



NOTICE OF MEETING

Ad Hoc Code of Conduct Committee

Tuesday, 23 April 2019
Trustees' Committee Room
5:00 pm

COMMITTEE MEMBERS

Lynn Scott
Trustee Zone 1

Christine Boothby
Trustee, Zone 2

Donna Blackburn
Trustee, Zone 3

Keith Penny
Trustee, Zone 8

Sandra Schwarz
Trustee, Zone 12

STAFF:

Michèle Giroux, Executive Officer, Corporate Services

DISTRIBUTION:

All Board Members
Senior Administration

For further information on this agenda, please contact:
Susan Baker, Senior Coordinator, Board Services at (613) 596-8211 ext. 8641 or
susan.baker@ocdsb.ca

ABOUT THE AD HOC CODE OF CONDUCT COMMITTEE:

The mandate of the Ad Hoc Code of Conduct Committee shall be to:

- review Policy P.073.GOV Board Member Code of Conduct;
- consider revisions to P.073.GOV, including incorporating revisions from the updated OPSBA code of conduct template;
- consider the role of an integrity commissioner with respect to the code of conduct; and
- provide comments and recommendations to the Board no later than 26 April 2019.

The Ad Hoc Committee members consist of the Chair of the Board (ex officio) and up to four trustees appointed or elected by the Board.



Ad Hoc Code of Conduct Committee AGENDA

April 23, 2019, 5:00 pm - 6:00 pm
Trustees' Committee Room
133 Greenbank Road
Ottawa, Ontario

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AD HOC CODE OF CONDUCT COMMITTEE

**April 1, 2019, 3:00 pm
Trustees' Committee Room
133 Greenbank Road
Ottawa, Ontario**

Trustee Members: Donna Blackburn, Christine Boothby, Keith Penny, Sandra Schwartz, Lynn Scott
 Staff: Camille Williams-Taylor (Director of Education), Michele Giroux, Katrine Mallan (Manager of Board Services), Sue Baker (Senior Coordinator, Board Services)
 Other Trustees: Engy Masieh (Policy Analyst)

1. Call to Order

Trustee Blackburn called the meeting to order at 3:12 p.m.

2. Approval of the Agenda

Moved by Trustee Scott,

THAT the agenda be approved.

Carried

3. Receipt of Report, Ad Hoc Code of Conduct Committee, 7 March 2019

Moved by Trustee Penny,

THAT the report of the Ad Hoc Code of Conduct Committee dated 7 March 2019 be approved.

Carried

4. Matters for Action/Discussion:

4.1 Review of Revised Draft Policy P.073.GOV Board Member Code of Conduct

Executive Officer Giroux advised that staff has made a number of changes to the policy based on comments made at the last meeting of the ad hoc committee on 7 March 2019. The proposed changes were reviewed with legal counsel who provided some analysis and suggestions.

Trustee Scott noted that a majority of trustees indicated that they were in favour of moving forward with an integrity commissioner, while some

trustees noted that they would like to have further discussion at a Committee of the Whole meeting.

During discussion of the revised draft policy, the following areas were noted for further revision or clarification:

- It was suggested that Sections 3.6 and 3.9 (Integrity and Dignity of Office) are vague and include statements from the trustee oath. (Note: These statements come from the OPSBA template.) Sections 3.1 to 3.32 describe the responsibilities and behaviours that are expected of trustees. They are referred to when a breach of the code has been identified;
- Sections 3.15 to 3.22 (Civil Behaviour) could include language that makes a distinction between "fierce debate" and "crossing the line" of civil behaviour. It was noted that trustees differ on what constitutes civil behaviour. The governance policy (P.12.GOV) talks about a culture of collaboration and an open expression of diverse and divergent viewpoints. It was suggested that the language in the governance policy could be used.
- Section 3.22 (Civil Behaviour), Section 4.7 and 4.8 (Identifying a Breach of the Code) are unclear about whether a Board member must raise their concerns about another Board member's egregious behaviour directly with that Board member or if they have the option of filing a complaint with the integrity commissioner. Should there be a distinction between "egregious behaviour" and "a breach of the Code of Conduct"?
- Section 3.29 (Upholding Decisions) should say "uphold the Board decision" rather than "implementation of a board resolution".
- The last sentence in Section 4.2 (Role of the Chair/Presiding Officer) is repeated in Section 4.3.
- The language could be clarified to bridge the gap between an attempt by the parties to resolve their differences (Section 3.22) and making a complaint to the integrity commissioner (Section 4.8). It was noted that it could be very expensive to bring all complaints to an integrity commissioner.
- Section 4.14 (Review of Complaint) provides the authority for the integrity commissioner to determine whether a complaint is handled through the informal or formal review process, depending on the seriousness of the alleged breach and/or the willingness of the complainant and respondent to agree on a remedy.
- Section 4.24 (Suspension of Formal Review) indicates that the final report of the integrity commission shall contain an outline of the finding of facts, and a recommendation or opinion as to whether the Code of Conduct has been breached. Staff agreed to speak with legal counsel to determine whether this report could also recommend an appropriate sanction depending on the nature of the breach and

whether it concerned non-compliance with legislation or civil behaviour.

- There appears to be a disconnect between Sections 4.24 and 4.26
- Section 4.33 (Sanctions) lists the sanctions that the Board may impose if a Board member should breach the Code of Conduct. Staff agreed to look into whether lesser sanctions, such as a letter of apology, could be included in this list. It was noted that Section 4.17 speaks to remedial measures arising from an informal review. It was suggested that a part d) be added to 4.33 to refer to the sanctions listed in 4.17.
- Section 4.37 to 4.44 (Appeal) is unclear whether the sanction would be imposed before, during or after the period during which a Board member could appeal the sanction.
- Section 4.42 (Appeal) refers to "Trustee" and "Board member". The terminology should be consistent throughout the policy.

It was agreed that another meeting of the ad hoc committee would be required before the revised policy is presented to the Committee of the Whole. (Note: the next meeting will take place on 23 April 2019 and the revised policy will be presented to Committee of the Whole on 7 May 2019.)

5. Adjournment

The meeting adjourned at 4:30 p.m.

Donna Blackburn, Chair, Ad Hoc Code of Conduct Committee



AD HOC CODE OF CONDUCT COMMITTEE Report 19-050

23 April 2019

Recommended Revisions to P.073.GOV Board Member Code of Conduct

**Key Contact: Michele Giroux, Executive Officer, Corporate Services
613-596-8211 ext. 8607.**

PURPOSE:

1. To present draft revisions to P.073.GOV Board Member Code of Conduct responding to issues and questions raised at the 1 April 2019 Ad Hoc Code of Conduct Committee meeting.

CONTEXT:

2. At the meeting of 1 April 2019, the Ad Hoc Code of Conduct Committee reviewed the draft revisions to the Code of Conduct which incorporated the role of an Integrity Commissioner into the process. Staff reviewed key questions and issues raised during the discussion and has made a series of revisions taking into consideration the advice from legal counsel.

