



SPECIAL BOARD

PUBLIC AGENDA

Monday, November 16, 2020, 8:30 pm
Zoom Meeting

Pages

1. Call to Order -- Chair of the Board
2. Approval of the Agenda
3. Matters for Action
 - 3.1. Report 20-099, Code of Conduct Breach Determination - Lyra Evans (M. Giroux) 1
 1. Investigator's Report dated 2 November 2020 18
 - 3.2. If Required
 1. Report 20-101, Code of Conduct - Possible Application of Sanctions (M. Giroux) 125
 - 3.3. Report 20-100, Code of Conduct Breach Determination - Justine Bell (M. Giroux) 130

Refer to the Investigator's Report at item 3.1.1
 - 3.4. If Required
 1. Report 20-102, Code of Conduct - Possible Application of Sanctions (M. Giroux) 147

4. Adjournment



BOARD (PUBLIC)
Report 20-099

16 November 2020

Code of Conduct Breach Determination - Lyra Evans

Key Contact: Michele Giroux, Executive Officer, Corporate Services, (613) 596-8211 ext. 8310

PURPOSE:

1. To consider a complaint under the Code of Conduct against Trustee Lyra Evans and determine whether there has been a contravention of the Code; and, if necessary, determine what action, if any, the Board might take.

CONTEXT:

2. The school district has a Board Member Code of Conduct policy which establishes standards of practice and behavior for the Board of Trustees. In August 2020, a complaint was filed alleging Trustee Lyra Evans had failed to uphold sections 3.18, 3.28 and 3.29 of the Code. Chair Scott and Vice-Chair Penny reviewed the complaint against the policy and determined that a formal review of the complaint would begin, using a third party investigator. An investigator was retained and has completed the review and submitted a report to the Board. Under the policy, the investigator must submit a report of the finding of facts which does not include a determination of whether the Code has been breached nor does it provide any recommendations. The Board must review the finding of facts and determine whether the Code has been breached. Should the Board determine that there has been a breach of the Code of Conduct, the Board shall then consider what sanctions, if any, shall be applied.

KEY CONSIDERATIONS:

3. Submission of Code Complaint
On Thursday, August 27, 2020, Trustee Lyra Evans posted a statement regarding a decision of the Board on her Twitter account. Trustee Donna Blackburn filed a formal complaint with the Chair on August 29, 2020. The complaint alleged that Trustee Lyra Evan's social media activity was inconsistent with the Civil Behaviour expectation established in section 3.18, and the Upholding Decisions expectation established in sections 3.28 and 3.29 of the Board Member Code of Conduct policy. A copy of the complaint was distributed to trustees in accordance with section 4.19 of the policy (P.073.GOV).

4. Third Party Investigator Retained

An independent third party investigator was retained by the District to investigate the complaint. The investigator was provided with a copy of the Board Member Code of Conduct policy, the complaint, the minutes of the Board and Committee of the Whole Budget meetings and relevant Board governance policies. The investigator met with staff and legal counsel and was asked to undertake an investigation in accordance with the provisions of the policy. Under section 4.24 of the policy, the investigation 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.*
- c. *The trustee who is alleged to have breached the Code of Conduct 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 and in writing.*
- d. *It is expected that the formal review will be conducted within a reasonable period of time which will depend on the circumstances of the case. The trustee who is alleged to have breached the Code of Conduct 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 deem appropriate in the circumstance.*
- e. *If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review, the formal review will continue in his/her absence.*

5. Investigator's Report

The policy requires the investigator to provide a confidential draft copy of the report to the trustee who filed the complaint and the trustee who is alleged to have breached the Code. Both Trustees Blackburn and Lyra Evans received the draft report and had an opportunity to provide comments to the investigator.

The investigator submitted the final report to the District on Monday, November 2, 2020. The final report was shared with the Board on Friday, November 13, 2020. A copy of the investigator's report is included in the November 16, 2020 Special Board Meeting agenda. In accordance with section 4.26 of the policy, the final report of the investigator is a finding of facts and does not contain a recommendation or opinion as to whether the Code of Conduct has been breached.

6. Process for Determining a Breach

The Board is required to review the report, and as soon as practical, make a decision as to whether the Code has been breached. Under section 4.30, "The Board shall consider only the findings in the final report when voting on the decision and sanction." The Board decision is made by way of resolution of the Board at a public meeting of the Board.

Staff and legal counsel will be in attendance at the meeting to assist the Board in understanding its administrative and legislative responsibilities in this regard.

7. Participation in Decision-making

In terms of participation in the process, all parties to the complaint had equal opportunity to provide facts to the investigator – through interview or in writing. In addition, both the complainant and the subject of the complaint had the opportunity to review and comment on the investigator's report before the final report was prepared.

The Code of Conduct policy, section 4.33, provides the following restrictions on participation in the decision-making:

"The trustee who is alleged to have breached the Code of Conduct:

- 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."*

The trustee who is alleged to have breached the Code 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."

Except for the trustee who is alleged to have contravened the Code, all members of the Board may vote on decisions regarding Code of Conduct. The trustee who filed the complaint is entitled to vote.

Decisions made under the Code of Conduct policy require a vote of at least 2/3 of the Trustees of the Board elected or appointed. At the OCDSB this means that of the 11 members voting, 8 members must vote in favour in order for a motion to be carried. This is not adjusted for absences - meaning that if only 7 members were present, no motion could be carried. Similarly, if all 11 members eligible to vote were present, and 3 members abstained from voting, no motion could be carried.

8. Factors in Breach Decisions

The Board must consider whether a breach of the Code of Conduct policy has occurred. In making this decision, the Board must focus their deliberation on this particular complaint using the investigator's report as the statement of facts.

Section 4.30 of the policy provides that "*The Board shall 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.*"

In order to ensure clarity in decision-making, any motion put forward regarding a breach should be structured as follows:

Upon review of the facts as documented in the investigator's final report dated (insert date) regarding a Code of Conduct complaint filed by (insert name) in relation to (insert name), the Board finds:

THAT Trustee _____ has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to

This structure ensures clarity of decision-making whether the motion is carried or fails.

In the event the Board decides the Code has been breached, it must then determine what sanctions, if any, shall be imposed. That is a separate decision making process which is detailed in Report 20-101.

COMMUNICATION/CONSULTATION ISSUES:

9. There are no communication or consultation issues related to the determination of breach.

RESOURCE IMPLICATIONS:

10. There are three primary areas of cost associated with a Code of Conduct complaint; legal fees, investigation costs, and staff time. The investigation costs and legal fees are funded through the legal services budget and are estimated at \$5,000. In terms of staff time, it is estimated that the administration of this complaint involved approximately 10 hours of work.

SUMMARY:

11. The Board must consider the finding of facts and make decisions based on the following questions:

- With respect to the Code of Conduct complaint dated August 29, 2020 and based on the final report of the investigator, did Trustee Lyra Evans contravene the Code of Conduct?

RECOMMENDATION:

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Lyra Evans, the Board finds:

THAT Trustee Lyra Evans (insert HAS or HAS NOT) has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education and
Secretary of the Board

Attachments:

Appendix A: Policy P.073.GOV Board Member Code of Conduct

**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 **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 **District** means the Ottawa-Carleton District School Board.
- 2.4 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.
- 2.5 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written response has been provided to the Board.
- 2.6 **Informal Review Process** means the process whereby the Chair of the Board meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.
- 2.7 **Respect** means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.

- 2.8 **Trustee** 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 pecuniary interest in a matter before the Board.
- 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 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 Code of Conduct, and Policy P.009.HS: 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.

Respect for Confidentiality

- 3.22 Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- 3.23 Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- 3.24 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.
- 3.25 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*.
- 3.26 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

- 3.27 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.
- 3.28 Each Trustee shall uphold the implementation of any Board resolution after it is 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.
- 3.29 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.
- 3.30 Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.
- 3.31 The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or Board to do so. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVESRole 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.
- 4.4 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.
- 4.5 Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.
- 4.6 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.
- 4.7 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.
- 4.8 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.
- 4.9 A Board member who believes that another Board member's behavior has been egregious, shall raise his or her concern with that Board member.
- 4.10 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

- 4.11 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.

- 4.12 Any allegation of a breach of the Code must be brought to the attention of the Chair of the Board no later than six (6) weeks after the alleged breach comes to the knowledge of the trustee reporting the alleged breach. Notwithstanding the foregoing, in no circumstance shall a review of an alleged breach of the Code be initiated after the expiration of six (6) months from the time the contravention is alleged to have occurred.
- 4.13 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.
- 4.14 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 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 a breach of the Code is to assist the trustee in understanding his/her obligations under the Code. Only serious and/or recurring breaches of the Code by a trustee should be investigated following the Formal Review Process.

Informal Review Process

- 4.15 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, may meet informally with a trustee of the Board who is alleged to have breached the Code, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the trustee and to discuss possible remedial measures to correct the offending behaviour. The informal review process is conducted in private.
- 4.16 As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.
- 4.17 If the Chair of the Board and the trustee alleged to have breached this Code cannot agree on a remedy, a formal complaint may be brought against the trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Review Process below.

Formal Review Process

- 4.18 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.

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 Chair of the Board shall provide to all trustees of the Board a confidential copy of the complaint within ten (10) days of receiving it. 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 has breached this Code.

Refusal to Conduct Formal Review

- 4.20 If the Chair and Vice-Chair of the Board are of the opinion 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 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.

- 4.21 If an allegation 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 shall be processed under that procedure.

Steps of Formal Review

- 4.22 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.
- 4.23 The Chair and Vice-Chair shall determine if the formal review will be undertaken by an outside consultant.
- 4.24 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.
 - c) The trustee who is alleged to have breached the Code of Conduct 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 and in writing.
 - d) It is expected that the formal review will be conducted within a reasonable period of time which will depend on the circumstances of the case. The trustee who is alleged to have breached the Code of Conduct 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 deem appropriate in the circumstance.
 - e) If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review, the formal review will continue in his/her absence.
- 4.25 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.
- 4.26 The final report of the investigators shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.
- 4.27 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

- 4.28 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

- 4.29 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.
- 4.30 The Board shall 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.

- 4.31 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.
- 4.32 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.
- 4.33 The trustee who is alleged to have breached the Code of Conduct:
- 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.
- 4.34 The trustee who filed the complaint may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.
- 4.35 The trustee who is alleged to have breached the Code 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

- 4.36 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.
- 4.37 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.

- 4.38 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.
- 4.39 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.
- 4.40 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

- 4.41 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 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.
- 4.42 If the Board revokes a determination any sanction imposed by the Board is also revoked.
- 4.43 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.
- 4.44 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.
- 4.45 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.
- 4.46 The Board shall provide to the Trustee 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.

- 4.47 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.
- 4.48 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

- 4.49 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.
- 4.50 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.
- 4.51 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).
- 4.52 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.
- 4.53 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.
- 4.54 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

STRICTLY CONFIDENTIAL

FINAL REPORT

November 2, 2020

Andrew Tremayne
Arbitrator, Mediator and
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STRICTLY CONFIDENTIAL

Mandate

On August 31, 2020, I was retained by the Ottawa-Carleton District School Board to act as an external investigator into a complaint under the organization's *Board Member Code of Conduct*. The complaint, which the Board received on August 29, 2020, was brought by Trustee Donna Blackburn against Trustee Lyra Evans. On September 3, 2020, Trustee Blackburn filed a complaint against Trustee Justine Bell. Both complaints arose from the same series of events, namely a tweet sent by Trustee Evans that was retweeted by Trustee Bell, so my mandate was expanded to include investigating the complaint against Trustee Bell. The investigation into both complaints is to be conducted under the Formal Review provisions of the *Code of Conduct*.

The mandate of this investigation is to gather and present the facts and to provide a written report. The Formal Review provisions require that a draft written report be provided to the Trustee who is alleged to have breached the *Code of Conduct* and the Trustee who brought the complaint (referred to from this point on as the "parties") for comment before the final report is prepared. The draft report was sent to Trustees Blackburn, Evans, and Bell on October 14, 2000, and I received comments from all three Trustees.

This is the final report, and it sets out the steps taken in the investigation and the evidence that has been collected. I have also incorporated the parties' comments into this report.

The Formal Review provisions of the *Code of Conduct* state that the final report shall not contain a recommendation or opinion as to whether the *Code of Conduct* has been breached. That determination is made by the Board of Trustees as a whole after it receives the final report. I have not made any findings of fact in this

report concerning the interpretation or meaning of the tweets in question because after careful consideration, I have concluded that doing so would require me to offer an opinion, which I am precluded from doing under the Formal Review process.

Background and Process

Contact

My contact for the investigation is Michele Giroux, Executive Officer (Corporate Services) of the Board. Ms. Giroux provided me with copies of all of the relevant documents in connection with handling of the complaints up to the date of my appointment, as well as copies of the relevant Board policies. She also provided ongoing clarification regarding the Formal Review process and the scope of the investigation.

Board Policies

The objective of the *Board Member Code of Conduct*, which applies to the parties, is to “establish a standard of conduct and a mechanism for managing inappropriate conduct for Ottawa-Carleton District School Board members in discharging their duties.” All members of the Board are expected to uphold the letter and spirit of the *Code of Conduct*.

*A copy of the Code of Conduct (Policy P.073.GOV) is attached at **Tab 1**.*

The *Code of Conduct* includes the following provisions under the heading 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.

The provisions set out under the heading Civil Behaviour are as follows:

- 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 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 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.

Sections 4.15 – 4.17 of the *Code of Conduct* establish an Informal Review Process to resolve complaints without requiring that a formal written complaint be submitted. I understand the Chair of the Board engaged this process, but that attempts to resolve the matters were unsuccessful. The informal review process is conducted in private, so in my view, it would not be appropriate to disclose details of the parties' discussions with the Chair in this report.

The Formal Review process is described in sections 4.18 – 4.27 of the *Code of Conduct*.

Complaints

The first complaint relates to a tweet sent by Trustee Lyra on August 26, 2020, at 10:51 p.m., shortly after the Board voted on the 2020-2021 Staff Recommended Budget. Approximately 1 hour later, Trustee Bell retweeted Trustee Lyra's tweet and added a comment. The second complaint relates to Trustee Bell's retweet.

First Complaint

*A copy of the formal complaint from Trustee Blackburn alleging that Trustee Lyra breached the Code of Conduct is attached at **Tab 2**.*

In a letter dated August 31, 2020, the Chair of the Board informed Trustee Blackburn that her formal complaint against Trustee Lyra had been received and that a formal review would proceed.

*A copy of the August 31, 2020 letter from the Chair of the Board to Trustee Blackburn is attached at **Tab 3**.*

In a letter dated August 31, 2020, the Chair of the Board informed Trustee Lyra that a formal complaint against her had been received and that a formal review would proceed.

