

House Bill 592

By: Representatives Jordan of the 96th and Taylor of the 134th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to change provisions in complaint policies
3 relating to hearing levels, hearings before appointed tribunals, dismissal of complaints,
4 rulings without a hearing, obstruction of a complaint by an administrator, filing complaints
5 with the State Board of Education in certain circumstances, and decisions by the State Board
6 of Education; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by striking in its entirety Code Section 20-2-989.8, relating
12 to the establishment and contents of a complaint policy, and inserting in lieu thereof the
13 following:

14 "20-2-989.8.

15 Local units of administration shall establish a complaint policy that shall include the
16 following:

17 (1) A statement that a complaint by the certified employee at the initial level shall be in
18 writing and shall clearly state the intent of the employee to access the complaints policy.
19 All certified employees shall request in writing successive levels of review;

20 (2) A method and time frame for filing complaints and appeals, including successive
21 levels of appeal from the complainant's immediate supervisor to the central office
22 administrator to the local unit of administration, provided that the complainant shall be
23 entitled to file a complaint within ten days from the most recent incident upon which the
24 complaint is based, and provided that the complainant shall have a minimum of ten days
25 to file an appeal at any level up to and including the local unit of administration, and
26 provided that the total time frame shall not exceed 60 days from the initiation of the

1 complaint until notification to the complainant of the decision rendered by the local unit
2 of administration;

3 (3) A statement setting forth the manner in which notice of the initial hearing and appeals
4 shall be given;

5 (4) A statement that the complainant shall be entitled to an opportunity to be heard, to
6 present relevant evidence, and to examine witnesses at each level;

7 (5) A provision whereby the complainant is entitled to the presence of an individual of
8 his or her choice to assist in the presentation of the complaint to the central office
9 administrator and at the local unit of administration level. The policy shall also include
10 a provision whereby the presence of any individual other than the complainant and the
11 administrator at any lower level is specifically prohibited. At the local unit of
12 administration level nothing shall prevent the local unit from having an attorney present
13 to serve as the law officer who shall rule on issues of law and who shall not participate
14 in the presentation of the case for the administrator or the complainant;

15 (6) Provisions for keeping an accurate record of the proceedings at each level, requiring
16 the proceedings to be recorded by mechanical means, preserving all evidence, and
17 requiring that these be made available at all times to the parties involved but which
18 provisions do not permit the presence of a third person at any level below the central
19 office administrator or local unit of administration level;

20 (7) A statement that the complainant cannot present additional evidence at each level of
21 the complaint process unless it is submitted in writing by the complainant five days prior
22 to the set date for the Level II and Level III hearing to the administrator presiding over
23 the complaint. ~~The board of the local unit of administration, when hearing an appeal~~
24 ~~from a prior complaint level, shall hear the complaint de novo~~ There shall be no more
25 than three hearing levels, the last being the one before a quorum of the members of the
26 local board of education. A quorum of the members of the local board of education shall
27 hear the Level III complaint de novo and in person. A hearing before an appointed
28 tribunal is not permitted. No administrator can dismiss any complaint at any level before
29 it has been heard if the complaint is in writing and clearly states the intent of the
30 employee to access the complaints policy. A ruling on the pleading, in the absence of a
31 hearing, is not permitted. If an administrator obstructs the processing of a complaint, the
32 complainant has the right to notify the chairperson of the local board of education in
33 writing of the obstruction and if the local board of education does not hold a Level III
34 hearing within 20 days of such notification as postmarked by the United States mail or
35 if the process exceeds the 60 days' time frame, the complainant can file the complaint in
36 writing before the State Board of Education. After the complaint has been filed before
37 the State Board of Education, and if a quorum of the members of the local board of

1 education does not hear the complaint de novo and in person within ten days, the State
2 Board of Education will render its own decision in the matter within 30 days of the
3 expiration of the ten-day extension period provided to the local board of education;

4 (8) A statement that each decision be made in writing and dated. Each decision shall
5 contain findings of fact and reasons for the particular resolution reached. The decision
6 reached at each complaint level shall be sent to the complainant by certified mail or
7 statutory overnight delivery or hand delivered by a person designated by the central office
8 administrator within 20 days of the decision;

9 (9) A statement that any complaint not processed by the administrator or the local unit
10 of administration within the time frames required by the local complaint procedure and
11 this part shall be forwarded to the next level of the complaint procedure;

12 (10) A provision that all costs and fees shall be borne by the party incurring them unless
13 otherwise agreed upon by the parties involved, except that the cost of preparing and
14 preserving the record of the proceedings shall be borne by the local board of education;
15 and

16 (11) A statement that a complainant shall not be the subject of any reprisal as a result of
17 filing a complaint under this part. Should any reprisal occur, the complainant may refer
18 the matter to the Professional Standards Commission."

19 **SECTION 2.**

20 All laws and parts of laws in conflict with this Act are repealed.