KEY CONSIDERATIONS:

3. Summary of Key Revisions or Considerations (Appendix A)

Section	Revision and/or Considerations
3.22	Revised language aligns the language with the preceding articles regarding Civil Behaviour.
4.7	Revised language in 4.7, Identifying a Breach of the Code, intends to motivate the board member who is contemplating the filing of a complaint to consider whether it might be possible to address their concern through a discussion with the other board member. The suggestion of the involvement of the Integrity Commissioner at this stage encourages access the role at an early state of a dispute where the application of problem solving skills may avert the need

	for a formal complaint.
4.8	<p><i>There was discussion about whether this section should be revised to replace “may” with “shall.”</i></p> <p>There is no obligation in the Education Act to require a member to file a complaint under a board’s code of conduct. The governing provision is section 218.3 (1) which provides: “A member of a board who has reasonable grounds to believe that a member of the board has breached the board’s code of conduct may bring the alleged breach to the attention of the board.”</p> <p>Although intended to impose accountability on fellow Board members, legal counsel has advised against changing the language to “shall,” and thereby imposing a duty to file a complaint, due to the host of procedural and substantive questions which would arise.</p>
4.11 (old 4.13)	<p><i>The committee raised concerns and questions regarding the implication of a decision to use the Informal Review process. In particular, does the decision to use the Informal Review Process pre-determine that there has not been a breach of the Code of Conduct?</i></p> <p>When a complaint regarding a Board member’s behaviour which is handled and resolved through the Informal Review Process it follows that the Board member’s conduct did not represent a breach of the Code of Conduct. A breach of the Code of Conduct will only be found if the complaint is handled through the Formal Review Process and the Board votes in favour of a resolution that the respondent was in breach of the Code (see article 4.26, 4.27).</p> <p>In light of this distinction, the wording of 4.11 (old 4.13) has been revised to avoid the implication that a breach of the Code of Conduct would be handled under the confidential procedures outlined in the Informal Review Process. Instead the implication is that the Board member’s conduct was inappropriate, but reason of such considerations as ‘inadvertence’ or ‘error in judgement made in good faith’, the conduct did not rise to the level of a breach of the Code of Conduct.</p>
4.12 (old 4.11)	<p><i>The committee raised a concern that the article lacks language which addresses the severity of complaints or the considerations that the Integrity Commissioner might have regard for when reviewing a complaint.</i></p> <p>Legal counsel has advised that it would be difficult to distill into a few principles all of the obligations which are enumerated in the Code of Conduct and it is preferable to leave the Integrity Commissioner the task of taking into account the whole Code of</p>

	Conduct when making a determination under article 4.12 (old 4.11).
4.14	<p><i>This article empowers the Integrity Commissioner to determine whether a complaint is to be processed under the Informal Review Process or the Formal Review Process. The committee raised a concern whether the Code of Conduct should contain direction to the Integrity Commissioner regarding what principles should be applied in determining which process to follow in the review of a complaint.</i></p> <p>There are types of behaviour which are inappropriate but can be remedied or addressed without a formal review. There are types of behaviour so egregious they cannot be remedied by an apology or other remedial measure. However, it is a matter of judgement and each instance must be reviewed on its own merit and then a determination must be made. It is inherent in the decisions of the Board to delegate such judgement calls to an Integrity Commissioner that the Board of Trustees trusts the individual in the role to make their decision in conformity with the principles of integrity as well as the provisions of the Code of Conduct.</p> <p>Legal counsel advised that such a determination is squarely within the expertise that the Integrity Commissioner has been appointed to bring to the process. Such expertise will have been acquired from dispute resolution roles such as arbitration, mediation or independent investigation.</p>
4.24	Language added to provide for the inclusion of a recommendation regarding a sanction, if necessary, in the Integrity Commissioner's final report.
4.26	In light of 4.24, revised language clarifies that the Board may be informed in its decision-making by the finding of facts and recommendations of the Integrity Commissioner, and that the Board must make its own decision regarding whether there was a breach and what sanction should be imposed.
4.33	<p><i>The committee raised a question regarding adding additional language to include other forms of remedial measures, including restorative practices.</i></p> <p>As outlined in Section 218.3(3), the Education Act gives direction to boards in term of the sanctions which may be imposed for a breach of a code of conduct. These include:</p> <ol style="list-style-type: none"> 1. Censure of the member; 2. Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the Board. 3. Barring the member from sitting on one or more committees of the board, for the period of time specified by the board. <p>It may be argued that the provision confines the Board to the</p>

	<p>enumerated sanctions; however on the advice of legal counsel, it is unlikely that the Act would be interpreted in such a restricted fashion so long as the sanction which was chosen was less onerous than the sanctions enumerated in the Act. This is contemplated by the wording of Article 4.3, which affords the Board the discretion to choose an alternative sanction.</p> <p>Rather than attempting to enumerate such alternatives, legal counsel recommends that such alternatives be developed on a case-by-case basis and imposed pursuant to the discretion afforded by the current wording of Article 4.34.</p>
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For clarity of reference, Appendix B is a clean copy of the draft policy in which all changes have been accepted.

4. Timeline and next steps

If the Ad Hoc committee decides to approve the draft included as Appendix A, the recommendation will move forward to the Committee of the Whole meeting scheduled for 7 May 2019 for consideration. A Special Board Meeting has also been scheduled on 7 May 2019 so that the Board can meet the 15 May 2019 deadline to review its Code of Conduct as required by Ontario Regulation 246/18.

The wording of the recommendation herein on page 5 provides that the changes to P.073.GOV be approved, effective immediately following the appointment of an Integrity Commissioner.

Appointment of an Integrity Commissioner

If the Board approves the changes to P.073.GOV *Board Member Code of Conduct*, as indicated in Appendix A, staff will develop a draft policy authorizing the appointment of an integrity commissioner, which could also address such issues as:

- The amount of support required among Board Members for the approval of a candidate for appointment, the term of office, the extension of a term, and the removal of office;
- The nature of the selection process; and
- The role and responsibilities of the Integrity commissioner which might include advisory and educational functions in addition to dealing with breaches of the Code of Conduct.

RESOURCE IMPLICATIONS:

5. The model provided by other school boards indicates that integrity commissioners are remunerated by way of an annual retainer of \$25,000 for 20 hours per month averaged over a 12-month period. Hours exceeding the 20 hours per month are remunerated at \$200/hour.

COMMUNICATION/CONSULTATION ISSUES:

6. Members of the public and the board's advisory committees will have an opportunity to review and make any recommendations the proposed changes when the report and recommendation from the Ad Hoc Committee on Code of Conduct is posted to the Committee of the Whole for 7 May. Given the legislative complexities of these policy changes, staff does not believe that a broader public consultation process on this policy would generate much public input.

STRATEGIC LINKS

7. The review and confirmation of the Board's policy on Board Member Code of Conduct is a legal responsibility and connects to the stewardship objectives outlined in the current strategic plan.

RECOMMENDATION

THAT the revisions to P.073.GOV, attached as Appendix A to Report 19-050, be approved, effective immediately following the appointment of an Integrity Commissioner.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education

APPENDICES

- Appendix A Draft P.073.GOV Board Member Code of Conduct (All revisions indicated using track changes)
- Appendix B Draft P.073.GOV Board Member Code of Conduct (Clean copy for reference).



