

**GAE(3)-R Complaints and Grievances, Noncertified Employees**

7/1/18

**RATIONALE/OBJECTIVE:**

The Cobb County School District (District) believes that clearly stated procedures for employees will make it easier to resolve concerns, complaints and grievances (Complaints) that may arise between employees and/or supervisors.

**RULE:****A. PURPOSE/INFORMAL RESOLUTION PREFERRED:**

The goal of this Rule is to resolve problems and disputes in employment relationships at the lowest possible organizational level with a minimum of conflict and formal proceedings so that good morale may be maintained, effective job performance may be enhanced, and the community may be better served. The District encourages all employees to resolve their Complaints informally in a spirit of collegiality where possible. This Rule is available where such efforts do not succeed, or, where for other reasons, the employee desires to pursue this procedure.

**B. DEFINITIONS:**

1. **Administrator:**  
The individual at each level designated by the District to preside over and make decisions with respect to employee Complaints.
2. **Complainant:**  
The employee who files a Complaint pursuant to this Rule.
3. **Complaint:**  
Any claim by a District employee which is filed pursuant to and within the scope of this Rule.
4. **Level I Hearing Administrator:**  
The Principal of the school or supervisor of the department/division in which the Complainant is assigned.
5. **Level II Hearing Administrator:**  
The Superintendent or designee.

**C. SCOPE OF COMPLAINT/EXCLUSIONS:**

1. **Scope:**  
Unless excluded by Section C of this Rule, this Complaint procedure is applicable to any claim by an employee who is affected in his/her employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, Rules, regulations, or written agreements of the District with which the District is required to comply.
2. **Exclusions:**  
This Rule shall not apply to:
  - a. Performance ratings contained in personnel evaluations conducted pursuant to O.C.G.A. § 20-2-210 remediation plans, and job performance; performance ratings and annual evaluations for all employees not covered by O.C.G.A. § 20-2-210 (Administrative Rule GARI-R [Employee Evaluation]);
  - b. Job performance;
  - c. Termination, non-renewal, demotion, suspension, or reprimand of any employee as set forth in O. C.G.A § 20-2-940;
  - d. Revocation, suspension, or denial of certificates of any certified employee, as set forth in O.C.G.A. § 20-2-984.5.

3. An employee who chooses to appeal under O.C.G.A. § 20-2-1160 (School Law Tribunals; Appeals) shall be barred from pursuing the same Complaint under this Rule.

**D. PROCEDURES:**

1. A Complaint by the employee at the initial and each subsequent level of review shall be in writing (See Section E below) and shall clearly state the intent of the employee to access the Complaint Rule.
2. **Time Schedules:**
  - a. The Complainant shall be entitled to file a Complaint within ten (10) calendar days from the most recent incident upon which the Complaint is based;
  - b. The Complainant shall have ten (10) calendar days to file an appeal at any level;
  - c. The total time frame shall not exceed sixty (60) calendar days from the initiation of the Complaint until notification to the Complainant of the decision rendered by the Cobb County Board of Education (Board).
3. **Hearing:**
  - a. **Evidence:**
    - (1) The Complainant shall be entitled to an opportunity to be heard, to present relevant evidence, and to examine witnesses at each level; but
    - (2) The Complainant may not present additional evidence at Level II or Level III of the Complaint process unless the additional evidence is submitted in writing to the Superintendent at least five (5) calendar days prior to the hearing;
  - b. **Time Limits:**
    - a. The Hearing Administrators and the Board shall have the authority to maintain order at any hearings provided under this Rule;
    - b. Time limits may be imposed at the outset of the hearing or at any time during the hearing regarding the presentation of evidence or examination of witnesses.
4. **Representation:**
  - a. **Level I:**

The presence of any individual other than the Complainant and the Level I Administrator is specifically prohibited, except witnesses who present testimony or documents.
  - b. **Levels II:**

