereof to the complainant will not exceed sixty (60) Calendar Days.

4. Automatic Referral To Next Level. Any complaint or appeal not processed by the Level One Administrator or the Central Office Administrator within the time frame required by this Regulation will be forwarded to the next level for determination.

5. Records. Accurate records of the proceedings at each level will be maintained; the proceedings will be recorded by electronic means; all evidence will be preserved and made available to the parties at all times; and all costs and fees will be borne by the party incurring them unless otherwise agreed upon by the parties. However, the cost of preparing and preserving the record of the proceedings will the responsibility of the Board. Any party requesting a transcript of a hearing or other evidence will be responsible for the cost of the transcript, including preparation of the transcript. All costs of the record

on appeal to the superior courts and appellate courts will be paid by the party required to do so by Georgia law.

6. Decisions. Each decision will be made in writing and dated, and will contain findings of fact and reasons for the particular decision reached.

7. Notice of Written Decision. The written decision at each level will be delivered to the complainant by a person designated by the Superintendent, either being (1) hand delivered (2) emailed if an email address is provided by the certificated employee or (3) deposited in the U.S. mail (certified mail, return receipt requested). Notice to the complainant will 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 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 District's Human Resources Department.

E. LEVEL ONE; PRESENTATION; TIME; CONTENTS

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

1. The mailing and email address of the complainant to which all notices and other documents may be mailed or emailed;

2. The intent of the complainant to utilize this complaint procedure, clearly stated;

3. The statute, policy, rule, contract provision or regulation that is alleged to have been violated, misinterpreted, or misapplied;

4. 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

5. A statement of the relief desired.

The failure to provide the required information may result in dismissal of the complaint by the Level One Administrator. The failure to provide documentary and testimonial evidence in support of the Complaint shall result in the Level One Administrator making a decision without the use of such evidence.

The Superintendent or their designee may prepare forms for use in accordance with the foregoing requirements; however, any form meeting the requirements hereof will be acceptable.

Level One Hearing and Decision. The Level One Administrator will record the date of filing on the Complaint and will give notice, as provided in Section B(4), to the complainant of the time and place of the hearing. The Level One Administrator may obtain a response or evidence from a District Representative. The Level One Administrator will conduct a hearing on the Complaint and render a decision thereon within ten (10) Work Days of the filing of the Complaint. The presence of any individual other than the complainant and the Level One Administrator at the Level One Hearing is specifically prohibited. The Level One Administrator may use the Complaint/Appeal Disposition Form found at Exhibit GAE-E(2) when issuing their decision. The Level One Hearing decision will be dated and contain findings of facts and reasons for the particular resolution reached. A copy will be sent to the complainant as provided in Section B(4) above within twenty (20) Calendar Days of the decision.

F. LEVEL TWO; APPEAL FROM LEVEL ONE TO CENTRAL OFFICE ADMINISTRATOR

A complainant dissatisfied with the decision at Level One will be entitled to appeal to the Central Office Administrator by

filing written notice of appeal. The complainant is encouraged to use the Complaint Appeal Form found at Exhibit GAE-E(3) when filing an appeal to the Central Office Administrator. The appeal must be filed within ten (10) calendar days after the complainant is notified of the Level One decision. The Central Office Administrator will obtain copies of all minutes, transcripts, documents, and other records relating to the Complaint and will conduct a hearing. The complainant is entitled to the presence of an individual of their choice to assist in the presentation of the Complaint to the Central Office Administrator. The District Representative may represent the interests of the District at the Level Two hearing.

The Central Office Administrator will render a decision within ten (10) Work Days after the hearing, in accordance with the procedures set forth above. The Central Office Administrator may use the Complaint/Appeal Disposition Form found at Exhibit GAE-E(2) when issuing their decision. A copy will be sent to the complainant as provided in Section B(4) above within twenty (20) Calendar Days of the decision.

G. LEVEL THREE; APPEAL TO BOARD OF EDUCATION

A complainant or Level One Administrator dissatisfied with the decision of the Central Office Administrator may appeal to the Board by filing written notice of appeal with the Office of the Superintendent. The complainant or Level One Administrator is encouraged to use the Complaint Appeal Form found at Exhibit GAE-E(3) when filing an appeal to the Board. The appeal must be filed within ten (10) Calendar Days after the date the certificated employee is notified of the Level Two decision. The Superintendent will record the date of filing on the Level Three appeal, and will promptly give written notice, by mail, email, or by hand delivery, to the complainant of the time and place of hearing. The Board may appoint a member of the Georgia State Bar Association to serve as the law officer, who shall rule on issues of law and who shall not participate in the presentation of the case for the administrator or the complainant. The complainant and the administrators against whom the Complaint is filed, or whose decision is being appealed, will be entitled to appear before the Board or its designee and be heard. The Board or its designee may direct that a pre-hearing conference be held prior to the hearing to identify issues and facilitate presentation. The Board or its designee, as provided herein, will conduct a hearing. The complainant is entitled to the presence of an individual of their choice to assist in the presentation of the complaint to the Board. The Board or its designee will render its decision in writing within twenty (20) Calendar Days after the hearing, and perfect service thereof on the complainant in accordance with Section B(4). The Board may use the Complaint/Appeal Disposition Form found at Exhibit GAE-E(2) when issuing its decision.

H. APPEALS TO STATE BOARD

Appeals from the decision of the Board will be governed by O.C.G.A. § 20-2-1160.

I. REPRISALS PROHIBITED

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

J. COLLECTIVE BARGAINING DISCLAIMER

Nothing in this policy will be construed to permit or foster collective bargaining by or on behalf of any employee or group of employees.