

SECTION I. 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 Cherokee County Board of Education that certified personnel will have the right to present and resolve complaints relating to certain matters affecting the employment relationship at the lowest organizational level possible. The School District encourages all employees to resolve their complaints informally in a spirit of congeniality where possible. This policy and procedure is available where such efforts do not succeed or, where for any other reasons, the certificated employee desires to pursue this procedure.

SECTION II. DEFINITIONS

- A. *Level One Administrator* means the principal of a school with respect to teachers and other certificated personnel assigned to that school. With respect to the 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 person designated by the Superintendent.
- B. *Central Office Administrator* means the local School District Superintendent and/or designee.
- C. *Complaint* means any claim or grievance by a certificated employee of this School District which is filed pursuant to this policy and which comes within the scope of the policy.

SECTION III. 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 Professional Standards Commission who is affected in the employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations or written agreements of this school district or with which the district is required to comply.
- B. *Exclusions:* This procedure does not apply to:
 - 1. Performance ratings contained in personnel evaluation and professional development plans pursuant to O.C.G.A. §20-2-210;
 - 2. Professional development plans;
 - 3. Job performance;

4. Termination, nonrenewal, 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;
- C. A certified employee, who chooses to appeal under O.C.G.A. §20-2-1160, will be barred from pursuing the same complaint under this policy.

**SECTION IV. HEARING RIGHTS: EVIDENCE: REPRESENTATION:
DECISIONS: RECORDS**

- A. **Hearing: Evidence.** The Complainant is 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 notice of the Complainant's intention and the evidence to be presented are submitted in writing five (5) days prior to the hearing to the Administrator who will preside at such level. When hearing an appeal from a prior level, the School Board will hear and decide all appeals de novo.
- B. **Representation.** The Complainant and the Administrator against whom the Complaint is filed or whose decision is appealed will 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 School Board level. The presence of any individual other than the Complainant and the Administrator at Level One is prohibited, except witnesses who present testimony or documents.
- C. **Hearing Officer.** The School Board may appoint a member of the State Bar to serve as law officer who will rule on all issues of law, but such attorney will not participate in the presentation of the case for either party.
- D. **Overall Hearing Time Schedules.** The overall time frame from the initiation of the Complaint until notification of the decision by the School Board to the Complainant will not exceed sixty (60) days.
- E. **Automatic Referral to Next Level.** Any Complaint not processed by the Administrator or the local unit of administration within the time frame required by this policy will be forwarded to the next level for determination.
- F. **Records.** Accurate records of the proceedings at each level will be kept; the proceedings will be preserved by mechanical means 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; except that the cost of preparing and preserving the record of the proceedings will be borne by the School Board; provided however, the cost of transcribing the transcript of evidence and proceedings before the School Board will be borne by the party requesting same, and 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 the laws relating thereto.

- G. Decisions. Each decision will be made in writing and dated, and will contain findings of fact and reasons for the particular decision reached.
- H. Notice. The decision at each level and any other notice provided in this policy will be sent to the Complainant by certified mail or statutory overnight delivery or hand delivered by a person designated by the Central Office Administrator within 20 days of the decisions, Notice to the Complainant will be deemed to have been made on the date of hand delivery or on the date of mailing.

SECTION V. FIRST LEVEL: PRESENTATION: TIME; CONTENTS

The Complaint will be presented in writing to the Level One Administrator within ten (10) days after the most recent event or alleged violation of statute or rule upon which the Complaint is based. The Complaint will 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;
- 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; and
- E. A statement of the relief desired.

SECTION VI. FIRST LEVEL HEARING AND DECISION

The Level One Administrator will record the date of filing on the Complaint, and will give notice to the Complainant of the time and place of the hearing. The Level One Administrator will conduct a hearing on the Complaint and render a decision thereon within ten (10) days of the filing of the Complaint. The decision will be dated and a copy will be sent to the Complainant as provided in Section IV above.

SECTION VII. SECOND LEVEL; APPEAL FROM FIRST LEVEL TO CENTRAL OFFICE ADMINISTRATOR

A Complainant dissatisfied with the decision of the first level will be entitled to appeal to the Central Office Administrator by filing written notice of appeal with the Office of the

Superintendent. The appeal must be received within ten (10) days after the Complainant is notified of the Level One decision. The appeal should identify which findings or fact or reasons in the decision are believed to be in error, with an explanation as to each such error. The Central Office Administrator will record the date of the filing on the appeal and will notify the Complainant in writing of the time and place of the hearing. The Level Two Administrator or designee may obtain copies of any records which he or she believes might be related to issues on appeal and will conduct a hearing and render decision within ten (10) days of the date of the filing of the appeal. The decision will be rendered and served on the Complainant and his/her attorney in accordance with Section IV (H).

SECTION VIII. THIRD LEVEL; APPEAL TO SCHOOL BOARD

A Complainant dissatisfied with the decision of the Central Office Administrator may appeal to the School Board by filing written notice of appeal with the Office of the Superintendent. The appeal should identify which findings or fact or reasons in the decision are believed to be in error, with an explanation as to each such error. The appeal must be filed within ten (10) days after the date of the decision by the Central Office Administrator. The School Board may direct that a pre-hearing conference be held prior to the hearing to identify issues and facilitate presentation. The School Board will conduct a hearing and render its decision in writing within twenty (20) days after the hearing, and service thereof on the Complainant and his/her attorney, all in accordance with Section IV.

SECTION IX. APPEALS TO STATE

Appeals from the decision of the local School Board to the State Board of Education will be governed by the State Board Rule (BCAEA) governing appeals and O.C.G.A. §20-2-1160.

SECTION X. 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.

SECTION XI. COLLECTIVE BARGAINING DISCLAIMER

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

SECTION XII. REPEALS

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

Grievance Hearings

Use of Counsel by Superintendent or Level I Administration

It is the policy of the School District that when a hearing has been scheduled before the School Board involving an appeal from a Complaint or grievance filed by an employee pursuant to O.C.G.A. §20-2-989.5 (Local Policy GAE(2)) and the employee is represented by

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Complaints and Grievances, Certified Employees

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counsel, the Superintendent is authorized to utilize one of the School District's attorneys to represent the Superintendent or the Level I Administrator or both in the subsequent hearing before the School Board.

ADOPTED: August 2, 2001
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Cherokee County Board of Education