



## DELPHI COMMUNITY SCHOOL CORPORATION

501 Armory Road • Delphi, IN 46923 • P (765) 564-2100 • F (765) 564-6919

Ann-Marie Circle, Superintendent  
Gayla Martin, Asst. Treasurer

Andrea Miller, Corporation Treasurer  
Karli Beamer, Corporation Secretary

# Delphi Community School Corporation

## Title 9 Public Complaint Procedure

A complaint must be in writing. Verbal or “informal” complaints will not be processed. For complaints that involve a Corporation staff member other than the Superintendent, School Board or a School Board member, the Title 9 Officer will determine the appropriate administrator for Step 1. For complaints about students or from students, the Title 9 Officer is responsible for determining the appropriate administrator for Step 1. For a complaint about policies, programs or services, the Superintendent is responsible for determining the appropriate administrator for Step 1.

For complaints involving the Superintendent or a School Board member, a private, professional organization will be utilized to investigate the complaint and seek a resolution.

The complainant should utilize the Delphi Community School Corporation Title IX Complaint Form which can be found on the Corporation’s website.

### **3-Step Appeal Process:**

1. **Step 1 (School/Program Administrator):** After the Corporation has received a complaint it will be referred to the appropriate administrator for investigation and resolution. It is the Corporation’s intent that a complaint would be resolved at the lowest level. The administrator will investigate the complaint, attempt to resolve the complaint and make a Step 1 decision if the complaint cannot be resolved to the complainant’s satisfaction.
  - a. The administrator responsible for Step 1 has 30-calendar days to investigate the complaint, attempt to resolve the complaint and make a written decision on the complaint if the complaint is not resolved.
  - b. The administrator responsible for the complaint at Step 1 will attempt to resolve the complaint by conferring with the complainant, the subject, and other parties involved. In some cases, it may involve the administrator requesting the complainant and the subject of the complaint to meet and try to resolve the dispute. In other cases, it may not be appropriate to have such a meeting.

- c. The administrator responsible for Step 1 may choose to involve the Delphi Community School Corporation Informal Resolution Facilitator to work towards a resolution.
- d. The 30-day time limit for Step 1 may only be extended by written agreement of the complainant.
- e. The administrator will include in the Step 1 decision a notice that the decision may be appealed within 7 calendar days after the decision is sent to the complainant. The notice will explain how to appeal the decision, where to send the appeal, along with the applicable timeline to appeal.
- f. The complainant who appeals the Step 1 decision shall provide in writing the reason(s) for the appeal.
- g. Athletic Issues: For complaints involving athletics (except for Title IX complaints which are not subject to this subsection), the first step in the complaint process is the coach directly responsible for the student athlete. If the issue is not resolved within 5-school days, the issue may be appealed to the high school athletic director. A decision of the athletic director may be appealed to the high school principal within 5-school days of the athletic director's decision. The decision of the high school principal is final and may not be appealed.
- h. Students with Disabilities: Complaints about athletics that involve students who are eligible for special education or reasonable accommodations under either the IDEA or Section 504 will be processed under applicable statutory procedures under those laws.

**2. Step 2 (Superintendent or Designee):** If the complainant disagrees with the decision of the administrator in Step 1, the complainant may appeal the decision to the Superintendent or an administrator designated by the Superintendent.

- a. The Superintendent determines the appropriate Step 2 administrator.
- b. The Step 2 administrator will review the investigation that occurred at Step 1, the Step 1 administrator's decision, and the complainant's written appeal.
- c. The Step 2 administrator may, but is not required, to do more investigation if that administrator determines it is necessary. This may include additional interviews of the complainant and other relevant witnesses.
- d. The Step 2 administrator may attempt to resolve the complaint with the complainant or may involve the Delphi School Corporation Informal Resolution Facilitator to help work towards a resolution. If no resolution can be agreed upon, the Step 2 administrator will issue a final decision.

- e. The administrator responsible for Step 2 has 30-calendar days to investigate the complaint, attempt to resolve the complaint and make a written decision on the complaint if the complaint is not resolved.
  - f. The 30-calendar day time limit for Step 2 may only be extended by written agreement of the complainant.
  - g. The administrator will include in the Step 2 decision a notice that the decision may be appealed within 7 calendar days after the decision is sent to the complainant. The notice will explain how to appeal the decision, where to send the appeal, along with the applicable timeline to appeal.
3. **Step 3 (School Board):** The School Board is the final step in the Corporation's complaint process. For complaints under this policy, the School Board may hear the appeal. If the School Board decides to provide a hearing on the appeal it will render a decision within ninety (90) calendar days of initiation of the complaint.
- a. The Board will schedule a hearing on the complainant's appeal. The Board leadership in consultation with the Superintendent and/ or legal counsel will determine whether the hearing will be in public session or in executive session.
  - b. The appeal before the Board will be on the record developed by the Step 1 and Step 2 administrators. No witnesses may be called. The Superintendent or designee will present its position. The complainant will present their position. The Board may ask clarifying questions of the parties. The Board will make a final decision on the appeal in an open public session.
  - c. The Board will provide a written order to the complainant following the Board decision.
  - d. The Board has 30-calendar days from the day it receives a written appeal to make a final decision in a Board meeting. The 30-calendar day timeline may be extended with written consent from the complainant.