POLICY P.073.GOV

TITLE: BOARD MEMBER CODE OF CONDUCT

Date issued: June 1999
Revised: 26 April 2016
Authorization: Board 10 May 1999

1.0 OBJECTIVE

To establish a standard of conduct and a mechanism for managing inappropriate conduct for Ottawa-Carleton District School Board members in discharging their duties as the legislative officers of the Board entrusted with the duty as fiduciaries to act at all times with the utmost good faith and respect in the best interests of the organization.

2.0 DEFINITION

In this policy,

2.1 **Board** means the Board of Trustees of the Ottawa-Carleton District School Board.

2.2 **Complaint** means a written allegation filed with the Integrity Commissioner that a Board member has breached this Code of Conduct.

2.3 **Complainant** means the Board member who files a complaint alleging that another Board member has breached this Code of Conduct.

2.2.4 **Conflict of interest** exists when the decisions and/or actions of a trustee during the course of exercising his/her duties are affected by or perceived by another party or person to be affected by the trustee's personal, financial or business interest or the personal, financial or business interests of a relative, friend, and/or business associate of the trustee.

2.3.5 **District** means the Ottawa-Carleton District School Board.

2.4.6 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.

2.5.7 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written **response report** has been provided to the Board **for a determination**.

2.8 Informal Review Process means the process whereby the ~~Chair of the Board~~Integrity Commissioner meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.

2.62.9 Integrity Commissioner means the neutral, independent officer appointed by the Board who manages the informal and formal review processes contained herein.

2.10 Respect means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.

2.72.11 Respondent means the Board member who is alleged to have breached the Code of Conduct and against whom a complaint has been filed with the Integrity Commissioner.

2.82.12 Trustee/Board member means a member of the Board elected or appointed in accordance with the *Municipal Elections Act* and the *Education Act*, and includes student trustees who are elected by the Student Senate and Students' President Council to represent the interests of students on the Board.

3.0 POLICY

Code of Conduct

- 3.1 The Board believes that the conduct of its members is integral to the quality of work, the reputation and the integrity of the Board of Trustees.
- 3.2 All members of the Board shall be governed equally by this code of conduct and are expected to uphold the letter and spirit of this Code of Conduct.
- 3.3 The Code of Conduct shall apply to members of the Board with respect to issues raised by, and amongst, members of the Board.

Compliance with Legislation

- 3.4 Board members shall discharge their duties in accordance with the *Education Act* and any regulations, directives or guidelines thereunder, and comply with the *Municipal Freedom of Information and Protection of Privacy Act*, and any other relevant legislation.
- 3.5 Board members shall recognize that they are not immune from liability for illegal or negligent actions or for statements which may be considered libel or slander made in the course of a meeting or published (including publication by electronic means).

Integrity and Dignity of Office

- 3.6 Board members shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.
- 3.7 Board members shall recognize that the expenditure of school board funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students of the entire District.

- 3.8 Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner, especially when representing the Board, attending Board events, or while on Board property.
- 3.9 Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to Board staff or fellow Board members.

Avoidance of Personal Advantage and Conflict of Interest

- 3.10 Board members shall declare any direct, ~~or~~ indirect or deemed pecuniary interest in a matter before the Board in accordance with the *Municipal Conflict of Interest Act and P.025.GOV Board Member Conflict of Interest*.
- 3.11 Board members shall not accept a gift, hospitality or benefits from any person or entity that has dealings with the Board if a reasonable person might conclude that the gift, hospitality or benefit could influence the member when performing his or her duties to the Board.
- a) Notwithstanding the above, in limited circumstances where it would be impolite or otherwise socially inappropriate to refuse a gift of obvious value, the gift may be accepted on behalf of the Board and reported to the Chair or Vice-Chair, but may not be taken home for the trustee's home or personal use or enjoyment.
- b) Acceptable gifts include holiday gifts such as fruit baskets or candy, inexpensive advertising and promotional materials such as pens or key chains, inexpensive awards to recognize service and accomplishment in civic, charitable, educational or religious organizations such as nominal gift certificates to book stores.
- 3.12 Board members shall not use the office of trustee or the resources of the District for personal gain, or to advance their interests or the interests of any family member or person or organization with whom or with which the member is associated.
- 3.13 Board members shall not use their office to obtain employment with the District for themselves or a family member.
- 3.14 Board members shall not use their office or any benefits derived therefrom for the purpose of seeking election or re-election to office.

Civil Behaviour

- 3.15 Board members shall not engage in conduct that would discredit or compromise the integrity of the Board during meetings of the Board or at any other time.
- 3.16 Board members shall not make allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, in bad faith or vindictive in nature against another member of the Board.
- 3.17 When expressing individual views, Board members shall respect the differing points of view of other Board members, staff, students and the public.
- 3.18 Board members shall, at all times, act with decorum and shall be respectful of other Board members, staff, students and the public.

- 3.19 All Board members shall endeavour to work with other Board members, ~~and~~ staff of the Board, community volunteers and parents in a spirit of respect, openness, courtesy, and co-operation.
- 3.20 All Board members shall have regard for, and model, the behavioral expectations referenced in Policy P.012.GOV, Board Governance, Policy P.125.SCO, School ~~Board~~ District Code of Conduct, and Policy P.009.HRS: Respectful Workplace (Harassment Prevention).
- 3.21 All members of the Board shall understand their responsibility for contributing to a respectful workplace, and make every reasonable effort to resolve issues arising as a result of friction, conflict or disagreement in a respectful and professional manner that contributes to a healthy and productive workplace.
- ~~3.22 All Board members who believes that another Board member's behavior has been egregious, shall~~ make every effort to resolve conflict should it arise, by raising his or her their concerns directly with that the other Board member.

Respect for Confidentiality

- ~~3.223.23~~ Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- ~~3.233.24~~ Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- ~~3.243.25~~ Board members shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a Board members becomes aware of because of his or her position, except when required by law or authorized by the Board to do so.
- ~~3.253.26~~ Board members shall ensure that any personal information collected, used or disclosed by him or her is done in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.
- ~~3.263.27~~ A Board member's duty of confidentiality with respect to private and confidential financial, business and/or commercial information, personnel information, student information, and legal matters and opinions extends beyond their term as a trustee. Inappropriate use of confidential information may constitute a criminal breach of trust contrary to section 122 of the Criminal Code (Canada).

Upholding Decisions

- ~~3.273.28~~ All Board members shall accept that authority rests with the Board, and that a Trustee has no individual authority other than that delegated by the Board.
- ~~3.283.29~~ Each Trustee shall uphold ~~the implementation of any Board resolution and not interfere with the implementation of decisions of the Board~~ after ~~it is~~ they are passed by the Board. A proper motion for reconsideration or rescission, if permitted by the Board's By-Laws and Standing Rules, can be brought by a Trustee.

~~3.293.30~~ A Trustee should be able to explain the rationale for a resolution passed by the Board. A Trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.

~~3.303.31~~ Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.