*A copy of the August 31, 2020 letter from the Chair of the Board to Trustee Lyra is attached at **Tab 4**.*

Second Complaint

*A copy of the formal complaint from Trustee Blackburn alleging that Trustee Bell breached the Code of Conduct is attached at **Tab 5**.*

In a letter dated September 10, 2020, the Chair of the Board informed Trustee Blackburn that her formal complaint against Trustee Bell had been received and that a formal review would proceed.

*A copy of the September 10, 2020 letter from the Chair of the Board to Trustee Blackburn is attached at **Tab 6**.*

In a letter dated September 10, 2020, the Chair of the Board informed Trustee Bell that a formal complaint against her had been received and that a formal review would proceed.

*A copy of the September 10, 2020 letter from the Chair of the Board to Trustee Bell is attached at **Tab 7**.*

Interviews

Public health announcements related to the COVID-19 outbreak continue to require rigorous distancing and hygiene measures in addition to placing severe limits on travel outside the home. As a result, and to comply with best practices set out in the applicable public health guidelines, all interviews were conducted by videoconference.

I informed everyone who I interviewed that the matters that we discuss during the interview are confidential.

I interviewed Trustee Blackburn on September 15, 2020. I interviewed Trustee Bell on September 18, 2020. I interviewed Trustee Lyra on September 25, 2020.

Documents

Copies of the following documents are attached at **Tabs 1-14**:

1. A copy of the *Board Member Code of Conduct* is attached at **Tab 1**.
2. A copy of the formal complaint from Trustee Blackburn alleging that Trustee Lyra breached the Code of Conduct is attached at **Tab 2**.
3. A copy of the August 31, 2020 letter from the Chair of the Board to Trustee Blackburn is attached at **Tab 3**.
4. A copy of the August 31, 2020 letter from the Chair of the Board to Trustee Lyra is attached at **Tab 4**.
5. A copy of the formal complaint from Trustee Blackburn alleging that Trustee Bell breached the Code of Conduct is attached at **Tab 5**.
6. A copy of the September 10, 2020 letter from the Chair of the Board to Trustee Blackburn is attached at **Tab 6**.

7. A copy of the September 10, 2020 letter from the Chair of the Board to Trustee Bell is attached at **Tab 7**.
8. A copy of the Committee of the Whole, Budget Report from August 11, 2020 is attached at **Tab 8**.
9. A copy of the Committee of the Whole, Budget Report from August 13, 2020 is attached at **Tab 9**.
10. A copy of the Committee of the Whole, Budget Report from August 26, 2020 is attached at **Tab 10**.
11. A copy of the Special Board Public Minutes from August 26, 2020 is attached at **Tab 11**.
12. A copy of Trustee Lyra's August 26, 2020 tweet is attached at **Tab 12**.
13. A copy of Trustee Bell's comment on Trustee Lyra's August 26, 2020 tweet is attached at **Tab 13**.
14. A copy of Trustee Bell's reply to Trustee Lyra's August 26, 2020 tweet is attached at **Tab 14**.

Allegations

Budget 2020-2021: Meetings, Motions, and Decisions

A brief review of the Board's deliberations around the 2020-2021 Staff Recommended Budget will provide necessary background and context for the complaints.

On August 11, 2020, the Board met as a Committee of the Whole to review the 2020-2021 Staff-Recommended Budget. This was a continuation of a July 21, 2020 budget meeting where staff presented the 2020-2021 Staff Recommended Budget.

*A copy of the Committee of the Whole, Budget Report from August 11, 2020 is attached at **Tab 8**.*

At the August 11, 2020 meeting, Trustee Lyra brought the following motion and an amendment to that motion:

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget;
- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved; and
- C. THAT the In-Year Deficit Elimination plan as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved.

An amendment moved by Trustee Lyra Evans,

- A) THAT \$95,976 be removed from School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and
- B) THAT \$95,976 be put towards hiring a conflict mediator, and a reconciliation officer; to be placed in the same schools to which the SROs were assigned.

(Committee of the Whole, Budget Report from August 11, 2020; pg. 8-9)

Trustee Lyra introduced the amendment, saying that the motion is the first step in a process to rebuild the trust of the Black, Indigenous and other racialized communities that have suffered at the hands of the police. She said that by hiring additional police, the Board accepts the treatment of those communities in schools.

The Director and Associate Director commented on the safe schools policy and the SRO program.

Trustee Bell moved the following sub-amendment:

THAT the OCDSB pause the SRO program and conduct a review of the program and the impact (both positive and negative) that it has on student populations.

(Committee of the Whole, Budget Report from August 11, 2020; pg. 10)

The meeting adjourned without a vote on the Budget Motion, the amendment, or the sub-amendment.

The meeting of the Committee of the Whole continued on August 13, 2020.

Trustee Bell withdrew her sub-amendment. There was a discussion about Trustee Lyra's original amendment to the Budget Motion and the SRO program generally.

*A copy of the Committee of the Whole, Budget Report from August 13, 2020 is attached at **Tab 9**.*

Trustee Ellis moved the following sub-amendment:

THAT Part B of the amendment be revised to read "THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework."

(Committee of the Whole, Budget Report from August 13, 2020; pg. 5)

After a discussion, the sub-amendment was carried.

The discussion returned to Trustee Lyra's original amendment to the budget motion, which now read as follows:

- A THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and
- B. THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.

(Committee of the Whole, Budget Report from August 13, 2020; pg. 7)

The amendment was carried.

The discussion moved to other matters, namely a new amendment to the Budget Motion to increase funding in areas of the Board's operations affected by the COVID-19 pandemic. The meeting adjourned without a vote on the Budget Motion or the new amendment.

The meeting of the Committee of the Whole continued on August 18, 2020. The SRO program and the sections of Trustee Lyra's Budget Motion (now amended) on the 2020-2021 Staff Recommended Budget related to the SRO program were not discussed.

The final meeting of the Committee of the Whole during which the Budget Motion was discussed took place on August 26, 2020. At the start of this meeting, the Committee received 7 Delegations, all of whom spoke about the SRO program.

*A copy of the Committee of the Whole, Budget Report from August 26, 2020 is attached at **Tab 10**.*

Additional amendments to the Budget Motion were moved, discussed, and voted on. At the end of the meeting, the following Budget Motion was carried [emphasis added]:

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget, amended as follows:
 - a. THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and
 - b. THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.
 - c. THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with school councils and to “undertaking activities to help parents of pupils of the Board support their children’s learning at home and at school”. d. THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators. e. THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards’ Association (OPSBA) member boards and local media, calling on the province to:
 - i. Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves,
 - ii. Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either (i) their Ministry-confirmed plans, 1. further changes in Ministry direction, or 2. unforeseen and unavoidable local COVID-19 related circumstances, and
 - iii. Commit to asking Ontario’s Chief Medical Officer to immediately review and publicly respond fully and directly to the expert advice on COVID-19 risk reduction for schools provided on August 19 2020 by the Registered Nurses’ Association of Ontario (RNAO), and the Minister and Premier

then to reassess as may be indicated the province's financial support and direction around COVID-19 risks reduction in its schools;

- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved;
- C. THAT the In-Year Deficit Elimination plan presented in the 2020-2021 Staff-Recommended Budget Binder, as amended, be approved;
- D. THAT the accumulated surplus be used to further increase the recommended \$4.0 million COVID expense provision by \$471,491;
- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020:B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated August 14 2020, Additional Guidance and Funding for School Reopening, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.

(Committee of the Whole, Budget Report from August 26, 2020; pg. 15-17)

The Board moved immediately from its August 26, 2020 meeting of the Committee of the Whole to a Special Board Meeting. The Budget Motion (set out above) was before the Board.

*A copy of the Special Board Public Minutes from August 26, 2020 is attached at **Tab 11**.*

Trustee Ellis requested that the first two parts of the Budget Motion (underlined above) regarding the SRO program at Ridgemont and Gloucester High Schools be voted on separately. It was clarified that a vote against these two parts of the amendment would eliminate them from the final motion and would result in the funds being allocated as proposed in the original 2020-2021 Staff Recommended Budget.

There was a discussion about the merits of the SRO Program and the first two parts of the motion. Trustee Lyra moved the following:

THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and

THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.

(Special Board Public Minutes from August 26, 2020; pg. 4-5)

The motion was defeated. At Trustee Ellis's request, a recorded vote was held and the motion was defeated on the following division:

FOR: Trustee Ellis, Lyra Evans, Bell, (3)

AGAINST: Trustee Boothby, Hough, Campbell, Jennekens, Penny, Fisher, Schwartz, Scott, (8)

ABSTENTION: Nil (0)

Comments on Twitter

Shortly after the meeting adjourned, Trustee Lyra posted the following message on Twitter:

Tonights board meeting: OCDSB Trustees voted 8-3 in favour of putting extra police in high needs, low income, disproportionately racialized schools. Instead of community supports. Shoutout to @justinegbell and @School1Zone6 for joining me in opposing systemic racism.

10:51 PM · 2020-08-26

*A copy of Trustee Lyra's August 26, 2020 tweet is attached at **Tab 12**.*

A few minutes later, Trustee Bell retweeted Trustee Lyra's post and added the comment, "I am disappointed beyond words."

*A copy of Trustee Bell's comment on Trustee Lyra's August 26, 2020 tweet is attached at **Tab 13**.*

The next day, August 27, 2020 at approximately 1:00 p.m., Trustee Bell replied to Trustee Lyra's August 26, 2020 tweet with the following message:

I believe that Trustees voted against removing the @OCDSB \$\$ to 2 SROs and putting it into the urban priorities because they want to conduct an SRO review first/consult, and/or did not have sufficient info. #disappointed. Our calls to action @ 3:51 here: [youtube.com/watch?v=KcsoHH](https://www.youtube.com/watch?v=KcsoHH)

*A copy of Trustee Bell's reply to Trustee Lyra's August 26, 2020 tweet is attached at **Tab 14**.*

Interview with Trustee Blackburn

Trustee Blackburn says that although she has a Twitter account, she has never used it and has never sent a tweet. Trustee Lyra's August 26, 2020 tweet was brought to her attention by someone in her Zone who monitors Twitter. In her complaint, Trustee Blackburn identified three main concerns about the tweet.

First, it is incorrect to say that the Board "voted 8-3 in favour of putting *extra* police." This is because the Board voted to continue the status quo. The Board did not vote in favour of more SROs; it voted to keep things exactly the same. Trustee Lyra's tweet makes it look like the Board changed the status quo by voting for extra SROs in the two schools (Gloucester High School and Ridgemont High

School). That is, the tweet makes it look like the Board voted to put more SROs in those schools than there were before the vote, which is not true.

Second, by saying “*instead* of community supports,” the tweet gives the false impression that no community supports are currently in place at the two schools. This is not true, because there are many community supports at the schools, including a social worker, an addiction specialist, and others. The Board did not vote to reduce any community supports, and it did not vote for anything instead of community supports. The Board’s vote was in favour of the status quo.

Third, the message identifies Trustee Bell and Trustee Ellis as “joining” Trustee Lyra in opposing systemic racism. This part of the tweet gives the impression that only these three Trustees are opposed to systemic racism and that by implication, all other Trustees are not opposed to systemic racism. In this way, the tweet also suggests that other than Trustees Lyra, Bell, and Ellis, every Trustee a racist,.

Trustee Blackburn says that Trustee Lyra’s tweet is contrary to section 3.18 of the *Code of Conduct*. The tweet is disrespectful to Trustees, and also to students and the public, because it lies about how the Board voted. It is also disrespectful to accuse Trustees of not being opposed to systemic racism and of being racists.

The tweet is also contrary to section 3.28 of the *Code*, because it does not tell the truth about the Board’s discussion and resolution. As a result, the tweet does not uphold the Board’s resolution, it undermines it. While there are provisions for bringing a motion for reconsideration, Trustee Lyra did not do so.

Finally, section 3.29 of the *Code* says that a Trustee may respectfully state her position on a resolution provided it does not in any way undermine the implementation of the resolution. Trustee Lyra’s tweet is contrary to this section

because the tweet is not factual – it misrepresents the Board’s resolution. It undermines the implementation of the resolution because it suggests that the Board voted to change the status quo, which it did not. The tweet also undermines the implementation of the resolution by suggesting that those who opposed it did so because they are not opposed to systemic reasons, or are racists.

Turning to Trustee Bell’s retweet and comment on Trustee Lyra’s original tweet, Trustee Blackburn says that by retweeting the message, Trustee Bell endorsed the misrepresentations in Trustee Lyra’s tweet. This is clear because Trustee Bell adds a comment that she is “disappointed beyond words” about the Board’s decision. By retweeting and endorsing the original message, Trustee Bell has also contravened the same sections of the *Code* as Trustee Lyra.

Interview with Trustee Lyra

Trustee Lyra says that each year, the Board is responsible for approving an entire budget. The Board simplifies the process by looking at the changes to the previous year’s budget, because it would take too long to construct a budget “from the ground up” each year. However, the Board is nevertheless approving the entire budget each year. In the 2020-2021 Staff Recommended Budget, there are more SROs at Gloucester High School and Ridgemont High School than there are at other schools, so there are, in fact, “extra” SROs at these two schools. In other words, the word “extra” in the tweet refers to “extra” compared to all other schools as opposed to “extra” compared to last year’s budget. From this perspective, says Trustee Lyra, the tweet is fair and accurate. Trustee Lyra believes that what she wrote is true.

With respect to the part of the tweet that refers to community supports, Trustee Lyra says that the motion she proposed would have moved funds from the extra SROs to community supports. This is not to say that there are not already

community supports in place at the two schools, but that if the motion had passed, those funds would have gone to community supports.

Trustee Lyra adds that she takes the responsibility to inform her community about Board proceeding seriously, and that many people rely on Twitter for information. Twitter has word limits, so it is not always possible to provide the same level of detail as a press statement. While more information and context is good, Twitter provides a brief, immediate, and direct format. The August 26, 2020 tweet is nevertheless accurate as it stands, because the Board did decide to put funds into additional SROs rather than community supports.

Turning to the allegation that the tweet suggests that Trustees other than Trustees Lyra, Bell, and Ellis are not opposed systemic racism and that the tweet also suggests that every other Trustee a racist, Trustee Lyra strongly disagrees. She does not believe that people are or are not racists. She does not say that people are racists; rather she refers to peoples' actions or choices as enabling racism. Similarly, saying that someone has failed to oppose systemic racism is not the same thing as calling someone a racist. Trustee Lyra says that her worldview is in line with two books provided to all Trustees by the Board last summer: "How to Be an Antiracist" and "So You Want to Talk About Race."

Systemic racism or institutional racism is difficult to change because decisions look innocuous, but the result is inequity for racialized students. When the Board decides to put extra police in schools, the Board, even with the best intentions, is enabling the school to prison pipeline to continue. Viewed in this light, the Board's decision upholds systemic racism. If the opposite of upholding is opposing, then the tweet is accurate.