The Complainant and the administrator against whom the Complaint is filed or whose decision is appealed shall be entitled to the presence of an individual, including an attorney, to assist in the presentation of the Complaint and the response thereof at Level II of this procedure. If the Complainant is represented by an attorney, the Board attorney shall be present and present the District's case if requested by the administrator.
5. **Records:**
  - a. An accurate record of the proceedings shall be kept at each level;
  - b. The proceeding shall be recorded by mechanical/electronic means;
  - c. All evidence shall be preserved and made available at all times to the parties involved;
  - d. All costs and fees shall be borne by the party incurring them unless otherwise agreed upon by the parties, except:
    - (1) The cost of preparing and preserving the records of proceedings shall be borne by the District; however,
    - (2) Costs of the record on any further appeal shall be paid by the party required to do so by the laws relating thereto.
6. **Decisions:**
  - a. The decision reached at each Complaint level shall be sent to the Complainant by both first class and certified mail, overnight delivery or hand delivered by a person designated by the Superintendent within ten (10) calendar days of the decision.
  - b. If the decision is sent by first class and certified mail or overnight delivery, it shall be sent 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.
  - c. Notification to the Complainant of the decision shall be deemed to have been made:
    - (1) On the date of hand delivery; or
    - (2) On the date of deposit in the United States Mail by first class and certified mail, return receipt requested; or

(3) On the date deposited for overnight delivery.

**7. Automatic Referral to Next Level:**

Any Complaint not processed by the administrator within the time frames required by this Rule shall be forwarded to the next level of the Complaint procedure.

**E. FORM OF COMPLAINT:**

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

1. The mailing address of the Complainant to which notices and all other documents may be delivered;
2. A statement of the intent of the Complainant to utilize this Complaint procedure;
3. A reference to the statute, policy, Rule, regulation, or written agreement that is alleged to have been violated, misapplied, or misinterpreted;
4. 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 substantially affects the employment relationship of the Complainant; and
5. A statement of the relief desired.

**F. LEVEL I HEARING:**

1. The Complaint shall be filed with the Level I Administrator within ten (10) calendar days from the occurrence of the most recent alleged incident or other matter on which the Complaint is filed and shall clearly state the intent of the employee to access the Complaint;
2. The Level I Administrator shall indicate the date of filing on the Complaint;
3. If the Complaint is filed within the required time limit, the Level I Administrator shall give written notice to the Complainant of the time and place of the hearing, either by mail, electronically or hand delivery:
  - a. When notice is given by mail, it shall be sent by first class mail to the address set forth in the Complaint;
  - b. If no address was included in the Complaint, then notice shall be sent to the last known address of the Complainant on file with the District.
4. The Level I Administrator shall conduct a hearing on the Complaint and render a decision thereon within ten (10) calendar days of the filing of the Complaint;
5. The decision shall be dated and shall:
  - a. Set forth findings of fact;
  - b. The decision made; and
  - c. Reasons for that decision.
6. A copy of the decision shall be sent to the Complainant as provided in Section D above.

**G. LEVEL II HEARING - APPEAL FROM LEVEL I:**

A Complainant who wishes to contest the decision of the Level I Administrator may appeal that decision to the Level II Administrator as follows:

1. The appeal must be filed in the Superintendent's office in writing within ten (10) calendar days after the date the Level I Administrator's decision is mailed;
2. The appeal shall clearly set forth the questions and issues involved and the reasons why the Complainant wishes to contest the Level I Administrator's decision;
3. The Superintendent's office shall indicate the date of the filing on the appeal;
4. If the appeal is filed within the time limit, a Level II hearing shall be scheduled before an appropriate Level II Administrator who shall give written notice to the Complainant of the time and place of the hearing by mail, electronically or hand delivery;
5. The Level II Administrator shall, within ten (10) calendar days of the filing of the appeal:
  - a. Obtain the record of the proceedings and evidence introduced at the Level I hearing, as well as a copy of the Complaint;
  - b. Conduct a hearing; and
  - c. Render a written decision;
6. If the Level II Administrator is a designated representative of the Superintendent, the Administrator shall promptly submit his/her recommendations and findings to the

Superintendent for final decision, which shall be rendered within ten (10) calendar days of the filing of the appeal;

7. The decision shall be dated and shall:

- a. Set forth findings of fact;
- b. The decision made; and
- c. Reasons for that decision;

8. A copy of the decision shall be sent to the Complainant as provided in Section D above.

9. The Level II decision is the final decision.

#### **H. REPRISALS:**

A Complainant shall not be the subject of any reprisal as a result of filing a Complaint under this Rule. Should any such reprisal occur, the Complainant may refer the matter to the Professional Practices Commission (Administrative Rule Admin Rule DIE-R [Fraud Prevention]).

#### **I. COLLECTIVE BARGAINING DISCLAIMER:**

Nothing in this Rule shall be interpreted as authorizing or permitting collective bargaining by or on behalf of any employee or group of employees.

Adopted: 2/10/10

Revised and recoded: 7/19/12 (Previously coded as Administrative Rule GBKA)

Revised: 7/1/18

Legal Reference

O.C.G.A. 45-1-4

Whistleblower