~~3.313.32~~ The Chair of the Board is the official spokesperson of the Board~~to the public on behalf of the Board, unless otherwise determined by the Board~~. No other Trustee shall speak on behalf of the Board or represent themselves as the spokesperson for the Board unless expressly authorized by the Chair of the Board ~~or Board to do so~~. When individual Trustees express their opinions in public~~the media~~, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVES

Role of the Chair/Presiding Officer

4.1 The Code of Conduct applies equally to all Board members including the Chair of the Board. ~~In the case of an allegation of a breach of the Code by the Chair, wherever a process requires action by the Chair, it shall be modified to read Vice-Chair.~~

~~4.2 Each year, the Board shall appoint two trustees to serve as alternate trustees to be used when the circumstances warrant that one or both trustees are needed in place of the Chair and/or Vice-Chair of the Board to carry out any of the duties required under this Code of Conduct.~~

~~4.3 In no circumstance shall the trustee(s) who brought the complaint of a breach of the Code of Conduct or the trustee who is alleged to have breached the Code be involved in the management or administration of the review of the complaint.~~

~~4.44.2~~ Nothing in this Code prevents the Chair or Presiding Officer of any meeting of the Board or committee of the Board from exercising their power pursuant to s. 207(3) of the *Education Act* to expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. For greater certainty, this may be done at the sole discretion of the Chair or Presiding Officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting. The rationale for this provision is that a Chair or Presiding Officer must have the ability to control a meeting. Any Trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this Code.

~~4.54.3~~ Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.

~~4.64.4~~ The Chair of the Board or Presiding Officer of any meeting of the Board or committee of the Board shall exercise his/her powers in a fair and impartial manner having due regard for every trustee's opinion or views.

4.74.5 The Chair of the Board or Presiding Officer shall follow the Board's By-Laws and Standing Rules. A breach of a rule of order should be dealt with at the meeting in question by a Trustee rising to a point of order or appealing a ruling of the Chair in accordance with any applicable rule of order. Once such a motion is dealt with by the Board of Trustees, all Trustees shall abide by that decision and no further action shall be undertaken pursuant to the enforcement of the Code of Conduct, except for persistent improper use of the applicable rules of order by the Chair or Presiding Officer.

4.84.6 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.

~~4.04.1 A Board member who believes that another Board member's behavior has been egregious, shall raise his or her concern with that Board member.~~

~~4.104.1 Where a conflict arises between Board members, opportunities for resolution should be sought, or may be presented, by the parties to the conflict in order to resolve the matter.~~

Identifying a Breach of the Code

4.7 A Board member who has a concern that another Board member may have engaged in conduct which represents a breach of this Code of Conduct should first consider whether there is an opportunity for resolution of the concern through direct discussion with the Board member. The assistance and advice of the Integrity Commissioner may be requested by either Board member. ~~Where a conflict arises between Board members, opportunities for resolution should be sought, or may be presented, by the parties to the conflict in order to resolve the matter.~~

4.114.8 A Board member who has reasonable grounds to believe that another Board member has breached the Board's Code of Conduct may ~~bring the alleged breach to the attention of the Board through the Chair of the Board~~ file a complaint with the Integrity Commissioner for review.

4.9 Complaints filed with the Integrity Commissioner must be made in writing and include: ~~A Trustee who has reasonable grounds to believe that another trustee of the Board has breached the Board's Code of Conduct may bring the breach to the attention of the Board by first providing to the Chair of the Board, a written, signed complaint setting out the following:~~

- a) the name of the trustee who is alleged to have breached the Code;
- b) a statement of fact about the alleged breach of the Code;
- c) information as to when the breach came to the trustee's attention;
- d) the grounds for the belief by the trustee that a breach of the Code has occurred;

and

e) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.

4.124.10 Any allegation of a breach of the Code must be ~~brought to the attention of the Chair of the Board~~filed with the Integrity Commissioner no later than ~~six (6)~~four weeks after the alleged breach comes to the knowledge of the ~~trustee reporting the alleged breach~~complainant. Notwithstanding the foregoing, in no circumstance shall a review of ~~an alleged breach of the Code~~a complaint be initiated after the expiration of ~~six (6)~~three months from the time the contravention is alleged to have occurred.

Refusal to Conduct Formal ReviewReview of Complaint

4.134.11 ~~It is expected that whenever possible, allegations of a breach of the Code of Conduct by a trustee shall be investigated using the Informal Review Process. It is recognized that from time to time a~~ a Board member may engage in conduct which is inappropriate but which occurred ~~contravention of the Code may occur that is trivial, or committed~~ through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of the Board, the first purpose of alerting a trustee to ~~such a potential~~a breach of the Code is to assist the trustee in understanding ~~his/her~~their obligations under the Code. ~~It is expected that whenever~~ Whenever possible, allegations of a breach of the Code of Conduct by a trustee ~~complaints shall be investigated~~ managed using the Informal Review Process. ~~Only serious and/or recurring breaches of the Code by a trustee should be investigated following the Formal Review Process.~~

4.144.12 A review of the complaint shall not be conducted if the ~~If the Chair and Vice-Chair of the Board are~~Integrity Commissioner determines ~~of the opinion~~ that the complaint is:

- out of time;
- trivial, frivolous, vexatious;
- not made in good faith; or
- there are no grounds or insufficient grounds for a ~~formal review,~~a formal review shall not be conducted.

~~A confidential report stating the reasons for not conducting a formal review shall be provided to all trustees of the Board.~~

~~If the Chair and Vice-Chair of the Board cannot agree on the above then a full formal review shall be conducted.~~

4.154.13 If ~~an allegation~~a complaint of a breach of the Code of Conduct, on its face, is with respect to the non-compliance of a Board policy with a separate and more specific complaints resolution procedure, the ~~allegation~~complaint shall be processed under that procedure.

4.164.14 Notwithstanding 4.13, the Integrity Commissioner determines whether a complaint is managed through the Informal Review Process or the Formal Review

~~Process. There are two methods for conducting an investigation of an allegation of a breach of the Code of Conduct:~~

- ~~i. Informal Review Process; or~~
- ~~ii. Formal Review Process.~~

Informal Review Process

~~4.174.15~~ The ~~Chair of the Board, on his/her own initiative, or at the request of a trustee of the Board (without the necessity of providing a formal written complaint) who alleges a breach of the Code has occurred,~~ Integrity Commissioner may shall meet informally with ~~a trustee of the Board who is alleged to have breached the Code~~ the respondent and/or the complainant, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the ~~trustee-respondent~~ and to discuss possible remedial measures to correct the offending behaviour.

~~4.184.16~~ The Informal Review Process is conducted in private. The details of the complaint, the informal process or the remedy are not reported to the Board.

~~4.194.17~~ As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.

~~4.204.18~~ If the ~~Chair of the Board and the trustee alleged to have breached this Code~~ parties cannot agree on a remedy, the Integrity Commissioner may determine a formal complaint may be brought against the trustee alleged to have breached this Code and that the complaint will be dealt with in accordance with managed by the Formal Review Process ~~below.~~

Formal Review Process

~~4.214.1~~ A ~~Trustee who has reasonable grounds to believe that another trustee of the Board has breached the Board's Code of Conduct may bring the breach to the attention of the Board by first providing to the Chair of the Board, a written, signed complaint setting out the following:~~

- ~~a) the name of the trustee who is alleged to have breached the Code;~~
- ~~b)a) a statement of fact about the alleged breach of the Code;~~
- ~~c)a) information as to when the breach came to the trustee's attention;~~
- ~~d)a) the grounds for the belief by the trustee that a breach of the Code has occurred; and~~
- ~~e)a) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.~~

~~If a written complaint is filed with the Chair of the Board then a Formal Review shall be undertaken, unless the complainant subsequently withdraws the complaint or agrees that the complaint may be dealt with in accordance with the Informal Review Process.~~

~~4.19~~ The Integrity Commissioner shall provide to all ~~trustees of the Board~~ members a confidential copy of the complaint within ten (10) days of receiving it or determining that

the complaint will be managed by the formal process following the failure of an informal process.