Interview with Trustee Bell

Trustee Bell says that she read Trustee Lyra's tweet after the August 26, 2020 Board meeting. Trustee Bell did not see anything inaccurate in the tweet, and she did not think it was misleading. It was late at night, after a lengthy Board meeting, and she had been up very early doing a radio interview. Trustee Bell says that she did not have the energy to do anything except add a brief comment and retweet Trustee Lyra's tweet.

Trustee Lyra's tweet is accurate, says Trustee Bell, because the Board voted to support the extra SROs with Board funds. When she read the tweet, she interpreted "extra" as meaning *in addition to* what the City provides for SROs. It would also have been possible to say that the Board continued to fund existing SRO programs. Both statements are accurate, but they explain the outcome in a different way. She may not have used the same words as Trustee Lyra, but the tweet reflects what happened, and there is nothing wrong or inaccurate about it.

The motion also proposed to take away funds from SROs and put them into social supports. The tweet does not say that the Board is not funding social supports. However, the choice was between using Board funds for SROs or social supports, and the motion to move the funds to social services was defeated, so the tweet is accurate.

Trustee Bell says that systemic racism exists and that the motion was an opportunity for the Board to make a decision that opposed systemic racism. According to Trustee Bell, her understanding of the terms "racism," "racist," and "systemic racism," align with the definitions of these terms in the two books provided to all Trustees by the Board: "How to Be an Antiracist," and "So You Want to Talk About Race." She took action by voting to move funds that are

being spent on SROs to social supports by means of the urban priority program. The actions of the Trustees who voted against the motion were not racist; rather, they did not seize an opportunity to dismantle systemic racism. She understands that some of her colleagues wanted more information and more consultation before voting on the issue. They may believe that their opposition to systemic racism will be more effective if they get more information. Trustee Bell says that she did not need more information before voting in favour of the motion.

With respect to the comment that she added when she retweeted Trustee Lyra's tweet, Trustee Bell says that she was very disappointed in the Board's decision, but that saying so is not disrespectful.

Trustee Bell says that the next day, August 27, 2020, after some discussions with her colleagues, she recognized that Trustee Lyra's tweet could be misinterpreted and that not everyone may have interpreted it the same way she did. As a result, Trustee Bell says, she wanted to provide some extra context for the Board's decision. She decided that the best way to do this was to engage the community that had already seen Trustee Lyra's original tweet, so she composed a tweet alongside the original tweet. This tweet clarifies that Trustees voted against the motion because they wanted to "conduct an SRO review first/consult, and/or did not have sufficient info."

Trustee Bell adds that in her view, Trustee Blackburn's complaint against her is vexatious and was not brought in good faith. In the spring of 2020, a complaint was filed against Trustee Blackburn, and Trustee Bell was vocal in her criticism of Trustee Blackburn's conduct and described her actions as racist when the matter came before the Board. Since that time, Trustee Bell says, Trustee Blackburn has been aggressive and disrespectful to her in emails. On August 27, 2020, Trustee Blackburn sent her an email accusing her of calling her colleagues

racist and of spreading misinformation by retweeting Trustee Lyra's August 26 tweet. Examples of those emails were provided for this investigation. From the perspective of Trustee Bell, the allegation is inaccurate and ridiculous. Trustee Bell holds that she did not contravene any of the provisions in the *Code of Conduct* through her retweet of Trustee Lyra's tweet.

[Note: Until Trustee Blackburn read the draft report, she was not aware of Trustee Bell's position that her complaint against Trustee Bell is vexatious and was brought in bad faith. As a result, I have set out Trustee Blackburn's response below.]

Trustee Blackburn responds that Trustee Bell's assertion that the complaint against her is vexatious and was brought in bad faith is false, and it has nothing to do with any claims that Trustee Bell has made against her in the past. Trustee Blackburn adds that her complaint against Trustee Bell was filed ten days after filing the complaint against Trustee Evans. This is because it was Trustee Blackburn's sincere hope that the matter could be addressed informally under the Informal Review Process and without the need for a formal written complaint.



November 2, 2020
Andrew Tremayne
Ottawa, Ontario

Tab 1



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 **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 **District** means the Ottawa-Carleton District School Board.
- 2.4 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.
- 2.5 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written response has been provided to the Board.
- 2.6 **Informal Review Process** means the process whereby the Chair of the Board meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.
- 2.7 **Respect** means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.

- 2.8 **Trustee** 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 pecuniary interest in a matter before the Board.
- 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 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 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.

Respect for Confidentiality

- 3.22 Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- 3.23 Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- 3.24 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.
- 3.25 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*.
- 3.26 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

- 3.27 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.
- 3.28 Each Trustee shall uphold the implementation of any Board resolution after it is 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.
- 3.29 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.
- 3.30 Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.
- 3.31 The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or Board to do so. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVESRole 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.
- 4.4 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.
- 4.5 Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.
- 4.6 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.
- 4.7 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.
- 4.8 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.
- 4.9 A Board member who believes that another Board member's behavior has been egregious, shall raise his or her concern with that Board member.
- 4.10 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

- 4.11 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.

- 4.12 Any allegation of a breach of the Code must be brought to the attention of the Chair of the Board no later than six (6) weeks after the alleged breach comes to the knowledge of the trustee reporting the alleged breach. Notwithstanding the foregoing, in no circumstance shall a review of an alleged breach of the Code be initiated after the expiration of six (6) months from the time the contravention is alleged to have occurred.
- 4.13 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.
- 4.14 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 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 a breach of the Code is to assist the trustee in understanding his/her obligations under the Code. Only serious and/or recurring breaches of the Code by a trustee should be investigated following the Formal Review Process.

Informal Review Process

- 4.15 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, may meet informally with a trustee of the Board who is alleged to have breached the Code, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the trustee and to discuss possible remedial measures to correct the offending behaviour. The informal review process is conducted in private.
- 4.16 As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.
- 4.17 If the Chair of the Board and the trustee alleged to have breached this Code cannot agree on a remedy, a formal complaint may be brought against the trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Review Process below.

Formal Review Process

- 4.18 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.

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 Chair of the Board shall provide to all trustees of the Board a confidential copy of the complaint within ten (10) days of receiving it. 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 has breached this Code.

Refusal to Conduct Formal Review

- 4.20 If the Chair and Vice-Chair of the Board are of the opinion 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 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.

- 4.21 If an allegation 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 shall be processed under that procedure.

Steps of Formal Review

- 4.22 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.

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

- 4.24 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.
 - c) The trustee who is alleged to have breached the Code of Conduct 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 and in writing.
 - d) It is expected that the formal review will be conducted within a reasonable period of time which will depend on the circumstances of the case. The trustee who is alleged to have breached the Code of Conduct 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 deem appropriate in the circumstance.
 - e) If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review, the formal review will continue in his/her absence.
- 4.25 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.
- 4.26 The final report of the investigators shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.
- 4.27 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

- 4.28 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

- 4.29 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.
- 4.30 The Board shall 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.

- 4.31 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.
- 4.32 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.
- 4.33 The trustee who is alleged to have breached the Code of Conduct:
- 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.
- 4.34 The trustee who filed the complaint may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.
- 4.35 The trustee who is alleged to have breached the Code 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

- 4.36 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.
- 4.37 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.

- 4.38 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.
- 4.39 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.
- 4.40 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

- 4.41 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 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.
- 4.42 If the Board revokes a determination any sanction imposed by the Board is also revoked.
- 4.43 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.
- 4.44 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.
- 4.45 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.
- 4.46 The Board shall provide to the Trustee 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.

- 4.47 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.
- 4.48 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

- 4.49 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.
- 4.50 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.
- 4.51 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).
- 4.52 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.
- 4.53 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.
- 4.54 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.HR: Respectful Workplace (Harassment Prevention)
Board Procedure PR.625.HR: Corporate Code of Conduct for Business Relationships

Tab 2

From: **Donna Blackburn** <donna.blackburn@ocdsb.ca>
Date: Sat, Aug 29, 2020 at 1:48 PM
Subject: Code of Conduct Complaint against Trustee Evans
To: Lynn Scott <lynn.scott@ocdsb.ca>

Dear Chair Scott

On Thursday, August 27th Trustee Lyra Evans Tweeted the following:

Tonights board meeting: OCDSB trustees voted 8-3 in favour of putting extra police high needs, low income, disproportionately racialized schools. Instead of community supports. Shout out to @justinegbell and @SchoolZone 6 for joining me in opposing systemic racism.

I wish to lodge a formal complaint under the Board's Code of Conduct.

I believe Trustee Evans has violated the following sections of the Code:

3.18 Board members shall, at all times, act with decorum shall be respectful of other Board members, staff, students and the public.

3.28 Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission if permitted by the Board's By-law and Standing Rules, can be brought by a Trustee.

3.29 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 and of the resolution.

Trustee Donna Blackburn

Tab 3



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

Office of the Chair of the Board

August 31, 2020

Trustee Donna Blackburn
[REDACTED]
[REDACTED]

Dear Trustee Blackburn,

I am writing with respect to the Code of Conduct complaint which you filed with me on Saturday, August 29 2020, regarding the behaviour of Trustee Lyra Evans. In accordance with section 4.23 of the Board Member Code of Conduct, Mr. [Andrew Tremayne](#), has been retained as an independent third party to undertake the review in accordance with section 4.24 of the [Code](#). The formal review may involve both written and oral statements by the trustee bringing the complaint and the trustee who is alleged to have breached the Code of Conduct. Mr. Tremayne will be in contact with you regarding this matter. Given the current circumstances, contact with the investigator will be by telephone, video conference or other electronic means. As the policy sets an expectation that the formal review will be conducted within a reasonable period of time, your active participation in this review is greatly appreciated.

As part of the review process, the investigator will prepare a report containing findings of fact. The investigator will provide a confidential draft copy of their report containing the findings of fact to you and the trustee who is the subject of the complaint. 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 investigator) from the receipt of the draft report to provide a written response.

The final report of the investigator shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.

This is an important process and I encourage you to share your experiences with the investigator to ensure that the finding of facts is comprehensive. This is critical to informing any future decisions of the Board.

Thank you for your prompt attention to this matter.

Sincerely,

Lynn Scott

Lynn Scott
Chair, Board of Trustees

cc. Vice-Chair of the Board, Keith Penny
Director of Education, Camille Williams-Taylor
Executive Officer, Michele Giroux
Corporate Records
Investigator

Tab 4



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

Office of the Chair of the Board

31 August 2020

Trustee Lyra Evans



Dear Trustee Lyra:

I am writing to inform you that I have received a formal complaint which alleges that you have contravened sections 3.18, 3.28 and 3.29 of Policy P.073.GOV Board Member Code of Conduct. The complaint relates to a tweet posted to your Twitter account on 27 August 2020.

The Board will proceed with a formal review in accordance with the provisions of the Board Member Code of Conduct. The steps of the Formal Review Process are detailed in sections 4.22 and 4.24 of the Code of Conduct.

The District has retained the services of Andrew Tremayne, an independent investigator, to undertake the formal review.

I would appreciate your cooperation in this matter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Lynn Scott

Lynn Scott
Chair of the Board

Tab 5

----- Forwarded message -----

From: **Donna Blackburn** <donna.blackburn@ocdsb.ca>

Date: Thu, Sep 3, 2020 at 8:22 PM

Subject: Code of Conduct complaint

To: Lynn Scott <lynn.scott@ocdsb.ca>

Dear Chair Scott

On Thursday, August 27th Trustee Justine Bell retweeted the following tweet by Trustee Lyra Evans:

Tonights board meeting: OCDSB trustees voted 8-3 in favour of putting extra police high needs, low income, disproportionately racialized schools. Instead of community supports. Shout out to @justinegbell and @SchoolZone 6 for joining me in opposing systemic racism.

I wish to lodge a formal complaint under the Board's Code of Conduct.

I believe Trustee Bell has violated the following sections of the Code:

3.18 Board members shall, at all times, act with decorum shall be respectful of other Board members, staff, students and the public.

3.28 Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission if permitted by the Board's By-law and Standing Rules, can be brought by a Trustee.

3.29 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 and of the resolution.

I will further note she posted " I am disappointed, beyond words" at the top of her retweet.

Trustee Donna Blackburn

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Tab 6



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

Office of the Chair of the Board

September 10, 2020

Trustee Donna Blackburn

Dear Trustee Blackburn,

I am writing with respect to the Code of Conduct complaint which you filed with me on Thursday, September 3, 2020, regarding the behaviour of Trustee Justine Bell. In accordance with section 4.23 of the Board Member Code of Conduct, Mr. Andrew Tremayne, has been retained as an independent third party to undertake the review in accordance with section 4.24 of the Code. The formal review may involve both written and oral statements by the trustee bringing the complaint and the trustee who is alleged to have breached the Code of Conduct. Mr. Tremayne will be in contact with you regarding this matter. Given the current circumstances, contact with the investigator will be by telephone, video conference or other electronic means. As the policy sets an expectation that the formal review will be conducted within a reasonable period of time, your active participation in this review is greatly appreciated.

As part of the review process, the investigator will prepare a report containing findings of fact. The investigator will provide a confidential draft copy of their report containing the findings of fact to you and the trustee who is the subject of the complaint. 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 investigator) from the receipt of the draft report to provide a written response.

The final report of the investigator shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.

This is an important process and I encourage you to share your experiences with the investigator to ensure that the finding of facts is comprehensive. This is critical to informing any future decisions of the Board.

Thank you for your prompt attention to this matter.

Sincerely,

Lynn Scott

Lynn Scott
Chair, Board of Trustees

cc. Vice-Chair of the Board, Keith Penny
Director of Education, Camille Williams-Taylor
Executive Officer, Michele Giroux
Corporate Records
Investigator

Tab 7



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

Office of the Chair of the Board

10 September 2020

Trustee Justine Bell



Dear Trustee Bell:

I am writing to inform you that I have received a formal complaint which alleges that you have contravened sections 3.18, 3.28 and 3.29 of Policy P.073.GOV Board Member Code of Conduct. The complaint relates to a tweet from Trustee Lyra Evans which you re-posted to your Twitter account on 27 August 2020.

The Board will proceed with a formal review in accordance with the provisions of the Board Member Code of Conduct. The steps of the Formal Review Process are detailed in sections 4.22 and 4.24 of the Code of Conduct.

The District has retained the services of Andrew Tremayne, an independent investigator, to undertake the formal review.