**Complaints that cannot be processed within 90-calendar days:**

There may be situations where it is not practical that a complaint can go through the 3-step process from start to finish within the 90-day time period. An example of such a complaint might require an unusual amount of investigation at Step 1 that makes it impossible to complete Step 1 within 30-calendar days. Another example might be a complainant who raises an issue that can only be decided by the Superintendent or Board. A third example is a situation where the Board is not able to schedule a Board hearing within the 90-day window because of an event outside the control of the Board (e.g., a snow day closure with cancellation of the Board meeting, or a necessary party to the hearing being unavailable because of illness).

In these instances, the Corporation will work with the complainant to come to a mutual agreement on the path forward, which may include the following modification of the 3- step complaint procedures:

- a. Mutual agreement on an extension of time for the complaint process: complainant must confirm such an agreement in writing.
- b. Waive Step 1 and go directly to Step 2: Both the complainant and the Corporation must mutually agree in writing to this process. The Step 2 process will complete the investigation and render a decision within 60-calendar days. Any appeal to the Board under Step 3 must be completed with a Board decision by day 90.
- c. If a complaint is received at the end of the school year, and an investigation must include interviews of staff and students who may be unavailable during the summer months, it may be necessary for the Corporation to request an extension of time to complete the investigation. If the complainant refuses the extension of time for the investigation at Step 1, the Corporation may skip Step 1 to give the investigator the amount of time needed for the investigation. The process will then begin at Step 2 so that the investigation can be completed so there is enough time for a Step 2 decision and a Step 3 appeal.

### **Investigation Process:**

There is no set investigative process. Each complaint should be investigated in a manner that makes the most sense, but should include interviews of the complainant, the subject of the complaint, and any relevant fact witnesses who know something about the issue.

### **Burden of Proof:**

The complainant has the burden of proof in determining the truth of the matter asserted. The subject of the complaint (for example, the staff person who is alleged to have done something wrong) bears the burden of proving a defense to the complaint. The investigator is entitled to make credibility findings based upon the demeanor of the interviewees.

- a. The burden of proof is a preponderance of the evidence, whether it is more likely than not that the issue complained about is true, and whether it violates a Corporation policy.
- b. Sometimes it will not be possible for an investigator to determine which version of the facts is correct, such as when there are only two witnesses and the witnesses have contrary testimony. In this situation the investigator may but is not required to determine which witness is more believable. The investigator may also determine that neither witness is more believable than the other and the evidence is therefore inconclusive. In this case the complaint will be deemed denied.

### **Investigation Timeline:**

Delphi Community School Corporation's goal at each step is to conclude each step within 30 calendar days, for a total complaint process of 90 calendar days. Complaints that contain many issues over a period of several years may present challenges for the completion of an appropriate investigation within the 30 calendar day time frame. The Step 1 administrator responsible for initiating an investigation shall notify the complainant of any delays or impediments to a timely investigation.

- a. There may be circumstances that arise that make it impossible to complete an investigation within 30-calendar days, such as summer break, the unavailability of witnesses to participate in an interview, or the complexity or large number of issues to be investigated. If a delayed or prolonged investigation is necessary, the Corporation will contact the complainant and explain the situation with the goal of getting consent for an extension of time. All extensions of time for the investigation will be put in writing and sent to the complainant.
- b. If the complainant refuses to allow for an extension of time for an investigation and it appears that an investigation cannot be completed within the time period allowed, the Corporation may conclude the investigation and inform the complainant that the complainant may advance to the next level of appeal.

### **Informal Resolution:**

An Informal Resolution is an agreement between a complainant and Delphi Community School Corporation that takes the place of a formal decision. The goal of an Informal Resolution is to provide flexibility and the option for the parties to agree on any of a wide range of possible outcomes. An Informal Resolution is a voluntary agreement between parties involved.

- a. Delphi Community School Corporation shall identify an administrator to serve as Informal Resolution Facilitator.
- b. An Informal Resolution may be agreed upon during Step 1 or Step 2 of the three step appeal process.
- c. An informal resolution may only be reached through the mediation of the Delphi Community School Corporation Informal Resolution Facilitator.
- d. The Informal Resolution Facilitator must be called upon by the Administrator in charge of Step 1 or Step 2.
- e. An Informal Resolution may or may not be attempted based on the needs and circumstances of each individual complaint.

**Notification to Complainants and Subjects of Complaints:**

All notifications to complainants shall adhere to the following requirements:

- a. Shall be sent certified mail and by email at the last known address of the complainant.
- b. Be written in the language preferred and spoken by the complainant.
- c. Clearly describe the decision.
- d. Clearly describe the appeal process with identification of the time for appeal, and the person and address to whom the appeal must be addressed.
- e. The term parent includes legal guardian or person in a parental relationship.