

**BOARD POLICY
COMPLAINTS AND GRIEVANCES**

CODE: GAE

1. 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 Okefenokee RESA Board of Control that foregoing, it is the policy of the Okefenokee RESA Board of Control that certified personnel shall have the right to present and resolve complaints relating to certain matters affecting the employment relationship at the lowest organizational level possible.

The Okefenokee RESA Board of Control encourages all employees to resolve their complaints informally in a spirit of collegiality where possible. This policy and procedure are available where such efforts do not succeed or, where for any other reason, the certificated employee desires to pursue this procedure.

2. DEFINITIONS:

- a. **“Complainant”** means the certified employee filing a complaint.
- b. **“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 Okefenokee RESA Executive Director, the “Level One Administrator” shall be the Okefenokee RESA Executive Director. In any case not covered by this paragraph, the “Level One Administrator” shall be the supervisory certificated person designated by the Okefenokee RESA Board of Control or in the absence thereof, by the Okefenokee RESA Executive Director.
- c. **“Level Two Administrator”** means the Okefenokee RESA Executive Director.
- d. **“Complaint”** means any claim or grievance by a certificated employee of the Okefenokee RESA who is affected in his or her employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of this school district with which the district is required to comply.
- e. **“Notification”** means delivery in person to the party entitled to notification, or deposit in the United States Mail (certified mail, return receipt requested), or statutory overnight delivery to the last known address of the party notified.

3. RIGHT TO MAKE COMPLAINT: SCOPE

- 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 his or her employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of this organization or with which the organization is required to comply
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- b. Exclusions – This procedure shall not apply to
 - 1. Performance ratings contained in personnel evaluation and professional learning plans pursuant to Code Section 20-2-210.
 - 2. Job performance
 - 3. Termination, non-renewal of contract, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940.
 - 4. The revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5.
- c. A certified employee who chooses to appeal under Code Section 20-2-1160 shall be barred from pursuing the same complaint under this policy.

4. Hearing Rights: Evidence; Representation; Decisions; Records

- a. **Hearing Evidence** – The complainant shall be entitled to an opportunity to be heard, to present relevance evidence, and to examine witnesses at each level, but the complainant may not present additional evidence at the Second and 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, and in the case of the Okefenokee RESA Board of Control, the Okefenokee RESA Executive Director. When hearing an appeal from a prior level, the Okefenokee RESA Board of Control shall hear and decide all appeals do novo (all evidence heard again).
- b. **Representation** – 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 thereto, at the Okefenokee RESA Executive Director and at the Okefenokee RESA Board of Control 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. Nothing herein shall be interpreted as authorization or permitting collective bargaining by or on behalf of any employee or group of employees.
- c. **Hearing Officer** – The Okefenokee RESA Board of Control may appoint a member of the State Bar to serve as law officer who shall rule on all issues of law and other objections, but such attorney shall not assist 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 rendition of the decision by the Okefenokee RESA Board of Control

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and notification thereof to the complainant until rendition of the decision by the Okefenokee RESA Board of Control and notification thereof to the complainant shall 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 shall be forwarded to the next level for determination.
- f. **Records** – Accurate records of the proceedings at each level shall be kept; the proceedings shall be recorded by mechanical means; all evidence shall be preserved and made available to the parties at all times; and all costs and fees shall 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 shall be borne by the Okefenokee RESA Board of Control; provided, however, the cost of transcribing the transcript of evidence and proceedings before the Okefenokee RESA Board of Control shall be borne by the party requesting same, and all costs of the record on appeal to the superior courts and appellate courts shall be paid by the party required to do so by the laws relating thereto.
- g. **Decisions**- Each decision shall be made in writing and dated, and shall contain findings of fact and reason for the decision reached. The decision at each level shall be sent to the complainant by certified mail or statutory overnight delivery or hand delivered by a person designated by the Executive Director.
- h. **Notice** –Notice to the Complainant shall be deemed to have been made on the date of hand delivery to a statutory overnight delivery service, or deposit in the United States 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 Okefenokee RESA Board of Control.