I would appreciate your cooperation in this matter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Lynn Scott

Lynn Scott
Chair of the Board

Tab 8



COMMITTEE OF THE WHOLE, BUDGET REPORT

Tuesday, August 11, 2020

7:00 pm

Zoom Meeting

- Trustees Present:** Justine Bell, Christine Boothby, Rob Campbell, Chris Ellis, Lyra Evans, Mark Fisher, Wendy Hough, Jennifer Jennekens, Keith Penny, Sandra Schwartz, Lynn Scott, Charles Chen (Student Trustee), Joy Liu (Student Trustee)
- Staff Present:** Camille Williams-Taylor (Director of Education), Brett Reynolds (Associate Director), Mike Carson (Chief Financial Officer), Janice McCoy (Superintendent of Human Resources), Dorothy Baker (Superintendent of Instruction), Peter Symmonds (Superintendent of Learning Support Services), Mary Jane Farrish (Superintendent of Instruction), Shannon Smith (Superintendent of Instruction), Michele Giroux (Executive Officer, Corporate Services), Shawn Lehman (Superintendent of Instruction), Eric Hardie (Superintendent of Instruction), Prince Duah (Superintendent of Instruction), Nadia Towaij (Superintendent of Program and Learning K-12), Carolyn Tanner (Human Rights and Equity Advisor) Kevin Gardner (Manager of Finance), Sandy Owens (Manager of Business & Learning Technologies), Karyn Carty Ostafichuk (Manager of Planning), Christine Kessler (System Principal, Learning Support Services), Pamela LeMaistre (Manager of Human Resources), Diane Pernari-Hergert (Manager of Communications & Information Services), Sandra Lloyd (Manager of Risk and Supply Chain Management), Nicole Guthrie (Manager of Board Services), Charles D'Aoust (Coordinator of Budget Services), Teri Adamthwaite (Coordinator of Financial Reporting), Rebecca Grandis (Senior Board Coordinator), Amanda Pelkola (Board/Committee Coordinator).
- Non-Voting
Representatives
Present:** Jennifer Capitani (OCEOC); Jennifer Coleman (OCSSAN); Wulf Heidecker (ETFO); Stephanie Kirkey(OSSTF-Teachers); Jean Trant (OSSTF-SSP); Kelly Granum (OSSTF-OT); David Wildman (OCEOTA); Melodie Gondek (OSSTF-ESP); Troy Cluff (OSSTF-PSSU); Malaka Hendela (OCASC); Harvey Brown (ACE); Connie Allen (SEAC); Rob Kirwan (SEAC) and

Non-affiliated Staff, Stacey Kay.

1. Call to Order - Chair of Committee of the Whole, Budget

Chair Schwartz called the public session to order at 7:00 p.m. and acknowledged that the meeting is taking place on unceded Algonquin Territories and thanked the Algonquin Nations for hosting the meeting on their land.

2. Approval of Agenda

Moved by Trustee Lyra Evans,

THAT the agenda be approved.

Carried

3. Declaration of Conflict of Interest

Trustee Campbell declared the following indirect conflict of interest:

Pursuant to Section 2 of the Municipal Conflict of Interest Act, I wish to declare an indirect conflict of interest in the matter of expenditures and revenues within the staff-recommended budget related explicitly to, both specific, Ottawa GO Club and SPCO interests in 440 Albert, the Rideau Hub or OCENET. Should any debate or votes specific to such matters be discussed, I will recuse myself from the debate and vote. I do not intend to recuse myself from general budget debate or general votes on the budget. Details are available in the public conflict register, available via the OCDSB Website.

4. Delegations

4.1 Lili Miller, re: End of the School Resource Officer (SRO) program

Ms. Miller expressed the opinion that it is well known that there is tremendous racism in law enforcement, including the Ottawa Police Service (OPS). She noted that students in schools need professionals in de-escalation, conflict management and mental health counselors, rather than police who rely on intimidation to manage student behaviour. Ms. Miller asked the Board to consider allocating all funds directed to the OPS to be redirected to the safe and caring professionals she suggested as an alternative to a police presence in schools. She submitted that by not acting, the Board is sending the message that they do not listen to and do not care about racialized students who have been mistreated by the police in District schools. Ms. Miller implored the Board to take action and remove police from schools.

Trustee Bell asked Ms. Miller if she was familiar with specific reports or outreach to students in the District or with any research undertaken on the School Resource Officer (SRO) Program.

Ms. Miller was aware that youths at the Indigenous Education Advisory Committee (IEAC) presented examples of the mistreatment of racialized students at the hands of the SROs and spoke to the students' reluctance to speak out against this mistreatment in school.

Trustee Lyra Evans asked Ms. Miller if she was of the opinion that this was the sentiment of the IEAC. Ms. Miller noted that the opinion was divided, older members preferred the status quo but younger members requested a change.

4.2 Carolyn Kropp, re: School Council Funding and Return to School Questions

Ms. Kropp questioned staff as to whether school council spending limitations might be updated in light of COVID-19. She expressed concerns over managing class sizes within the District as well as the use of outdoor classrooms. If schools are over capacity would the District consider adding additional portables to those sites.

Chief Financial Officer (CFO) Carson noted that the province has not changed the guidelines for school council spending in light of COVID-19 and staff are not looking to school councils to provide additional financial support to schools. Portables were allocated to schools in June based on enrolment at that time. The rental of tents or domes by school councils is prohibited and staff will not be looking to school councils to provide personal protective equipment (PPE). Regarding ventilation, staff began looking at this in the summer at each school site, some rooms may be a challenge, windows may have to be opened and rooms may have to be taken out of commission, if necessary. The District received additional funding for Chromebooks and iPads. Business and Learning Technologies (B & LT) staff are working with schools to oversee the return of equipment. It is impossible to guarantee that all of the loaned equipment will be returned and that there would not be a deficiency.

Ms. Hendela committed to raise the question of whether technology equipment purchased by school councils and loaned to students will be returned to schools.

5. Matters for Action

5.1 Report 20-063, 2020-2021 Staff-Recommended Budget

Chair Schwartz noted that this meeting is a continuation of the 21 July 2020 budget meeting where staff presented the 2020-2021 Staff-Recommended Budget. Since the presentation of the report, additional information and funds have been received. Chair Schwartz thanked staff for their work on the budget and in preparing a back to school plan.

Director Williams-Taylor noted that there have been a number of announcements since the presentation of the budget on 21 July 2020. The Ministry announced its plan to reopen schools and additional funding was provided to ensure a safe return to schools. The provincial plan will see elementary schools opened on a full-time basis and secondary schools opened on a part-time basis, families have the option to continue with remote learning if they choose.

Over the past weeks, staff has worked with the Ministries of Health and Education as well as local health experts to develop information for families and staff prior to welcoming students back on 3 September 2020. The Director noted she would not be presenting a plan at tonight's meeting but would share the following principles that were considered in the return to school plan:

- The safety of students and staff and the ability to work with public health officials in the event of confirmed COVID outbreaks;
- A commitment to ensuring as much as possible the continued support to improve student achievement and well-being; and
- Continually reviewing ideas and processes to ensure the work being done aligns with the cultures of innovation, caring and social responsibility.

Staff have looked at the principles while considering the divergent needs of communities in Ottawa, with equity in the forefront. While the plan that has been developed may not be ideal, it will see schools open in September, with reduced risk to staff and students.

Dr. Petra Duschner was present to speak to the conditions that need to be in place for students upon their return in the fall. She noted that in the context of the last six months, the pandemic and racial issues, all communities have suffered great loss. Student feelings on their return to school will vary. Some students will thrive with the familiarity of school while vulnerable students may require special supports. There is no "one size fits all" solution. Staff, parents and communities must model resilience but must not diminish the emotional impact of the past six months. School Mental Health Ontario is putting together a toolkit and staff will be trained in providing healthy classrooms and recognizing issues. Through working with Ottawa Public Health (OPH) and school mental health supports, staff are positioned to provide the right level of service as students return to school.

CFO Carson advised Trustees Bell and Campbell that answers to a number of their questions will be available at the 13 August 2020 COW Budget meeting.

CFO Carson emphasized that it has been a most unusual year and that staff want to present a budget that will provide flexibility, see the opening of schools, minimize risk and change course as required.

There will be an amendment to the recommendation to capture the authority to proceed with some of the funding from the province through the Priorities and Partnerships Fund (PPF).

CFO Carson noted the PowerPoint (PPT) being presented tonight is the same one used on 21 July 2020 but with three revised pages to include the recently announced provincial funding to address COVID-related expenses.

The total amount the province has allocated to school boards is \$109,000,000, with the OCDSB receiving \$3,518,792 as their share of the funding for the following:

- Technology related costs (\$528,561);
- Mental health supports (\$198,891);
- Enhanced cleaning allocation (\$140,798);
- Additional staffing-custodial (\$1,816,446);
- Health and safety training-casual staff (\$369,988); and
- Additional supports-special education (\$265,217)

Regarding the additional funding for custodial staffing, CFO Carson noted that there is the potential for an additional 45-60 FTE positions to support daytime cleaning.

Superintendent Symmonds is looking at the mental health and special education support funding to determine how to best use these additional funds with those outlined in the budget.

CFO Carson noted that additional funding of \$234,000,000 from the province that has been identified but not allocated to each board but is anticipated to be \$7,893,792 for the OCDSB share as follows:

- Masks and PPE through the province (through The Ministry of Government and Consumer Services) (\$2,100,000);
- Allocation for mental health supports (\$875,000); and
- Enhanced cleaning allocation (\$1,400,000).

It is estimated that an additional \$30,000,000 from the province will be available for additional teachers to support school boards where class size or supervision is an issue. This funding is available to those boards that

have exceeded the 1% deficit threshold. The OCDSB is in that category but it is unlikely these funds will be allocated on a proportional basis.

CFO Carson noted that these additional dollars will allow enhanced practices from September to at least December and when staff will have a better idea at that time of best practices, enrolment and expenses.

It is anticipated that there will be a projected accumulated surplus of approximately \$37,000,000 by the end of August 2020. These funds are available for compliance and staff are looking at expenditures now to prepare for next year, applying the accounting treatments available. Even if the Board were to incur an over expenditure of \$17,000,000 there would still be an unappropriated surplus of \$19,000,000 available for compliance. During the question period, the following points were noted:

- In response to a question from Trustee Fisher, CFO Carson responded that the \$4,000,000 COVID contingency fund would not be reduced as a result of the additional funding from the province;
- Regarding the reluctance of the province to allow the use of Facilities Renewal and School Condition Index Funding (FRP/SCI) to manage some of the COVID-related building work, CFO Carson noted there is some flexibility but the majority of the work that is being done is short-term in nature and difficult to capitalize. Boards have been quick to use long-term funds for current needs but that would not be the intention of the District. Trustee Fisher hoped that staff would have a discussion with the Ministry and that the Director would raise this issue with the Council of Directors of Education (CODE);
- Trustee Campbell noted that there appears to be a great deal of risk in the budget. CFO Carson agreed that there are uncertainties in the budget and staff is not sure what issues may need to be addressed. The Ministry will be carefully monitoring school boards, but CFO Carson is confident that there are offsetting opportunities for savings if necessary. Some expenditures may need to be postponed;
- In response to a question from Trustee Campbell regarding the assumption that the safety standards minima are sufficient as endorsed as part of the package of mitigation by OPH, CFO Carson responded that staff has been working with OPH since March and they have consulted with OPH on the back to school plan. Director Williams-Taylor noted that emotional safety as well as physical safety was considered in the plan. Staff have been looking at transmission data and looking at layering with provisions in place. Staff is maximizing every opportunity available to ensure student safety;

- Trustee Bell expressed that she wanted to have a better understanding of the risk analysis associated with the funds dedicated to the COVID response with respect to capping class sizes, custodial staffing, mental health supports, and HVAC concerns. Director Williams-Taylor advised that an itemization of funding and results would be very difficult. There have been significant investments in student mental health over the past few years, and staff is looking to augment the programs already in place. With respect to capping class sizes, the District cannot do this unilaterally as there are significant implications. CFO Carson noted that mechanical upgrades are a challenge as this work takes time to design and tender. The need for custodial staff and time is also difficult to assess, and this will become clearer when enrolment numbers are apparent. There will need to be school-by-school flexibility as all sites are different. CFO Carson advised that he would provide a written response to Trustee Bell's request for a COVID risk analysis;
- Ms. Granum expressed concern about secondary occasional teachers (OTs) being itinerant and working with many cohorts. She hoped that a strategy similar to the elementary Daily Occasional Teacher (DOT) program could be employed for secondary OTs;
- Superintendent McCoy responded that staff are looking at risk mitigation strategies for casual and itinerant staff. There is a need to maintain records of staff visiting schools. Human Resources staff intend to put a plan in place for OTs;
- Ms. Trant expressed concern about the amount of cleaning that educational assistants (EAs) may be required to do. CFO Carson noted that staff have looked at the unique needs at Clifford Bowey Public School and the Crystal Bay Centre for Special Education with respect to PPE etc., where a working group of principals has been formed to address the issues. Superintendent Symmonds noted that EAs do participate in the cleaning of surfaces like table tops, etc. Ms. Trant stressed that she hoped that routine cleaning does not fall to her members as they are responsible for the student and not the room;
- Mr. Cluff had concerns about the custodial staffing numbers and how it is that COVID funding can stretch to provide the equivalent of 50 FTE and is the District willing to fund what is needed, given the number of sites and the time needed to clean. CFO Carson responded that this may be more of a question for the province. There may need to be a change in duties as schools may need to be closed for a day if cleaning is required. These would be

individual cases and this budget did not take these into consideration;

- Ms. Gondek mentioned the additional pressure that will be put on B & LT staff as a result of remote learning and queried whether any of the funds allocated for technology could be used for extra staffing or overtime. Superintendent Lehman advised that the allocated funds are for the purchase of technology. He noted that instructional positions have been added to schools. Staff will monitor the workload and if it becomes excessive, will look to redeploy tasks. CFO Carson added that if a department informs staff that there is ongoing overtime, departmental budgets can be reviewed to look for savings in other areas to support the overtime budget;
- Trustee Boothby questioned how staff will ensure that early childhood educators (ECEs) maintain the same cohort as they are often deployed from a classroom to the extended day program where they would be with different students. Superintendent Duah explained that staff are working to ensure EAs stay in the same "bubble" as ECEs;
- Trustee Boothby asked if there was a contingency in the budget for ECEs. CFO Carson responded that there was not currently a specific contingency and that staff are waiting for the outcome of discussions about childcare between the Government of Canada and the Province of Ontario;
- Regarding a \$2,700,000 transportation deficit, Trustee Boothby inquired if there are talks with the province about additional funding for transportation. CFO Carson answered that it may be a problem securing additional vehicles and drivers. Looking at the Ottawa Student Transportation Authority's (OSTA) plan the CFO was confident that additional funding was not required; and
- Trustee Lyra Evans inquired as to whether the District will receive masks from the province and what would be the environmental impact. CFO Carson confirmed that students would be receiving reusable masks. Staff has looked at areas where environmentally friendly PPE can be obtained wherever possible.

Moved by Trustee Lyra Evans,

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget;

B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved; and

C. THAT the In-Year Deficit Elimination plan as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved.

An amendment moved by Trustee Lyra Evans,

A) THAT \$95,976 be removed from School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and

B) THAT \$95,976 be put towards hiring a conflict mediator, and a reconciliation officer; to be placed in the same schools to which the SROs were assigned.

During her introduction, Trustee Lyra Evans indicated that the motion is the first step in a process to rebuild the trust of the Black, Indigenous and other racialized communities that have suffered at the hands of the police, noting that by hiring additional police, the District is accepting of the treatment of those communities in schools.