4.224.20 The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the Board of Trustees for a decision as to whether or not the Trustee respondent has breached this Code.

Steps of Formal Review

4.234.21 The formal review of a complaint shall be managed and/or investigated by the Integrity Commissioner or an outside consultant designated by the Integrity Commissioner. If a formal review of an allegation of a breach of the Code of Conduct is undertaken, it shall be done by:

- a) ~~The Chair and Vice-Chair of the Board, if appropriate (see Section 4.1); or~~
- b) ~~Any two of the Chair, Vice-Chair and the alternate trustees (see Sections 4.2 and 4.3); or~~
- c) ~~An outside consultant chosen by the Chair and Vice-Chair.~~

~~4.24 The Chair and Vice-Chair shall determine if the formal review will be undertaken by an outside consultant.~~

4.254.22 A formal review ~~Regardless of who undertakes the formal review, it shall be undertaken using the following steps:~~

- a) Procedural fairness and the rules of natural justice shall govern the formal review. The formal review will be conducted in private and, to the extent possible, protecting the confidentiality of the parties involved.
- b) The formal review may involve both written and oral statements by any witnesses, the ~~trustee bringing the complaint and the trustee who is alleged to have breached the Code of Conduct~~ complainant, and the respondent.
- c) The ~~trustee who is alleged to have breached the Code of Conduct~~ respondent shall receive details of the allegation and have an opportunity to respond to the allegations both in a private meeting with the ~~person(s) undertaking the formal review~~ Integrity Commissioner and in writing.
- d) ~~It is expected that the~~ The formal review will be conducted within 90 calendar days of the receipt of the written complaint ~~a reasonable period of time which will depend on the circumstances of the case. If a longer period of time is required to complete the inquiry, the reason for the extension will be explained in the final report to the Board.~~
- d)e) The ~~trustee who is alleged to have breached the Code of Conduct~~ respondent shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of time as the ~~investigators~~ Integrity Commissioner deems appropriate in the circumstance.
- e)f) If the ~~trustee who is alleged to have breached the Code of Conduct~~ respondent refuses to participate in the formal review, the formal review will continue in his/her absence.

Suspension of Formal Review

4.23 ~~If the investigators, when conducting the formal review, if in the conduct of the formal review, the Integrity Commissioner discovers that the subject-matter of the formal~~

inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another Act, the formal review shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of trustees.

~~4.26—Once the formal review is complete, the investigators shall provide a confidential draft copy of their report containing the findings of fact to the trustee who is alleged to have breached the Code of Conduct and the trustee who brought the complaint for their written comment to the investigator(s). The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. The two trustees shall have up to ten (10) days (or such greater period of time as deemed appropriate by the investigators) from the receipt of the draft report to provide a written response.~~

4.274.24 The final report of the ~~investigators~~ Integrity Commissioner shall

- a) outline the finding of facts; ~~but not~~
- b) ~~contain~~ make a recommendation ~~or opinion~~ as to whether there has been a breach of the Code of Conduct; and
- ~~b)c)~~ make a recommendation regarding a sanction, if required. ~~has been breached. This will be determined by the Board of Trustees as a whole.~~

~~4.28—If the Chair and Vice-Chair of the Board when conducting the formal review cannot agree on the final finding of facts, it shall be referred to an outside investigator to complete the formal review.~~

Suspension of Formal Review

~~4.294.1—If the investigators, when conducting the formal review, discover that the subject matter of the formal inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another Act, the formal review shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of trustees.~~

Decision

4.304.25 ~~The final report shall be delivered to the Board of Trustees, and a~~ decision by the Board of Trustees shall be made as soon as practical after receipt of the final report ~~by the Board.~~

4.314.26 ~~No trustee shall undertake his/her own investigation of the matter.~~ The Board shall vote on the decision and sanction on the basis of the facts determined by the Integrity Commissioner in the final report. ~~consider only the findings in the final report when voting on the decision and sanction. No trustee shall undertake his/her own investigation of the matter.~~

4.324.27 The determination of a breach of the Code of Conduct and the imposition of a sanction must be done by resolution of the Board at a meeting of the Board, and the vote on the resolution shall be open to the public. The resolution and the reasons for the decision shall be recorded in the minutes of the meeting. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees of the Board elected or appointed.

4.334.28 Despite s. 207 (1) of the *Education Act*, the part of the meeting of the Board during which a breach or alleged breach of the Board's Code of Conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2) (a) to (e) being:

- a) the security of the property of the Board;
- b) the disclosure of intimate, personal or financial information in respect of a member of the Board or committee, an employee or prospective employee of the Board or a pupil or his or her parent or guardian;
- c) the acquisition or disposal of a school site;
- d) decisions in respect of negotiations with employees of the Board; or
- e) litigation affecting the Board.

4.344.29 The ~~trustee who is alleged to have breached the Code of Conduct~~respondent:

- a) may be present during the deliberations;
- b) shall not participate in the deliberations;
- c) shall not be required to answer any questions at that meeting; and
- d) shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction.

4.354.30 The ~~trustee who filed the complaint~~complainant may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.

4.364.31 The ~~trustee who is alleged to have breached the Code~~respondent shall not, in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except to appeal after the decisions have been made.

Sanctions

4.374.32 If the Board determines that there has been no breach of the Code of Conduct or that a contravention occurred, although the trustee took all reasonable measures to prevent it, or that a contravention occurred that was trivial, or committed through inadvertence, or an error of judgment made in good faith, no sanction shall be imposed.

4.384.33 If the Board determines that a Board member has breached this Code of Conduct, the Board may impose one or more of the following sanctions:

- a) censure of the Board member;
- b) barring the Board member from attending all or part of a meeting of the Board or a meeting of a committee of the Board; or
- c) barring the Board member from sitting on one or more committees of the Board, for the period of time specified by the Board, not to exceed six months.

4.394.34 The Board shall not impose a sanction that is more onerous than the above but may impose one that is less onerous such as a warning. The Board has no power to declare the trustee's seat vacant.

4.404.35 A Board member who is barred from attending all or part of a meeting of the Board or a meeting of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to the members of the public.

4.414.36 A sanction barring a trustee from attending all or part of a meeting shall be deemed to be authorization for the trustee to be absent from the meeting, and therefore, not in violation of the *Education Act* regarding absences from meetings.

Appeal

4.424.37 If a Board determines that a Board member has breached this Code of Conduct, the Board shall:

- a) give the Board member written notice of the determination and of any sanction imposed by the Board;
- b) the notice shall inform the Board member that ~~he or she~~they may make written submissions to the Board in respect of the determination or sanction by the date specified in the notice that is at least 14 days after the notice has been received by the Board member; and
- c) consider any submissions made by the Board member and shall confirm or revoke the determination within 14 days after the submissions are received from the Board member.

4.434.38 If the Board revokes a determination any sanction imposed by the Board is also revoked.

4.444.39 If the Board confirms a determination that a Board member has breached this Code of Conduct, the Board shall, within the 14 days above, confirm, vary or revoke the sanction(s) imposed by the Board.