5. First Level; Presentation; Time; Contents

The complaint shall be presented in writing to the Level One Administrator, within ten (10) calendar days after the most recent incident or other matter for which the complaint is filed. The complaint shall 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

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- e. A statement of the relief desired.

The Okefenokee RESA Executive Director shall prepare forms for use in accordance with the foregoing requirements.

6. First Level; Filing; Hearing; Decision

The Level One Administrator shall record the date of filing on the complaint, and shall give notice, as provided in Section 4, to the complainant of the time and place of the hearing. The Level One Administrator shall conduct a hearing on the complaint and render a decision thereon within ten (10) days of the filing of the complaint. The decision shall be dated and a copy shall be sent to the complainant as provided in Section 4.

7. Second Level; Appeal from First Level to Level Two Administrator.

A complainant dissatisfied with the decision of the first level shall be entitled to appeal to the Level Two Administrator by filing written notice of appeal with the Office of the Executive Director. The appeal must be filed within ten (10) calendar days after the complainant is notified of the Level One decision. The Level Two Administrator shall record the date of the filing of the appeal and shall notify the complainant in writing of the time and place of the hearing in the same manner as provided in Section 4. The Level Two Administrator shall obtain copies of all minutes, transcripts, documents and other records relating to the complaint and shall conduct a hearing and render a decision within ten (10) calendar days of the date of the filing of the appeal, or the hearing may be conducted by any designated representative of the Level Two Administrator, who shall promptly submit his or her recommendations and findings to the Level Two Administrator for final decision. The decision shall be rendered and served on the complainant and his or her attorney in accordance with Section 4.

8. Third Level; Appeal to Okefenokee RESA Board of Control

A complainant or Level One Administrator dissatisfied with the decision of the Level Two Administrator may appeal to the Okefenokee Board of Control filing written notice of appeal with the Office of the Executive Director. The appeal must be filed within ten (10) calendar days after the date of the decision as provided in Section 4. The Executive Director shall record the date of filing on the appeal, and shall promptly give written notice in the same manner as provided in Section 4 to the complainant of the time and place of hearing. The complainant and the Administrators against whom the complaint is filed or whose decision is being appealed shall be entitled to appear before the Board of Control and be heard. The Board of Control may direct that a pre-hearing conference be held prior to the hearing to identify issues and facilitate presentation. The local Board shall conduct a hearing and render its decision in writing within twenty (20) calendar days after the hearing, and perfect service thereof on the complainant and his or her attorney, all in accordance with Section 4.

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9. Appeals to State Board of Education

Appeals from the decision of the Okefenokee RESA Board of Control shall be governed by the State Board Rule governing appeals and O.C.G.A. 20-2-1160.

10. Reprisals Prohibited

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

11. Collective Bargaining Disclaimer

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

12. Repeals

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

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Note: The State of Georgia has moved the Georgia Code. This new environment no longer allows us to link directly to the Georgia Code. For example enter 20-02-0211 in the search window and the Georgia Code will appear.

Georgia Code	Description
O.C.G.A. § 20-02-0989.5	Complaints policy; legislative intent
O.C.G.A. § 20-02-0989.6	Complaints - Definitions
O.C.G.A. § 20-02-0989.7	Complaints – Performance Ratings/Evaluations
O.C.G.A. § 20-02- 0989.8	Complaints - Policy
O.C.G.A. § 20-02-0989.9	Complaints – Supplemental rules and policies
O.C.G.A. § 20-02- 1160	LBOE tribunal power to determine local school controversies; appeals; special ed provisions

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O.C.G.A. § 20-02-0940	Grounds/procedure for terminating or suspending contract of employment (Fair Dismissal law)
O.C.G.A. § 45-01-0004	Whistleblower
Rule 160-1-3-.04	School Law Tribunals and Appeals

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