In response to a request for comment, Director Williams-Taylor noted that it would be important to conduct research to determine if the positions suggested in the amendment were the appropriate roles or would there be another type of engagement to meet restorative goals. Work is currently underway on the safe schools policy and a rekindling of a restorative approach is being contemplated.

Associate Director Reynolds outlined the SRO program and the following points were noted:

- When an incident of a criminal nature occurs in schools, the police must be called. SROs are carefully chosen and trained in school board policies, student learning profiles and *the Education Act*. SROs have been members of the Black, Indigenous, and 2SLGBTQ communities, as well as new Canadians;
- The SRO positions were introduced to support Gloucester High School and Ridgemont High School and their feeder schools in an effort to establish relationships with students in underserved school communities. This would allow staff to do more critical work other

than just being responsive to incidents. Relationship development as well as conflict resolution are the main tenets of the SRO program;

- There are a total of 24 SROs in the current complement. Should the two positions outlined in the amendment be eliminated, OPS may continue to fund 23 positions, one position is largely funded by the OCDSB;
- It would be valuable for the OPS to provide a presentation to trustees on the program; and
- Consultation would be critical to understand the impact of the program on students and to determine what they would like to see in support for schools and students.

Trustee Bell suggested that the OCDSB must act now as police in schools are an issue of concern for marginalized communities.

A sub-amendment moved by Trustee Bell,

THAT the OCDSB pause the SRO program and conduct a review of the program and the impact (both positive and negative) that it has on student populations.

Executive Officer Giroux asked Trustee Bell if the amendment was intended to be added to the Trustee Lyra Evans' amendment or if it was changing the language, as that might be considered a different amendment. Trustee Bell indicated it was a replacement.

Trustee Scott suggested that Trustee Bell's amendment speaks to pausing a program which is a policy decision and not connected to the budget, and therefore should be considered out of order.

Executive Officer Giroux clarified that the specific language, "pausing the program", is a broader policy motion and is not an amendment to the motion that is currently on the floor. The amendment must speak to specific funding. She also noted that Chair Schwartz could make a ruling, if she wished, to allow this as a substitution and Trustee Lyra Evans would be required to withdraw her motion.

Trustee Bell clarified that it is her intent to halt the funding for the SRO program.

A motion to continue the meeting past 10:30 pm was defeated, having failed to receive a 2/3 majority.

8. Adjournment

The meeting adjourned at 10:30 pm.

Sandra Schwartz, Chair

Tab 9



Building Brighter Futures Together at the Ottawa-Carleton District School Board

COMMITTEE OF THE WHOLE, BUDGET REPORT

Thursday, August 13, 2020

7:00 pm

Zoom Meeting

Trustees Present: Justine Bell, Christine Boothby, Rob Campbell, Chris Ellis, Lyra Evans, Mark Fisher, Wendy Hough, Jennifer Jennekens, Sandra Schwartz, Lynn Scott, Charles Chen (Student Trustee), Joy Liu (Student Trustee)

Staff Present: Camille Williams-Taylor (Director of Education), Brett Reynolds (Associate Director), Mike Carson (Chief Financial Officer), Janice McCoy (Superintendent of Human Resources), Dorothy Baker (Superintendent of Instruction), Peter Symmonds (Superintendent of Learning Support Services), Mary Jane Farrish (Superintendent of Instruction), Michele Giroux (Executive Officer, Corporate Services), Shawn Lehman (Superintendent of Instruction), Eric Hardie (Superintendent of Instruction), Prince Duah (Superintendent of Instruction), Shannon Smith (Superintendent of Instruction), Nadia Towaij (Superintendent of Program and Learning K-12), Carolyn Tanner (Human Rights and Equity Advisor), Kevin Gardner (Manager of Financial Services), Sandy Owens (Manager of Business & Learning Technologies), Karyn Carty Ostafichuk (Manager of Planning), Diane Pernari-Hergert (Manager of Communications & Information Services), Pamela LeMaistre (Manager of Human Resources), Sandra Lloyd (Manager of Risk and Supply Chain Management), Joan Oracheski (Manager of Research, Evaluation, and Analytics Division), Nicole Guthrie (Manager of Board Services), Christine Kessler (System Principal, Learning Support Services), Charles D'Aoust (Coordinator of Budget Services), Teri Adamthwaite (Coordinator of Financial Reporting), Michael Guilbault (Central AV Technical Specialist), Rebecca Grandis (Senior Board Coordinator), Amanda Pelkola (Board/Committee Coordinator).

Non-Voting Representatives Present: Jennifer Capitani, (OCEOC); Jennifer Coleman (OCSSAN); Stephanie Kirkey, (OSSTF-Teachers); Susan Gardner (OCETFO), Corine Lassaline (PECCS) Jean Trant (OSSTF-SSP), Kelly Granum (OSSTF-OT); David Wildman, (OCEOTA); Melodie Gondek, (OSSTF-ESP); Troy Cluff (PSSU); Malaka Hendela, (OCASC); Rob Kirwan (SEAC) and

Stacey Kay,(Non-affiliated Staff.)

1. Call to Order - Chair of Committee of the Whole, Budget

Chair Schwartz called the public session to order at 7:01 p.m. and acknowledged that the meeting is taking place on unceded Algonquin Territories and thanked the Algonquin Nations for hosting the meeting on their land.

2. Approval of Agenda

Moved by Trustee Bell,

THAT the agenda be approved.

Carried

3. Declarations of Conflict of Interest

Trustee Campbell advised that he had declared his conflict of interest at the 11 August 2020 meeting and wishes that to be known for all future budget meetings.

4. Delegations

4.1 Abdullah Al-Ogaidi, Statement Regarding the Staff Resource Officer (SRO) Program

Mr. Abdullah Al-Ogaidi expressed the opinion that the Staff Resource Officer (SRO) program is a valuable asset at West Carleton Secondary School. He encouraged trustees to hear statements from Ottawa Police Service (OPS) constables and children's psychologists about the benefits of having a police presence in school prior to making a decision on the program.

In response to a query from Trustee Scott, Mr. Al-Ogaidi stated there have been changes at West Carleton Secondary School and he has not had the opportunity to meet with the constables. He added that his friends have had positive interactions with SROs when seeking assistance in their personal life and have created friendships with them. Mr. Al-Ogaidi would support a review of the program, as funding could potentially be increased or stay the same, and it would allow for the interactions that officers have with students to be enriched.

At the request of Student Trustee Liu, Mr. Al-Ogaidi stated that the SRO currently has limited time in schools, and he would wish to see an increase in the time they could spend at schools. This would allow for them to speak casually with students and even to have meetings with classes to allow opportunities for further bonds to be formed. It is his experience, when troubled students speak to the constables, they change for the better. It should be easier for students to have access to the SROs.

Mr. Al-Ogaidi added that students who may have been in trouble in the past are often the ones who see the SRO in a negative way. However, when they speak with the SRO and learn what they do and how they can be of help, many of these students have become more at ease with the SRO.

Mr. Al-Ogaidi shared the belief that pausing the program would have negative effects, especially for incoming grade 9 students. His concern is that it could result in these students feeling uncomfortable around SROs in grade 10 due to the lack of exposure and opportunity to have early interaction with officers.

4.2 Annette Dillon, Parent, Questions on Secondary School

Ms. Dillon questioned the cost to open secondary schools for 115 minutes under the hybrid model as well as the cost to keep schools open full-time.

Director Williams-Taylor advised that the model for program delivery at secondary schools is not driven by cost but by safety measures required to keep the cohorts together without direct contact. She also noted that indirect contacts are difficult to track.

5. Matters for Action

5.1 Report 20-063, 2020-2021 Staff-Recommended Budget

At the time of adjournment of the meeting of 11 August 2020, the following motion and amendments were on the floor:

Moved by Trustee Lyra Evans,

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget;
- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved; and
- C. THAT the In-Year Deficit Elimination plan as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved.

An amendment moved by Trustee Lyra Evans,

- A. THAT \$95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and
- B. THAT \$95,976 be put towards hiring a conflict mediator, and a reconciliation officer; to be placed in the same schools to which the SROs were assigned.

A sub-amendment moved by Trustee Bell,

THAT the OCDSB pause the SRO program and conduct a review of the program and the impact (both positive and negative) that it has on student populations.

With the consent of the Committee, Trustee Bell withdrew her amendment as the Chair advised that it was out of order. Trustee Bell urged the Committee to support Trustee Lyra Evans' amendment to remove the SRO funding from Gloucester High School (HS) and Ridgemont HS and place it where it can be used to carry out the most impactful, anti-racism focus. She added that the Board has a responsibility to take immediate action and to build back trust with the marginalized community.

During discussion of the amendment, the following points were noted:

- Trustee Boothby advised that she has reviewed the recording of the meeting last year at which a similar amendment was proposed. A principal indicated that SROs were part of the school community and it would be a difficult loss for the schools. She noted that discussion at a meeting of the Indigenous Education Advisory Committee (IEAC) was divided on the value of the program. Trustee Boothby expressed the view that the Board has a duty to students to build relationships with the police as they are part of our community and the Board cannot isolate and must be part of the holistic environment that will help develop relationships with officers;
- Trustee Lyra Evans submitted she supports a review of the program but will not remove or pause the program before hearing the perspectives of the community. She suggested that the District's Human Rights and Equity Advisor should also review the program and carry out the consultation; and
- Ms. Granum supported a review of the SRO program and noted that building relationships with the community are important, but she is uncertain as to whether building relationships with the police is the District's mandate or that of the OPS.

A sub-amendment moved by Trustee Ellis,

THAT Part B of the amendment be revised to read "THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework."

During discussion of the sub-amendment, the following points were noted:

- Trustee Ellis noted that one of the two assigned SROs at Gloucester HS and Ridgemont HS is funded by the OPS. He submitted that the budget funding allocation be redirected to the Urban Priorities Fund which is designed to assist schools with diversity and economic issues. Keeping the funding in the school would assist students at high risk;
- Trustee Campbell queried why funding was not specifically allocated to serve students at risk at Gloucester HS and Ridgemont HS if they need additional resources. In response to a query from Trustee Scott with respect to the impact on feeder schools if the funding was reallocated, Associate Director Reynolds advised that Urban Priorities funding is directed to designated schools and not allocated to feeder schools. Additional budget funds could be allocated to schools that are not tied to Urban Priorities funding. The principals of these schools could use the additional funding to acquire SROs or other services; and
- Trustee Ellis expressed the opinion that reallocating the SRO funding would provide additional resources to Gloucester HS and Ridgemont HS that would contribute to student success and well-being.

A sub-amendment moved by Trustee Ellis,

THAT Part B of the amendment be revised to read "THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework."

Carried

During discussion of the amendment, the following points were noted:

- Trustee Campbell noted the difference of opinion at IEAC and suggested that students and the Advisory Committee on Equity (ACE) be consulted before making changes to the SRO program;
- Trustee Hough supported the provision of assistance to students at risk; however, she also supports a review of the SRO program and consultation with the community;

- In response to a query from Trustee Scott with respect to discontinuing the SRO program for one year, Associate Director Reynolds advised that if the discontinuation were to apply to one or two of the SROs, those officers would return to their regular patrol duties. The relationship with the affected schools would be lost and the school would need to deal with the disruption in service;
- In response to a query from Trustee Boothby, Associate Director Reynolds advised that the SRO program was restructured by the OPS a few years ago in response to human resource shortages, and some proactive activities were scaled back. More recently, OPS has undertaken additional hiring and some proactive actions have been restored;
- Trustee Boothby expressed the view that the Board would not be in a position to conduct a robust review this year, and if it is delayed, the program may disappear
- Trustee Jennekens noted the uncertainty due to the pandemic and suggested that the mandate of the SRO program be reviewed;
- Trustee Bell expressed the view that the Board needs to re-prioritize the District's racialized community and those that are marginalized. After the review, the Board will have an opportunity to build a new relationship with the police. Trustee Bell requested that a discussion on this topic take place at a future meeting of the Committee of the Whole;
- Trustee Ellis advised that the amendment does not eliminate the SRO program, but rather the funding of a police officer for an enhanced SRO presence at a designated school. He added that it is unknown whether the OPS will continue to fund the second SRO position. The largest impact will be for those two secondary schools and their feeder schools. Trustee Ellis submitted that placing funds in the principals' control will allow them to allocate the funding appropriately, based on the issues;
- Associate Director Reynolds confirmed that principals are free to consult with the community and allocate the funds as long as it falls within the priorities of the District; and
- Student Trustee Liu noted that there has not been any consultation with the students of Gloucester HS and Ridgemont HS, and the Board cannot presume to know the will of the students. For this reason, both she and Student Trustee Chen are not in favour of the amendment.

In conclusion, Trustee Lyra Evans expressed the view that the police do not contribute to feelings of safety within the community.

An amendment moved by Trustee Lyra Evans,

- A. *THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and*
- B. *THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.*

Carried

An amendment moved by Trustee Lyra Evans,

- A. THAT the budget for instructional salaries be increased by \$100,000,000, to provide the hiring of 1025 additional elementary teachers, reducing the class sizes to a maximum of 15;
- B. THAT the budget for school operations be increased by \$10,000,000, to provide for additional custodial and maintenance positions at the elementary levels;
- C. THAT accommodation costs be increased by \$15,000,000 to provide for the rental and acquisition of 1000 elementary classrooms equivalent space;
- D. THAT the budget for school operations be increased by \$5,000,000 for additional custodial and maintenance positions at the secondary level; and
- E. THAT the accommodation costs be increased by \$30,000,000 to provide for the rental and acquisition of 1600 (CFO to confirm) secondary classroom equivalents.

In introducing her amendment, Trustee Lyra Evans submitted that trustees have a fiduciary duty to the well-being of students and education. She noted that the District could have 30 grade 7-8 students less than a meter apart. The union partners advised that custodial staff cannot meet the standards for cleaning. Students with Individual Education Plans (IEPs) will struggle. The Board must advocate to support students by proposing an unbalanced budget to meet their health and safety concerns.