4.454.40 If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made by the Board.

4.464.41 The Board decisions to confirm or revoke a determination or confirm, vary or revoke a sanction shall be done by resolution at a meeting of the Board and the vote on the resolution shall be open to the public. Both resolutions shall be decided by a vote of at least 2/3 of the Board members elected or appointed.

4.474.42 The Board shall provide to the ~~Trustee-Board member~~ alleged to have breached the Code of Conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary or revoke a sanction. The Board member alleged to have breached the Code of Conduct shall not vote on those resolutions. The Board member who brought the complaint may vote.

4.484.43 The Board member who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but may not participate in the deliberations and shall not be required to answer any questions at that meeting.

4.494.44 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

4.504.45 The Board shall do the following things by resolution at a meeting of the Board, and the vote on the resolution shall be open to the public:

- a) Make a determination that a Board member has breached this Code of Conduct;
- b) Impose a sanction on a Board member for a breach of this Code of Conduct;
- c) Confirm or revoke a determination regarding a Board member's breach of this Code of Conduct; and
- d) Confirm, vary or revoke a sanction after confirming or revoking a determination regarding a Board member's breach of this Code of Conduct.

4.514.46 The meeting may be closed to the public if the breach or alleged breach involves:

- a) The security of the property of the Board;
- b) The disclosure of intimate, personal or financial information in respect of a member of the Board or committee, an employee or prospective employee of the Board or a pupil or his or her parent or guardian;
- c) The acquisition or disposal of a school site;
- d) Decisions in respect of negotiations with employees of the Board; or
- e) Litigation affecting the Board.

4.524.47 A Board member who is alleged to have breached this Code of Conduct shall not vote on any of the resolutions listed above with regard to the alleged breach(s).

4.534.48 In an election year, a Code of Conduct complaint respecting a trustee who is seeking re-election shall not be initiated during the period 1 September and ending after the first Board meeting following the election. If the trustee who is the subject of the complaint is not re-elected, no review shall be undertaken. The limitation period for bringing a complaint shall be extended as necessary.

4.544.49 The Statutory Powers Procedure Act does not apply to any of the enforcement provisions under section 218.3 of the *Education Act*. No formal trial-type hearing will be conducted.

4.554.50 Nothing in this Code of Conduct prevents a Board member's breach of the *Municipal Conflict of Interest Act* from being dealt with in accordance with that Act.

5.0 REFERENCE DOCUMENTS

The *Education Act* of Ontario and Regulations under the *Education Act*
Municipal Conflict of Interest Act, 1996

Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M56
 School Board Handbook, Ontario Public School Boards' Association (OPSBA), 1998

OCDsB By-laws and Standing Rules;
 Board Policy P.012.GOV: Board Governance

Board Policy P.025.GOV: Board Member Conflict of Interest

Board Policy P.125.SCO, School Board Code of Conduct

P.009.HS: Respectful Workplace (Harassment Prevention)

Board Procedure PR.625.HR: Corporate Code of Conduct for Business Relationships



POLICY P.073.GOV

TITLE: BOARD MEMBER CODE OF CONDUCT

Date issued: June 1999
Revised: 26 April 2016
Authorization: Board 10 May 1999

1.0 OBJECTIVE

To establish a standard of conduct and a mechanism for managing inappropriate conduct for Ottawa-Carleton District School Board members in discharging their duties as the legislative officers of the Board entrusted with the duty as fiduciaries to act at all times with the utmost good faith and respect in the best interests of the organization.

2.0 DEFINITION

In this policy,

- 2.1 **Board** means the Board of Trustees of the Ottawa-Carleton District School Board.
- 2.2 **Complaint** means a written allegation filed with the Integrity Commissioner that a Board member has breached this Code of Conduct.
- 2.3 **Complainant** means the Board member who files a complaint alleging that another Board member has breached this Code of Conduct.
- 2.4 **Conflict of interest** exists when the decisions and/or actions of a trustee during the course of exercising his/her duties are affected by or perceived by another party or person to be affected by the trustee's personal, financial or business interest or the personal, financial or business interests of a relative, friend, and/or business associate of the trustee.
- 2.5 **District** means the Ottawa-Carleton District School Board.
- 2.6 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.
- 2.7 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written report has been provided to the Board for a determination.

- 2.8 **Informal Review Process** means the process whereby the Integrity Commissioner meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.
- 2.9 **Integrity Commissioner** means the neutral, independent officer appointed by the Board who manages the informal and formal review processes contained herein.
- 2.10 **Respect** means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.
- 2.11 **Respondent** means the Board member who is alleged to have breached the Code of Conduct and against whom a complaint has been filed with the Integrity Commissioner.
- 2.12 **Trustee/Board member** means a member of the Board elected or appointed in accordance with the *Municipal Elections Act* and the *Education Act*, and includes student trustees who are elected by the Student Senate and Students' President Council to represent the interests of students on the Board.

3.0 POLICY

Code of Conduct

- 3.1 The Board believes that the conduct of its members is integral to the quality of work, the reputation and the integrity of the Board of Trustees.
- 3.2 All members of the Board shall be governed equally by this code of conduct and are expected to uphold the letter and spirit of this Code of Conduct.
- 3.3 The Code of Conduct shall apply to members of the Board with respect to issues raised by, and amongst, members of the Board.

Compliance with Legislation

- 3.4 Board members shall discharge their duties in accordance with the *Education Act* and any regulations, directives or guidelines thereunder, and comply with the *Municipal Freedom of Information and Protection of Privacy Act*, and any other relevant legislation.
- 3.5 Board members shall recognize that they are not immune from liability for illegal or negligent actions or for statements which may be considered libel or slander made in the course of a meeting or published (including publication by electronic means).

Integrity and Dignity of Office

- 3.6 Board members shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.
- 3.7 Board members shall recognize that the expenditure of school board funds is a public trust and endeavor to see that the funds are expended efficiently, in the best interests of the students of the entire District.

- 3.8 Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner, especially when representing the Board, attending Board events, or while on Board property.
- 3.9 Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to Board staff or fellow Board members.

Avoidance of Personal Advantage and Conflict of Interest

- 3.10 Board members shall declare any direct, indirect or deemed pecuniary interest in a matter before the Board in accordance with the *Municipal Conflict of Interest Act* and P.025.GOV Board Member Conflict of Interest.
- 3.11 Board members shall not accept a gift, hospitality or benefits from any person or entity that has dealings with the Board if a reasonable person might conclude that the gift, hospitality or benefit could influence the member when performing his or her duties to the Board.
 - a) Notwithstanding the above, in limited circumstances where it would be impolite or otherwise socially inappropriate to refuse a gift of obvious value, the gift may be accepted on behalf of the Board and reported to the Chair or Vice-Chair, but may not be taken home for the trustee's home or personal use or enjoyment.
 - b) Acceptable gifts include holiday gifts such as fruit baskets or candy, inexpensive advertising and promotional materials such as pens or key chains, inexpensive awards to recognize service and accomplishment in civic, charitable, educational or religious organizations such as nominal gift certificates to book stores.
- 3.12 Board members shall not use the office of trustee or the resources of the District for personal gain, or to advance their interests or the interests of any family member or person or organization with whom or with which the member is associated.
- 3.13 Board members shall not use their office to obtain employment with the District for themselves or a family member.
- 3.14 Board members shall not use their office or any benefits derived therefrom for the purpose of seeking election or re-election to office.