Moved by Trustee Campbell,

THAT the following amendment be deferred to the Committee of the Whole Budget meeting of 18 August 2020:

“An amendment moved by Trustee Lyra Evans,

- A. THAT the budget for instructional salaries be increased by \$100,000,000, to provide the hiring of 1025 additional elementary teachers, reducing the class sizes to a maximum of 15;**
- B. THAT the budget for school operations be increased by \$10,000,000, to provide for additional custodial and maintenance positions at the elementary levels;**
- C. THAT accommodation costs be increased by \$15,000,000 to provide for the rental and acquisition of 1000 elementary classrooms equivalent space;**
- D. THAT the budget for school operations be increased by \$5,000,000 for additional custodial and maintenance positions at the secondary level; and**
- E. THAT the accommodation costs be increased by \$30,000,000 to provide for the rental and acquisition of 1600 secondary classroom equivalents. “**

Carried

During discussion of the main motion, the following points were noted:

- In response to queries from Ms. Kirkey with respect to online and in-class instruction in secondary schools, staff advised that 8,800 teachers participated in professional development (PD) classes in the spring. Classes are also offered during the summer institute, and ongoing PD days will provide staff development opportunities with instructional coaches from the Business & Learning Technologies (B & LT) and Program and Learning K-12 departments;
- Mr. Kirwan noted that the Special Education Advisory Committee (SEAC) had concerns, most of which have been addressed and he added that SEAC is requesting additional educational assistants (EAs);
- Staff advised that every secondary school will have WIFI switches replaced, and 16 additional switches will be installed to increase the ability for students and staff to connect. An additional 5,000 ethernet adapters will be hard wired in early September. B & LT staff will be reallocated to schools across the District, and if required, additional supports will be provided;
- Ms. Hendela noted that funds have not been allocated for parent engagement, and Parent Reaching Out (PRO) grants were reduced by the province, leaving a net loss of \$80,000 in funding for the

annual parent conference. The Parent Involvement Committee (PIC) and school councils are now at risk without funding to conduct elections or support the Board. She requested that staff identify areas in the budget that will allow PIC to undertake its legislated mandate. Chief Financial Officer (CFO) Carson advised that staff provide support; however, they have not yet created a specific plan;

- With respect to the Minister's latest announcement on funding for remote learning, Trustee Scott queried whether staff has had an opportunity to assess the impact on staffing. CFO Carson advised that staff is waiting to hear further details from the Ministry of Education about any flexibility the Board would have in the use of its reserves;
- The Board is required to submit an approved, balanced budget by 31 August 2020;
- In response to Trustee Hough's suggestion about class sizes, CFO Carson advised that staff would need to recalculate the cost of increasing staffing to accommodate a ratio of 20:1. Based on a staffing ratio of 15-1, the District would require 1,000 extra classrooms, leaving a shortage of more than 750 classrooms across the system and schools could be unable to open before the Christmas break;
- In response to Trustee Bell's query with respect to smaller class sizes for JK-grade 4, CFO Carson advised that staffing is in alignment with collective agreements. If funds were available, staff would look for space in schools that are under-utilized, closed but not yet sold, or empty spaces in other school boards as well as spaces throughout the city;
- The model for the delivery of in-class learning is based on safety. If additional space and staff were available, it may be possible to increase the time in school and still maintain minimal transitions;
- Trustee Bell requested additional costing information based on a limit of 50% of time spent in secondary in-school learning;
- In response to a query, Executive Officer Giroux advised that additional funds have been allocated to the Communications department to provide support;
- Trustee Fisher expressed the hope that the District's facilities renewal funding could be used to upgrade heating, ventilation and air conditioning (HVAC) systems;

- Trustee Fisher submitted that the hourly rate for occasional teachers (OT) needs to increase to be aligned with school boards across the province;
- Superintendent McCoy advised that salaries are part of central table discussions and local school boards have limited discretion to increase the rates of pay due to the current structure of collective bargaining. She added that Human Resources staff and principals have successfully recruited OTs recently;
- CFO Carson advised that additional funding was provided to allow school boards to manage staffing and supervision at the beginning and end of school days;
- Superintendent McCoy noted that additional funding for custodial staff was allocated through central bargaining and central agreements that were contemplated prior to COVID-19. These additional positions are effective for the duration of the collective agreement. Approximately 16.0 full-time equivalent (FTE) PSSU custodians have been added;
- With respect to new community partnerships being proposed, Trustee Campbell questioned whether there is any discretionary increase in pursuit of equity goals. CFO Carson advised that over the past four months, staff who controlled budgets were advised and trained on matters of equity in staff development, hiring, and training. Senior staff and principals have recognized that those internal allocations are needed to support a move towards equity;
- Mr. Cluff noted that HVAC systems, including air distribution patterns, personalized ventilation, filtration, in older buildings do not have a cleaning protocol as HVAC technicians and engineers are busy working on emergencies. CFO Carson noted that air quality has been a discussion topic for the past 10 years. Schools may need to open windows without screens. Each classroom has individual ventilation systems and teachers are reminded not to adjust those ventilation systems during the day. If a classroom does not meet standards for fresh air, it may need to be taken out of service. The funding from the province may help schools that do not pass the test for the use of capital funding;
- The introduction of the Supports for Students Fund (SSF) for most school boards was to replace the Local Priorities Fund (LPF) that expired in August 2019. For 2019-2020, the Board funded positions previously supported using LPF. Some boards used the funds to replace or retain positions that would have been lost as a result of a deficit;

- Mr. Kirwan advised that some SEAC associations are concerned that if students opt for remote learning their supports may not be available to them when they return to regular classrooms. Superintendent Symmonds advised that students will not lose their spot in specialized program classes when they return to school. School teams are encouraged to review updated information that is available and, if necessary, discuss requirements with parents to ensure appropriate levels of support are in place;
- Mr. Kirwan suggested that the Board consult with the statutory PIC, SEAC and other advisory committees more frequently;
- Superintendent Lehman advised that 27,000 Chromebooks are in service, including 11,000 that were loaned to students in the spring. It is anticipated that these Chromebooks will need to be serviced upon their return and then reallocated to schools. The Board approved the purchase of 5,000 additional Chromebooks in June 2020, based on the budget for 2020-2021. Staff anticipate having approximately 20,000 devices in schools;
- Ms. Hendela stated that some high needs schools are asking the parent community for additional funding to support programs. She expressed the hope that if there are reallocation opportunities, school councils and PIC would be advised on how equity funding can support these requests;
- Trustee Hough provided notice that she will propose an amendment at the next Committee of the Whole (COW) Budget meeting with respect to funding for PIC;
- The Ministry notes that the reference to 100 direct or indirect contacts, refers to in-class student-to-student contact and not contact with staff or those contacts outside of the school day;
- Regarding the list of equity projects, Director Williams-Taylor advised that the data collection work and community meetings on the student identification project has continued over the summer. Staff has also secured additional funding for the work and an extension of the deadline for the project;
- Trustee Campbell queried whether the approximately \$4.0 million revenue shortfall related to the Ottawa-Carleton Education Network (OCENET) and Community Use of Schools was included in the staff-recommended budget that was presented. CFO Carson advised that there has been no change to the budget since July;
- Referring to ongoing supply issues and back orders, CFO Carson advised that since the beginning of August, school boards were directed to obtain their personal protective equipment (PPE) and

some cleaning supplies from the Ministry, and it is anticipated that they will be shipped to schools in the near future;

- CFO Carson agreed to seek clarification on cleaning schedules for schools within the community use of schools;
- CFO Carson confirmed that no changes have been made to school budget allocations for schools that are deemed as highest need based on the RAISE index. He added that some of the RAISE funding may be repurposed by the school;
- CFO Carson stated that the cost of OTs is paid from a central fund. If the actual cost is higher than anticipated, staff will identify other sources of funding; and
- CFO Carson suggested that the vote to approve the budget be delayed until staff has had an opportunity to analyse the most recent information from the Ministry.

5.1. Memo 20-107, 2020-2021 Staff-Recommended Budget Questions and Answers (Release 2)

Provided for Information.

6. New Business - Information and Inquiries

There was no new business.

7. Adjournment

The COW Budget meeting will continue on 18 August 2020.

The meeting adjourned at 10:20 p.m.

Sandra Schwartz, Chair

Tab 10



Building Brighter Futures Together at the Ottawa-Carleton District School Board

COMMITTEE OF THE WHOLE, BUDGET REPORT

Wednesday, August 26, 2020

7:00 pm

Zoom Meeting

Trustees Present: Justine Bell, Christine Boothby, Rob Campbell, Chris Ellis, Lyra Evans, Mark Fisher, Wendy Hough, Jennifer Jennekens, Keith Penny, Sandra Schwartz, Charles Chen (Student Trustee), Joy Liu (Student Trustee).

Staff Present: Camille Williams-Taylor (Director of Education), Brett Reynolds (Associate Director), Mike Carson (Chief Financial Officer), Janice McCoy (Superintendent of Human Resources), Peter Symmonds (Superintendent of Learning Support Services), Dorothy Baker (Superintendent of Instruction), Mary Jane Farrish (Superintendent of Instruction), Michele Giroux (Executive Officer, Corporate Services), Shawn Lehman (Superintendent of Instruction), Eric Hardie (Superintendent of Instruction), Prince Duah (Superintendent of Instruction), Nadia Towaij (Superintendent of Program and Learning K-12), Shannon Smith (Superintendent of Instruction), Carolyn Tanner, (Human Rights and Equity Advisor), Andrew Parent (Principal, Gloucester High School), Christine Kessler (System Principal, Learning Support Services) ; Rachelle Sintic, (Principal, Ridgemont High School), Kevin Gardner (Manager of Finance), Sandy Owens (Manager of Business & Learning Technologies), Karyn Carty Ostafichuk (Manager of Planning), Diane Pernari-Hergert (Manager of Communications & Information Services), Nicole Guthrie (Manager of Board Services), Charles D'Aoust (Coordinator of Budget Services), Teri Adamthwaite (Coordinator of Financial Reporting), Michael Guilbault (AV Technician), Rebecca Grandis (Senior Board Coordinator) and Amanda Pelkola (Board/Committee Coordinator).

Non-Voting Representatives Present: Jean Trant (SSP), Melodie Gondek (OSSTF-ESP), Kelly Granum (OSSTF-OT), Jennifer Coleman (OCSSAN), Jennifer Glassman (OSSTF - PSSP), Jennifer Capitani (OCEOC), Troy Cluff (OSSTF-PSSU), Susan Gardner (OCETFO), David Wildman (OCEOTA).

1. Call to Order - Chair of Committee of the Whole, Budget

Chair Schwartz called the public session to order at 7:01 p.m. and acknowledged that the meeting is taking place on unceded Algonquin Territories and thanked the Algonquin Nations for hosting the meeting on their land.

2. Approval of Agenda

Moved by Trustee Hough,

THAT the agenda be approved.

Carried

3. Delegations

3.1 Marty Carr, Ridgemont High School Parent Council, RE: SRO Program

Ms. Carr expressed the opinion that it is inappropriate that a decision affecting a school community would be brought forward without having consulted the schools impacted.

She submitted that students confide in the School Resource Officer (SRO) at Ridgemont High School (HS) and the SRO works with other members of the team. As a high needs school, it is necessary to have this resource available until the program has been assessed.

In response to a query from Student Trustee Liu, Ms. Carr advised that the SRO is a member of the Herongate response team that was put in place to deal with crime in the area. The SRO provides advice to students, and the school council is not aware of any SRO issues.

3.2 Maya Basudde, RE: SRO Program

Ms. Basudde, speaking on behalf of SES Canada, advised that she was diagnosed with PTSD as a result of an assault from a police officer and she finds it difficult to see the SRO officer as an asset. She expressed her preference to see the funds used for healing, growth, and programming.

In response to queries, Ms. Bassudde submitted that, with the Black Lives Matter movement and the District's anti-racism work, it is important to listen to their needs. Ms. Bassudde noted that she is looking to defund police in schools and seeing the funds put where they are more useful in the long run.

3.3 Souheil Bensimane, RE: SRO Program

Mr. Bensimane shared his ideas about racist institutions and the police. He expressed the view that the Board has one moral choice to make, which is to cut ties with police and remove the SRO from Ridgemont HS and Gloucester HS. Police officers have racist practices to reduce

colonialism, control black and aboriginal people, and other oppression. The settler state's goal is to steal land, have servitude, police migrant communities, and in his opinion, police still play this racist role. He asked why the Board wants to be associated with this system that still has a racist presence and SROs, like other oppressive institutions, could not be reformed and must be abolished.

In response to queries, Mr. Bensimane submitted that society, schools and social services are structured to put Black and Indigenous youths and those of families that are poor, in the prison system. An SRO has the ability to push youth through the prison system and forcibly confine them and prepare them for jail. He advised that he did time with people who started jail when they were young because they fought white children who were being racist. He noted that his friends in Toronto have fought the SRO program and succeeded in removing it, and his friends in Ottawa have told him stories involving SROs.

In response to queries from Student Trustee Chen, Associate Director Reynolds advised that the OCDSB may not have a mandate or the ability to remove SROs from schools given that 23 of them are paid for by the Ottawa Police Service (OPS). He added that there are policies at the municipal level that encourage this partnership. If there are threats at school, staff call the police and they determine how it should be managed. The Board does have discretion over the two SRO officers paid by the District.

3.4 Peter Gareau, RE: SRO Program

Mr. Gareau noted that he was very impacted by Ms. Basudde's statement. He submitted that more information is required with respect to the role and responsibilities of the SRO before consultation with Gloucester HS, Ridgemont HS, the community, students, and teachers. He urged the Board not to be hasty with this decision as the positions may not be replaced if they are eliminated.

3.5 Sophie Chen, RE: SRO Program

Ms. Chen, a 2017 graduate of Gloucester HS, noted that she went to a school where they struggled to receive textbooks and updated labs, but prioritized SROs who roamed the halls.

She submitted that SROs were not trusted by students, and social workers and counsellors should be hired. People got into fights and abused drugs, but they did not need to be criminalized. As a student who used counselling, she knows that you can get help instead of being judged by your circumstances. SROs do harm and distract from learning. Parents may not have made an issue of SROs, but as a former student she is

providing her experience of emotional harm, and that of the marginalized communities that have been harmed.

In response to queries, Ms. Chen advised that the SRO attended Gloucester HS weekly, and those who needed help were punished by the SRO who instilled fear.

Ms. Chen expressed the view that consultation is important but we need students to speak of their experiences one-on-one rather than consulting with people who are not impacted by SROs.

3.6 Amran Ali, RE: SRO Program

Ms. Ali, speaking on behalf of a group of mothers and fathers of the Black African community in support of the removal of the SROs from all schools as their children's safety is compromised by being over policed and underserved. She expressed the opinion that these funds should be used for social supports for students, noting that she volunteers in jail where there are many young men from Gloucester HS who had issues with SROs and became criminalized.

In response to queries, Ms. Ali noted that she respects parents who support their children and schools but she does not want to be consulted on her rights or her children's rights. She expressed the view that policing criminalizes and ruins the Black African community. Food, good schools, playgrounds and safe places contribute to safety not a police officer walking around with a gun and exercising their power. As a successful woman, she is intimidated when a police officer walks beside her and expressed the view that, this does not positively impact their learning.

3.7 Hailey Dash, RE: SRO Program

Ms. Dash expressed the opinion that the OCDSB must defund the SRO, Herongate initiative, and support the "no cops in school" campaign. Students of colour are at risk and therefore it is not a safe environment. She has heard numerous stories of fear, racism, sexism and abuse from SROs, who have shamed kids, made comments towards black and brown students, apprehended these students, and put them in the youth justice system. These coloured youths are overrepresented in the youth justice system. Ms. Dash submitted that they are not provided the same learning environment as white students as they are impacted by the SRO's presence.