Civil Behaviour

- 3.15 Board members shall not engage in conduct that would discredit or compromise the integrity of the Board during meetings of the Board or at any other time.
- 3.16 Board members shall not make allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, in bad faith or vindictive in nature against another member of the Board.
- 3.17 When expressing individual views, Board members shall respect the differing points of view of other Board members, staff, students and the public.
- 3.18 Board members shall, at all times, act with decorum and shall be respectful of other Board members, staff, students and the public.

- 3.19 All Board members shall endeavour to work with other Board members, staff of the Board, community volunteers and parents in a spirit of respect, openness, courtesy, and co-operation.
- 3.20 All Board members shall have regard for, and model, the behavioral expectations referenced in Policy P.012.GOV, Board Governance, Policy P.125.SCO, School District Code of Conduct, and Policy P.009.HR: Respectful Workplace (Harassment Prevention).
- 3.21 All members of the Board shall understand their responsibility for contributing to a respectful workplace, and make every reasonable effort to resolve issues arising as a result of friction, conflict or disagreement in a respectful and professional manner that contributes to a healthy and productive workplace.
- 3.22 All Board members shall make every effort to resolve conflict should it arise, by raising their concerns directly with the other Board member.

Respect for Confidentiality

- 3.23 Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- 3.24 Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- 3.25 Board members shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a Board member becomes aware of because of his or her position, except when required by law or authorized by the Board to do so.
- 3.26 Board members shall ensure that any personal information collected, used or disclosed by him or her is done in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.
- 3.27 A Board member's duty of confidentiality with respect to private and confidential financial, business and/or commercial information, personnel information, student information, and legal matters and opinions extends beyond their term as a trustee. Inappropriate use of confidential information may constitute a criminal breach of trust contrary to section 122 of the Criminal Code (Canada).

Upholding Decisions

- 3.28 All Board members shall accept that authority rests with the Board, and that a Trustee has no individual authority other than that delegated by the Board.
- 3.29 Each Trustee shall uphold and not interfere with the implementation of decisions of the Board after they are passed by the Board. A proper motion for reconsideration or rescission, if permitted by the Board's By-Laws and Standing Rules, can be brought by a Trustee.

- 3.30 A Trustee should be able to explain the rationale for a resolution passed by the Board. A Trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.
- 3.31 Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.
- 3.32 The Chair of the Board is the official spokesperson of the Board. No other Trustee shall speak on behalf of the Board or represent themselves as the spokesperson for the Board unless expressly authorized by the Chair of the Board. When individual Trustees express their opinions in the media, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVES

Role of the Chair/Presiding Officer

- 4.1 The Code of Conduct applies equally to all Board members including the Chair of the Board.
- 4.2 Nothing in this Code prevents the Chair or Presiding Officer of any meeting of the Board or committee of the Board from exercising their power pursuant to s. 207(3) of the *Education Act* to expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. For greater certainty, this may be done at the sole discretion of the Chair or Presiding Officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting. The rationale for this provision is that a Chair or Presiding Officer must have the ability to control a meeting. Any Trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this Code.
- 4.3 Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.
- 4.4 The Chair of the Board or Presiding Officer of any meeting of the Board or committee of the Board shall exercise his/her powers in a fair and impartial manner having due regard for every trustee's opinion or views.
- 4.5 The Chair of the Board or Presiding Officer shall follow the Board's By-Laws and Standing Rules. A breach of a rule of order should be dealt with at the meeting in question by a Trustee rising to a point of order or appealing a ruling of the Chair in accordance with any applicable rule of order. Once such a motion is dealt with by the Board of Trustees, all Trustees shall abide by that decision and no further action shall be undertaken pursuant to the enforcement of the Code of Conduct, except for persistent improper use of the applicable rules of order by the Chair or Presiding Officer.
- 4.6 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.

Identifying a Breach of the Code

- 4.7 A Board member who has a concern that another Board member may have engaged in conduct which represents a breach of this Code of Conduct should first consider whether there is an opportunity for resolution of the concern through direct discussion with the Board member. The assistance and advice of the Integrity Commissioner may be requested by either Board member.
- 4.8 A Board member who has reasonable grounds to believe that another Board member has breached the Board's Code of Conduct may file a complaint with the Integrity Commissioner for review.
- 4.9 Complaints filed with the Integrity Commissioner must be made in writing and include:
- a) the name of the trustee who is alleged to have breached the Code;
 - b) a statement of fact about the alleged breach of the Code;
 - c) information as to when the breach came to the trustee's attention;
 - d) the grounds for the belief by the trustee that a breach of the Code has occurred; and
 - e) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.
- 4.10 Any allegation of a breach of the Code must be filed with the Integrity Commissioner no later than four weeks after the alleged breach comes to the knowledge of the complainant. Notwithstanding the foregoing, in no circumstance shall a review of a complaint be initiated after the expiration of three months from the time the contravention is alleged to have occurred.

Review of Complaint

- 4.11 It is recognized that from time to time a Board member may engage in conduct which is inappropriate but which occurred through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of the Board, the first purpose of alerting a trustee to such a potential breach of the Code is to assist the trustee in understanding their obligations under the Code. Whenever possible, complaints shall be managed using the Informal Review Process.
- 4.12 A review of the complaint shall not be conducted if the Integrity Commissioner determines that the complaint is:
- a) out of time;
 - b) trivial, frivolous, vexatious;
 - c) not made in good faith; or
 - d) there are no grounds or insufficient grounds for a review.
- 4.13 If a complaint of a breach of the Code of Conduct, on its face, is with respect to the non-compliance of a Board policy with a separate and more specific complaints resolution procedure, the complaint shall be processed under that procedure.

- 4.14 Notwithstanding 4.13, the Integrity Commissioner determines whether a complaint is managed through the Informal Review Process or the Formal Review Process.

Informal Review Process

- 4.15 The Integrity Commissioner shall meet informally with the respondent and/or the complainant, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the respondent and to discuss possible remedial measures to correct the offending behaviour.
- 4.16 The Informal Review Process is conducted in private. The details of the complaint, the informal process or the remedy are not reported to the Board.
- 4.17 As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.
- 4.18 If the parties cannot agree on a remedy, the Integrity Commissioner may determine that the complaint will be managed by the Formal Review Process..

Formal Review Process

- 4.19 The Integrity Commissioner shall provide to all Board members a confidential copy of the complaint within ten (10) days of receiving it or determining that the complaint will be managed by the formal process following the failure of an informal process.
- 4.20 The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the Board of Trustees for a decision as to whether or not the respondent has breached this Code.
- 4.21 The formal review of a complaint shall be managed and/or investigated by the Integrity Commissioner or an outside consultant designated by the Integrity Commissioner.
- 4.22 A formal review shall be undertaken using the following steps:
- a) Procedural fairness and the rules of natural justice shall govern the formal review. The formal review will be conducted in private and, to the extent possible, protecting the confidentiality of the parties involved.
 - b) The formal review may involve both written and oral statements by any witnesses, the complainant, and the respondent.
 - c) The respondent shall receive details of the allegation and have an opportunity to respond to the allegations both in a private meeting with the Integrity Commissioner and in writing.
 - d) The formal review will be conducted within 90 calendar days of the receipt of the written complaint. If a longer period of time is required to complete the inquiry, the reason for the extension will be explained in the final report to the Board.
 - e) The respondent shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of time as the Integrity Commissioner deems appropriate in the circumstance.
 - f) If the respondent refuses to participate in the formal review, the formal review will continue in his/her absence.