In response to queries, Ms. Dash submitted that the OCSDB must value their opinions and meet their demands more than they do now.

Ms. Dash explained that the anti-racist feminist collective that she is part of is a group of black and brown students who graduated in 2016 from Merivale HS. They are advocating for the complete removal of SROs, in

Catholic, Public and French schools. The act of policing has its roots in racism. They are to police the behaviour of Afro-Americans and should not be in place anymore. The collective wants the relationship with OPS to be terminated. Punishment and fear should not drive behaviour, but instead accountability and getting to the root of the problem is more effective.

4. Matters for Action

4.1 Report 20-063, 2020-2021 Staff-Recommended Budget

The following motion, as amended, was on the floor at the conclusion of the last meeting of Committee of the Whole Budget on 18 August 2020:

Moved by Trustee Lyra Evans,

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, as amended, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget;
- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved;
- C. THAT the In-Year Deficit Elimination plan as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved.
- D. THAT the accumulated surplus be used to further increase the recommended \$4.0 million COVID expense provision by \$471,491;
- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020: B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated 14 August 2020, Additional Guidance and Funding for School Reopening, be added to

the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.

Note: The motion includes the following amendments:

THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School.

THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.

THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with School Councils and to "undertaking activities to help parents of pupils.

The following amendment was deferred at the meeting of 26 August 2020 and was now on the floor:

An amendment moved by Trustee Lyra Evans,

- A. THAT the budget for instructional salaries be increased by \$100,000,000, to provide the hiring of 1025 additional elementary teachers, reducing the class sizes to a maximum of 15;
- B. THAT the budget for school operations be increased by \$10,000,000, to provide for additional custodial and maintenance positions at the elementary levels;
- C. THAT accommodation costs be increased by \$15,000,000 to provide for the rental and acquisition of 1000 elementary classrooms equivalent space;
- D. THAT the budget for school operations be increased by \$80,000,000 for additional custodial and maintenance positions at the secondary level; and
- E. THAT the accommodation costs be increased by \$30,000,000 to provide for the rental and acquisition of 1600 secondary classroom equivalents.

Referring to the announcement from the Ministry of Education earlier in the day indicating that the OCDSB would receiving an additional

\$7,000,000 rather than the anticipated \$10,000,000, Chief Financial Officer (CFO) Carson advised that the funding is to augment funding for student transportation, special education, mental health remote learning, additional teaching staff, and school reopening. Some additional funds are being held centrally for the cost of additional personal protective equipment (PPE) through the course of the year and also for transportation. Staff will assess needs and report on the use of the funds. There are a number of competing demands and staff will have a clear understanding later in the week after speaking to the Deputy Minister. The school reopening funds will allow schools to respond more quickly to their staffing and administration issues as well as other issues that are anticipated in the next six months.

CFO Carson advised that the choice of remote or in-class learning has created the need to develop virtual schools. The original funding allocated was approximately \$600,000 but that will not be enough to support thousands of students. Once the reorganization is completed there will be additional costs for principals and vice-principals. It is not anticipated that costs will exceed the 2% deficit the Ministry has recommended.

During discussion on the amendment, the following points were noted:

- The additional funding noted above will not be included in the budget as it is not flowing through the Grants for Student Needs (GSN), and staff is recommending that the budget be approved this evening;
- This funding was previously expected to be distributed mid-year. The province has not yet disclosed the details for the second half of the federal transfer;
- Staff is not recommending any changes to the budget with respect to the deficit and the use of 2% of reserves;
- Staff does not anticipate any savings as a result of today's funding announcement. The funds will not reduce the deficit; but rather it will allow for schools to address their needs earlier than previously anticipated. The funding reduces the Board's risk and allows the Board to increase spending beyond the planned \$4.5 million buffer;
- Staff anticipates additional expenses for teaching staff to respond to virtual schools and reduce class sizes. CFO Carson confirmed that the additional funding will allow them to make schools safer, enhance practices and physical barriers, and allow further class size reductions;
- If the Board does not pass the budget prior to 31 August 2020, the CFO and Director would need to explain to the Ministry why the

Board is not in compliance and the Ministry could intervene and appoint a supervisor;

- CFO Carson advised that every year staff budgets for a deficit, and staff would bring forward additional requests to overspend, if required, when expenditures were necessary for students or staff;
- With respect to the amendment, Trustee Campbell expressed the view that it is a political statement, but the structure is not clear about the offsetting revenue. CFO Carson advised that the only way to increase expenses is to increase the accumulated deficit by \$180.0 million and this would not be approved by the province;
- Trustee Ellis suggested that 440 Albert Street and Confederation Education Centres are no longer in use and could generate revenue from proceeds of sales. Although the Board cannot use money from capital sales for operating expenses, it is important to reopen schools that are as safe as possible with 15 pupils per class, which is not possible without this amendment. Trustee Ellis submitted that the last time the OCDSB passed a non-compliant budget, it led to better education outcomes across the province;
- Trustee Boothby submitted that if the Board is taken over by the province, it would be for the balance of this term and the good work over the last five years would be reversed. Staff and trustees would have little opportunity to ensure programs that are important would be carried out and trustees would no longer be representing their communities. She advised that she and Trustee Penny will raise the issue at OPSBA. OPSBA has, in the past, gone back to the province and were able to use reserves to spend additional funds that they know are critical;
- Director Williams-Taylor advised that additional funds and information about the protocols for outbreaks and safety will address the safety of students and staff. Safety is not limited to physical space and sanitation but also to mental health and emotional safety regarding human rights and anti-black racism;
- While not every challenge is solved by additional funds, Director Williams-Taylor noted the difficulty is in finding places that are safe for students and to provide transportation to those locations. Parents are not comfortable moving their child to unfamiliar locations;
- If these funds became available, the Board would not see the impact until March 2021 due to the requirement to organize schools, find appropriate space, and recruit and train staff. Trustee Schwartz noted that the Board has the opportunity, whether it is a

formal motion or through discussion, to write to the Minister to ask for additional funds to assist with safety, if necessary;

- CFO Carson advised that the *Education Act* and *Regulation* were amended last year to state that a deficit of 1% would be deemed compliant. The Minister has now deemed 2% to be compliant but has not yet published the *Regulation*. If an in-year deficit is anticipated that exceeds 2%, the Board could request additional supports, or the Minister could make a charge against next year's budget;
- Trustee Scott submitted that staff has looked at the most important issues this year, including well-being and safety. If the Board is taken over, none of that funding could be utilized, and the Board could not spend it in the days prior to a supervisor taking over. It would result in worse conditions for students rather than better. She added that making a grand gesture, knowing trustees could not represent the community, would not be a responsible thing to do; and
- Trustee Lyra Evans expressed the view that although her amendment may not pass, it is not a political statement. Dr. Etches has said the Board should minimize class sizes, and the amendment would allow all class sizes to be 15 students. The biggest issue is that the Board does not think the Minister would approve it and that is a question that should be asked, not assumed. If something similar is not proposed, she will vote against the budget.

An amendment moved by Trustee Lyra Evans,

- A. THAT the budget for instructional salaries be increased by \$100,000,000, to provide the hiring of 1025 additional elementary teachers, reducing the class sizes to a maximum of 15;
- B. THAT the budget for school operations be increased by \$10,000,000, to provide for additional custodial and maintenance positions at the elementary levels;
- C. THAT accommodation costs be increased by \$15,000,000 to provide for the rental and acquisition of 1000 elementary classrooms equivalent space;
- D. THAT the budget for school operations be increased by \$80,000,000 for additional custodial and maintenance positions at the secondary level; and

- E. THAT the accommodation costs be increased by \$30,000,000 to provide for the rental and acquisition of 1600 secondary classroom equivalents.

Defeated

The motion was defeated on the following division:

FOR: Trustees Ellis and Lyra Evans (2)

OPPOSED: Trustees Boothby, Hough, Campbell, Jennekens, Penny, Bell, Fisher, Scott, and Schwartz (9)

During discussion on the main motion, the following points were noted:

- Trustee Campbell queried whether sufficient funding was made available in the budget to manage the additional workload and stress for central staff support. Director Williams-Taylor acknowledged that human resources are stretched, and noted the importance of communications and data in managing the pandemic. She added that there may be a requirement to adjust funding as needs arise;
- Superintendent McCoy noted the strain on the Employee Wellness division, which is managing a large number of requests for accommodation. Some additional support has been provided on a temporary basis to assist with screening requests and realigning some responsibilities. The Employee Wellness division acknowledges the delay in responding to employees and is working on requests as quickly as possible;
- In response to a query with respect to the use of funding for SROs at Gloucester HS and Ridgemont HS, Associate Director Reynolds advised that the schools would use a process to determine what is in the best interests of students, which may include continuing the SRO program. Principal Parent noted that the SRO agreement is between the Board and the OPS, and not the school. He suggested that the OPS would want to know in the next week if the service would be continued, and if it is discontinued, it may be difficult to bring it back; and
- Executive Officer Giroux clarified that the amendment to remove the SRO funding has not yet been approved by the Board as part of its approval of the budget, as amended. The amendments could be listed in the motion for clarity. At the time of Board approval, Board members may overturn the amendment. If the amendment is carried, there is also the option to reconsider that part of the budget at a future meeting.

1. Memo 20-112, 2020-2021 Staff-Recommended Budget Questions and Answers (Release 4)

Provided for information.

2. Status of Budget Motion

The following motion, as amended, was on the floor:

Moved by Trustee Lyra Evans,

- A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, as amended, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget;
- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved;
- C. THAT the In-Year Deficit Elimination plan as presented in the 2020-2021 Staff-Recommended Budget Binder, be approved.
- D. THAT the accumulated surplus be used to further increase the recommended \$4.0 million COVID expense provision by \$471,491;
- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020:B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated 14 August 2020, Additional Guidance and Funding for School Reopening, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.

Note: The motion includes the following amendments:

THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School.

THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.

THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with School Councils and to “undertaking activities to help parents of pupils.

3. Notice of Motion to Amend Budget:

1. Amendments, Trustee Jennekens

An amendment moved by Trustee Jennekens,

- A. THAT staff be directed to monitor and report to the Board any emergent COVID-19 related shortfalls in resources required to maintain safe and healthy school operations;
- B. THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators; and
- C. THAT staff be directed to report to the Board monthly until the end of the first semester and every two months until the end of June 2021.

Trustee Jennekens submitted that the amendment would allow staff to approach the Ministry for additional funding to make appropriate health and safety adjustments as school resumes. Trustee Scott noted that, at the time of approving the principles for the return to school plan, the Board included reporting expectations as part of that action. She queried how the concept of monthly reports and expenditures and shortfalls fit with what was previously approved regarding the COVID pieces. Executive Officer Giroux advised that Part F of the principles provides a standing item on the agenda for regular updates for the full year.

Trustee Scott expressed the opinion that Parts 5, 6 and 7 of the principles overlap with Parts A and B of Trustee Jennekens' amendment.

A sub-amendment moved by Trustee Jennekens,
 THAT Part A and Part C be deleted.

With respect to Part B, Trustee Scott queried whether the intention is to approach the province for more funding now or in the future. Trustee Jennekens advised that her intention is based on an assessment of weaknesses and strengths over the next few weeks.

*A sub-amendment moved by Trustee Jennekens,
 THAT Part A and Part C be deleted.*

Carried

Trustee Ellis expressed the view that there are too many unanswered questions, for example, who decides if it is necessary to have more funding and how will the safety of staff be determined.

*An amendment moved by Trustee Jennekens,
 THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators.*

Carried

2. Amendments, Trustee Campbell

An amendment moved by Trustee Campbell,

THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards' Association (OPSBA) member boards and local media, calling on the province to:

1. Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves;
2. Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either:
 - i. Their Ministry-approved plans

- ii. Further changes in Ministry direction, or
 - iii. Unforeseen and unavoidable local COVID-19 related circumstances, and
3. Commit to asking Ontario's Chief Medical Officer to immediately review and publicly respond fully and directly to the expert advice on COVID-19 risk reduction for schools provided on 19 August 2020 by the Registered Nurses' Association of Ontario (RNAO), and the Minister and Premier then to reassess as may be indicated the Province's financial support and direction around COVID-19 risks reduction in its schools.

Trustee Campbell submitted that there is an advocacy piece of his amendment for adequate provisions for safety. He is also asking the Province to ensure that the extraordinary COVID-19 costs are not borne by the District. There could be implications that we won't understand yet and he is seeking an in-year budget risk mitigation from the province in the form of a letter to be sent shortly.

Trustee Scott expressed concern that the Ministry states that school boards need to do what they recommend but they are not approving their plans. Director Williams-Taylor clarified that the language used by the Ministry is "confirming" plans, which is in alignment with the guidance document but the word is not "approved" or "endorsed".

A sub-amendment moved by Trustee Scott,

THAT "Ministry-approved" be changed to "Ministry confirmed" in part B i of the amendment.

Carried friendly

With respect to Trustee Scott's request for clarification on Part C, Trustee Campbell noted that it was his intent that the Minister of Education and Premier be asked to write to the Ontario Chief Medical Officer.

An amendment moved by Trustee Campbell,

THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards' Association (OPSBA) member boards and local media, calling on the province to:

1. *Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves;*
2. *Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either:*
 - i. *Their Ministry-confirmed plans*
 - ii. *Further changes in Ministry direction, or*
 - iii. *Unforeseen and unavoidable local COVID-19 related circumstances, and*
3. *Commit to asking Ontario's Chief Medical Officer to immediately review and publicly respond fully and directly to the expert advice on COVID-19 risk reduction for schools provided on 19 August 2020 by the Registered Nurses' Association of Ontario (RNAO), and the Minister and Premier then to reassess as may be indicated the province's financial support and direction around COVID-19 risks reduction in its schools.*

Carried

Trustee Penny assumed the chair.

Trustee Schwartz noted that the Committee has had a fulsome debate over many meetings. She thanked everyone involved, including staff, non-voting representatives, and trustees for their participation in the meetings.

Moved by Trustee Schwartz,

THAT debate be closed.

Carried

Chair Schwartz resumed the chair.

Moved by Trustee Lyra Evans,

- A. **THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget, amended as follows:**

- a. **THAT \$ 95,976 be removed from the School Programs and Support budget which pays for two dedicated School Resource Officers (SROs) at Gloucester High School and Ridgemont High School; and**
- b. **THAT the \$95,976 be apportioned to the two schools on a per pupil basis to be administered within the urban priority high school framework.**
- c. **THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with school councils and to “undertaking activities to help parents of pupils of the Board support their children’s learning at home and at school”.**
- d. **THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators.**
- e. **THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards’ Association (OPSBA) member boards and local media, calling on the province to:**
 - i. **Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves,**
 - ii. **Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either (i) their Ministry-confirmed plans, 1. further changes in Ministry direction, or 2. unforeseen and unavoidable local COVID-19 related circumstances, and**
 - iii. **Commit to asking Ontario's Chief Medical Officer to immediately review and publicly respond fully and directly**

to the expert advice on COVID-19 risk reduction for schools provided on 19 August 2020 by the Registered Nurses' Association of Ontario (RNAO), and the Minister and Premier then to reassess as may be indicated the province's financial support and direction around COVID-19 risks reduction in its schools;

- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020- 2021 Staff-Recommended Budget Binder, be approved;
- C. THAT the In-Year Deficit Elimination plan presented in the 2020-2021 Staff-Recommended Budget Binder, as amended, be approved;
- D. THAT the accumulated surplus be used to further increase the recommended \$4.0 million COVID expense provision by \$471,491;
- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020:B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated 14 August 2020, Additional Guidance and Funding for School Reopening, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.