Suspension of Formal Review

- 4.23 If in the conduct of the formal review, the Integrity Commissioner discovers that the subject-matter of the formal inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another *Act*, the formal review shall be suspended until the police investigation, charge or matter under another *Act* has been finally disposed of. This shall be reported to the rest of the Board of trustees.
- 4.24 The final report of the Integrity Commissioner shall
- a) outline the finding of facts
 - b) make a recommendation as to whether there has been a breach of the Code of Conduct; and
 - c) make a recommendation regarding a sanction, if required.

Decision

- 4.25 A decision by the Board of Trustees shall be made as soon as practical after receipt of the final report.
- 4.26 No trustee shall undertake his/her own investigation of the matter. The Board shall vote on the decision and sanction on the basis of the facts determined by the Integrity Commissioner in the final report.
- 4.27 The determination of a breach of the Code of Conduct and the imposition of a sanction must be done by resolution of the Board at a meeting of the Board, and the vote on the resolution shall be open to the public. The resolution and the reasons for the decision shall be recorded in the minutes of the meeting. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees of the Board elected or appointed.
- 4.28 Despite s. 207 (1) of the *Education Act*, the part of the meeting of the Board during which a breach or alleged breach of the Board's Code of Conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2) (a) to (e) being:
- a) the security of the property of the Board;
 - b) the disclosure of intimate, personal or financial information in respect of a member of the Board or committee, an employee or prospective employee of the Board or a pupil or his or her parent or guardian;
 - c) the acquisition or disposal of a school site;
 - d) decisions in respect of negotiations with employees of the Board; or
 - e) litigation affecting the Board.
- 4.29 The respondent:
- a) may be present during the deliberations;
 - b) shall not participate in the deliberations;
 - c) shall not be required to answer any questions at that meeting; and
 - d) shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction.

- 4.30 The complainant may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.
- 4.31 The respondent shall not, in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except to appeal after the decisions have been made.

Sanctions

- 4.32 If the Board determines that there has been no breach of the Code of Conduct or that a contravention occurred, although the trustee took all reasonable measures to prevent it, or that a contravention occurred that was trivial, or committed through inadvertence, or an error of judgment made in good faith, no sanction shall be imposed.
- 4.33 If the Board determines that a Board member has breached this Code of Conduct, the Board may impose one or more of the following sanctions:
- a) censure of the Board member;
 - b) barring the Board member from attending all or part of a meeting of the Board or a meeting of a committee of the Board; or
 - c) barring the Board member from sitting on one or more committees of the Board, for the period of time specified by the Board, not to exceed six months.
- 4.34 The Board shall not impose a sanction that is more onerous than the above but may impose one that is less onerous such as a warning. The Board has no power to declare the trustee's seat vacant.
- 4.35 A Board member who is barred from attending all or part of a meeting of the Board or a meeting of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to the members of the public.
- 4.36 A sanction barring a trustee from attending all or part of a meeting shall be deemed to be authorization for the trustee to be absent from the meeting, and therefore, not in violation of the *Education Act* regarding absences from meetings.

Appeal

- 4.37 If a Board determines that a Board member has breached this Code of Conduct, the Board shall:
- a) give the Board member written notice of the determination and of any sanction imposed by the Board;
 - b) the notice shall inform the Board member that they may make written submissions to the Board in respect of the determination or sanction by the date specified in the notice that is at least 14 days after the notice has been received by the Board member; and
 - c) consider any submissions made by the Board member and shall confirm or revoke the determination within 14 days after the submissions are received from the Board member.

- 4.38 If the Board revokes a determination any sanction imposed by the Board is also revoked.
- 4.39 If the Board confirms a determination that a Board member has breached this Code of Conduct, the Board shall, within the 14 days above, confirm, vary or revoke the sanction(s) imposed by the Board.
- 4.40 If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made by the Board.
- 4.41 The Board decisions to confirm or revoke a determination or confirm, vary or revoke a sanction shall be done by resolution at a meeting of the Board and the vote on the resolution shall be open to the public. Both resolutions shall be decided by a vote of at least 2/3 of the Board members elected or appointed.
- 4.42 The Board shall provide to the Board member alleged to have breached the Code of Conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary or revoke a sanction. The Board member alleged to have breached the Code of Conduct shall not vote on those resolutions. The Board member who brought the complaint may vote.
- 4.43 The Board member who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but may not participate in the deliberations and shall not be required to answer any questions at that meeting.
- 4.44 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

- 4.45 The Board shall do the following things by resolution at a meeting of the Board, and the vote on the resolution shall be open to the public:
- a) Make a determination that a Board member has breached this Code of Conduct;
 - b) Impose a sanction on a Board member for a breach of this Code of Conduct;
 - c) Confirm or revoke a determination regarding a Board member's breach of this Code of Conduct; and
 - d) Confirm, vary or revoke a sanction after confirming or revoking a determination regarding a Board member's breach of this Code of Conduct.
- 4.46 The meeting may be closed to the public if the breach or alleged breach involves:
- a) The security of the property of the Board;
 - b) The disclosure of intimate, personal or financial information in respect of a member of the Board or committee, an employee or prospective employee of the Board or a pupil or his or her parent or guardian;
 - c) The acquisition or disposal of a school site;
 - d) Decisions in respect of negotiations with employees of the Board; or
 - e) Litigation affecting the Board.

- 4.47 A Board member who is alleged to have breached this Code of Conduct shall not vote on any of the resolutions listed above with regard to the alleged breach(s).
- 4.48 In an election year, a Code of Conduct complaint respecting a trustee who is seeking re-election shall not be initiated during the period 1 September and ending after the first Board meeting following the election. If the trustee who is the subject of the complaint is not re-elected, no review shall be undertaken. The limitation period for bringing a complaint shall be extended as necessary.
- 4.49 The Statutory Powers Procedure Act does not apply to any of the enforcement provisions under section 218.3 of the *Education Act*. No formal trial-type hearing will be conducted.
- 4.50 Nothing in this Code of Conduct prevents a Board member's breach of the *Municipal Conflict of Interest Act* from being dealt with in accordance with that Act.

5.0 REFERENCE DOCUMENTS

The *Education Act* of Ontario and Regulations under the *Education Act*
Municipal Conflict of Interest Act, 1996
Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M56
 School Board Handbook, Ontario Public School Boards' Association (OPSBA), 1998
 OCDSB By-laws and Standing Rules,
 Board Policy P.012.GOV: Board Governance
 Board Policy P.025.GOV: Board Member Conflict of Interest
 Board Policy P.125.SCO, School Board Code of Conduct
 P.009.HS: Respectful Workplace (Harassment Prevention)
 Board Procedure PR.625.HR: Corporate Code of Conduct for Business Relationships