Carried.

5. New Business - Information and Inquiries

There was no new business.

6. Adjournment

Chair Schwartz thanked CFO Carson and staff for the hard work put into creating a budget and making safety paramount. As a parent, she noted that she is very thankful to staff for making this a priority.

The meeting adjourned at 10:10 p.m.

Sandra Schwartz, Chair

Tab 11



Building Brighter Futures Together at the Ottawa-Carleton District School Board

SPECIAL BOARD PUBLIC MINUTES

Wednesday, August 26,

2020

9:00 pm

Zoom Meeting

Trustees Present: Justine Bell, Christine Boothby, Rob Campbell, Chris Ellis, Lyra Evans, Mark Fisher, Wendy Hough, Jennifer Jennekens, Keith Penny, Sandra Schwartz, Lynn Scott, Charles Chen (Student Trustee), Joy Liu (Student Trustee)

Staff Present: Camille Williams-Taylor (Director of Education), Brett Reynolds (Associate Director), Mike Carson (Chief Financial Officer), Janice McCoy (Superintendent of Human Resources), Michele Giroux (Executive Officer, Corporate Services), Carolyn Tanner (Human Rights and Equity Advisor), Dorothy Baker (Superintendent of Instruction), Prince Duah (Superintendent of Instruction), Mary Jane Farrish (Superintendent of Instruction), Eric Hardie (Superintendent of Instruction), Shawn Lehman (Superintendent of Instruction), Shannon Smith (Superintendent of Instruction), Peter Symmonds (Superintendent of Learning Support Services), Nadia Towaij (Superintendent of Program and Learning K-12), Kevin Gardner (Manager of Financial Services), Karyn Carty Ostafichuk, (Manager of Planning), Sandy Owens (Manager, Business & Learning Technologies), Diane Pernari-Hergert (Manager of Communications & Information Services), Michael Guilbault (AV Technician), Nicole Guthrie (Manager of Board Services) and Amanda Pelkola (Board/Committee Coordinator)

Guest: Andrew Parent (Principal at Gloucester High School)

1. Call to Order -- Chair of the Board

Chair Scott called the public meeting to order at 10:16 p.m. She acknowledged that the meeting is taking place on unceded Algonquin Territory and thanked the Algonquin Nations for hosting the meeting on their land.

2. Approval of the Agenda

Moved by Trustee Ellis, seconded by Trustee Schwartz,

THAT the agenda be approved.

Carried

3. Report from Committee of the Whole Budget

3.1 Approval of the 2020-2021 Staff Recommended Budget

Chair Schwartz provided a report on the 2020-2021 Staff Recommended Budget, from the Committee of the Whole Budget (COW budget) meeting and noted that substantial discussion took place on the budget. The motion before the Board from COW Budget, had several amendments to the staff recommended budget. Chair Schwartz shared her support of the budget and its subsequent delivery to the Ministry of Education.

Moved by Trustee Lyra Evans, seconded by Trustee Schwartz.

A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget, amended as follows:

1. THAT \$95,976 be removed from the School Programs and Support budget which pays for two dedicated SROs [at Gloucester High School and Ridgemont High School];
2. THAT the \$95,976 be apportioned to the two schools [Gloucester High School and Ridgemont High School] on a per pupil basis to be administered within the Urban priority high school framework;
3. THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all Schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with School Councils and to "undertaking activities to help parents of pupils of the board support their children's learning at home and at school".
4. THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators.
5. THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards' Association (OPSBA) member boards and local media, calling on the province to:

- (a) Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves,
 - (b) Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either (i) their Ministry-confirmed plans, further changes in Ministry direction, or unforeseen and unavoidable local COVID-19 related circumstances, and
 - (c) Commit to asking Ontario's Chief Medical Officer to immediately review and publicly respond fully and directly to the expert advice on COVID-19 risk reduction for schools provided on 19 August 2020 by the Registered Nurses' Association of Ontario (RNAO), and the Minister and Premier then to reassess as may be indicated the Province's financial support and direction around COVID-19 risks reduction in its schools.
- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020- 2021 Staff-Recommended Budget Binder, be approved;
- C. THAT the In-Year Deficit Elimination plan presented in the 2020-2021 Staff Recommended Budget Binder, as amended, be approved;
- D. THAT the accumulated surplus be used to further increase the recommended \$4.0 million COVID expense provision by \$471,491;
- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020: B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated 14 August 2020, Additional Guidance and Funding for School Reopening, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.

Trustee Ellis requested that parts A1 and A2 of the motion, regarding the School Resource Officer (SRO) program at Ridgemont High School and Gloucester High School, be voted on separately.

In response to a query from Chair Scott regarding amendments to the motion, Executive Officer Giroux advised that a vote against the two

amendments would eliminate them from the final motion, and would result in the funds being allocated as proposed in the original staff recommended budget.

Trustee Schwartz noted that several members of the community had contacted her regarding the SRO program and provided rationale for and against the cessation of the program. The most important fact addressed by the community was regarding the lack of consultation on this decision predominately with students. There was concern that the dedicated SRO position at Gloucester High School and Ridgemont High School may cease to exist even if the funds were diverted directly to the schools' framework. Trustee Schwartz highlighted that some feel that the SRO program is important and that it is necessary to conduct a review to hear from recently graduated students, current and marginalized students.

***** 10:30 pm vote 2/3 majority voted to continue *****

Trustee Bell shared that she has been learning about white privilege and systemic racism, and she has made a commitment when issues and opportunities arise to provide her support. Trustee Bell highlighted that she will be voting to support the SRO fund withdrawal motion.

Trustee Campbell noted he had originally voted in favour of the amendments regarding the SRO program, but added that this decision would result in the affected schools no longer having the option to invest in the program, even if it was viewed as the best expenditure of their funds. Trustee Campbell expressed his support for a review of the SRO program and advised that he would not be in support of the motion.

In wrap-up, Trustee Lyra Evans stated that the Board heard from the Somali community, the Black community and former students of the OCDSB who stated they do not feel safe or comfortable in the presence of SROs. She agrees with Trustee Bell and encourages the battle of systemic racism. Trustee Lyra Evans highlighted that despite her request for a consultation on the SRO program, no review has taken place despite the OCDSB's responsibility to the student community. Trustee Lyra Evans expressed her disappointment in the actions of her colleagues.

Moved by Trustee Lyra Evans, seconded by Trustee Schwartz

1. THAT \$95,976 be removed from the School Programs and Support budget which pays for two dedicated SROs [at Gloucester High School and Ridgemont High School]; and
2. THAT the \$95,976 be apportioned to the two schools [Gloucester High School and Ridgemont High School] on a per pupil basis to be administered within the Urban priority high school framework;

Defeated

At Trustee Ellis's request, a recorded vote was held and was defeated on the following division:

FOR: Trustee Ellis, Lyra Evans, Bell, (3)

AGAINST: Trustee Boothby, Hough, Campbell, Jennekens, Penny, Fisher, Schwartz, Scott, (8)

ABSTENTION: Nil (0)

Moved by Trustee Lyra Evans, seconded by Trustee Schwartz.

A. THAT the unconsolidated 2020-2021 operating budget of \$1,008.3 million as presented in Report 20-063, 2020-2021 Staff-Recommended Budget and detailed in the 2020-2021 Staff-Recommended Budget Binder be approved, subject to Ministry authorization to use the accumulated surplus in the amount required to balance the budget, amended as follows:

- 1. THAT a budget allocation of \$150,000 be made for the funding of effective school councils across all Schools and the work of an engaged Parent Involvement Committee to ensure it meets obligations regarding communications with School Councils and to "undertaking activities to help parents of pupils of the board support their children's learning at home and at school".**
- 2. THAT the Board approach the province for more funding, if necessary, to ensure the safety of OCDSB students and educators.**
- 3. THAT the Chair of the Board communicate immediately with the Minister of Education and Premier, with a copy of the communication also sent to Ontario Public School Boards' Association (OPSBA) member boards and local media, calling on the province to:**
 - (d) Commit to making school boards whole with respect to their extraordinary COVID-19 related use of reserves,**
 - (e) Commit to making school boards whole with respect to any unplanned COVID-19 related shortfalls arising directly however from either (i) their Ministry-confirmed plans, further changes in Ministry direction, or unforeseen and unavoidable local COVID-19 related circumstances, and**

(f) Commit to asking Ontario's Chief Medical Officer to immediately review and publicly respond fully and directly to the expert advice on COVID-19 risk reduction for schools provided on 19 August 2020 by the Registered Nurses' Association of Ontario (RNAO), and the Minister and Premier then to reassess as may be indicated the Province's financial support and direction around COVID-19 risks reduction in its schools.

- B. THAT the 2020-2021 capital budget of \$97.9 million as presented in the 2020- 2021 Staff-Recommended Budget Binder, be approved;**
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- E. THAT the new funding of \$3.5 million as shown in Ministry of Education Memo 2020: B11, Investments to Support School Reopening in Response to the COVID-19 Outbreak, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected; and**
- F. THAT the new funding of \$1.9 million as shown in Minister of Education Memo dated 14 August 2020, Additional Guidance and Funding for School Reopening, be added to the 2020-2021 Staff-Recommended Budget operating revenues and that a corresponding increase in planned operating expenses be reflected.**

Carried

A recorded vote was held and the motion was carried on the following division:

FOR: Trustee Boothby, Hough, Campbell, Jennekens, Penny, Bell, Fisher, Schwartz, Scott (9)

AGAINST: Trustee Ellis, Lyra Evans (2)

ABSTENTION: Nil (0)

4. Adjournment

The meeting adjourned at 10:52 pm.

Lynn Scott, Chair of the Board

Tab 12



Tweet

**Lyra Evans**

@Lyra_evans_ott



Tonights board meeting: OCDSB trustees voted 8-3 in favour of putting extra police in high needs, low income, disproportionately racialized schools. Instead of community supports. Shoutout to [@justinegbell](#) and [@SchoolZone6](#) for joining me in opposing systemic racism.

10:51 PM · 2020-08-26 · [Twitter for Android](#)**35** Retweets and comments **84** Likes

Tweet your reply



Tab 13

egbell

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Justine Bell

1,268 Tweets

twitter.com/AngieHamson/st...

6



16



Justine Bell @justinegbell · Aug 27

1/2 The @OCDSB budget passed last night. I worked hard to create a greater understanding of our proposed expenditures in response to COVID-19, I pushed for a risk analysis, I asked if this budget does everything possible to reduce the risks to students and staff... #SafeSeptember

1



14



Justine Bell @justinegbell · Aug 27

2/2 @OCDSB staff made it clear that safety is the #1 priority. I have confidence in the recommendations put forth by the professional administration, and there are still so many unknowns. We will stay vigilant and are prepared to course correct. #SafeSeptember #onted

4



11



Justine Bell @justinegbell · Aug 26

I am disappointed, beyond words.



Lyra Evans @Lyra_evans_ott · Aug 26

Tonights board meeting: OCDSB trustees voted 8-3 in favour of putting extra police in high needs, low income, disproportionately racialized schools. Instead of community supports. Shoutout to @justinegbell and @SchoolZone6 for joining me in opposing systemic racism.

4



42



You Retweeted

Aug 26

"I don't want my rights to be consulted on" — Amran Ali, at @OCDSB meeting tonight.

Truer words never spoken.

#SafeSeptemberON

3



17

Justine Bell
@justinegbell

Justine Bell @justinegbell · Aug 26

Ottawa Morning with Robyn Bresnahan - Aug. 26, 2020: Trustees held another special board meeting last night to discuss plans for reopening schools

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Tab 14



Tweet

**Justine Bell** @justinegbell · 21h

Replying to @Lyra_evans_ott and @SchoolZone6

I believe that trustees voted against removing the @OCDSB \$\$ to 2 SROs and putting it into the urban priorities because they want to conduct an SRO review first/consult, and/or did not have sufficient info. #disappointed. Our calls to action @ 3:51 here: [youtube.com/watch?v=KcsoHH...](https://www.youtube.com/watch?v=KcsoHH...)



1



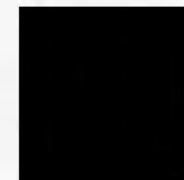
[REDACTED] · 21h

Replying to @Lyra_evans_ott
@justinegbell and @SchoolZone6

So much work yet to be done. I'm sorry this went through. Thank you for continuing to fight this fight.



1



[REDACTED] · 1d

Replying to @Lyra_evans_ott
@justinegbell and @SchoolZone6

"putting extra police" ? The motion was to keep the already designated SROs in both high schools not to add more or

Tweet your reply





BOARD (PUBLIC)
Report 20-101

16 November 2020

Code of Conduct – Possible Application of Sanctions - Lyra Evans

Key Contact: Michele Giroux, Executive Officer, Corporate Services, (613) 596-8211 ext. 8310

PURPOSE:

1. To consider whether sanctions, if any, should be applied in the event that the Board of Trustees renders a decision that there has been a breach of the Board Member Code of Conduct in relation to a complaint filed against Trustee Lyra Evans

CONTEXT:

2. The Board Member Code of Conduct policy establishes standards of practice and behavior for the Board of Trustees. Under the policy, when dealing with formal complaints, the Board must make a decision as to whether the Code has been breached. Should the Board determine that there has been a breach of the Code, the Board shall then consider what sanctions, if any, shall be applied.

KEY CONSIDERATIONS:

3. Decision Regarding Breach
On November 16, 2020 the Board will consider the final report of the investigator relating to an alleged breach of the Board Member Code of Conduct by Trustee Lyra Evans. The details of the complaint and the process for making a decision regarding a breach are outlined in Report 20-099.
4. Application of Sanctions
If the Board determines that there has been a breach of the Code of Conduct, it must then determine whether a sanction shall be imposed. "No sanction shall be imposed where the Board decides the trustee took all reasonable measures to prevent the breach; the contravention was trivial or committed through inadvertence; or an error of judgment was made in good faith."

Under the policy, the sanctions available to the Board are:

- censure of the Board member;

- bar the Board member from attending all or part of a meeting of the Board or a meeting of a committee of the Board; or
- bar 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.

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.

In making decisions with respect to sanctions, the Board is encouraged to be clear and specific, referencing the type of sanction to be imposed and the names/dates/time period for any sanctions relating to committees. For example:

- "The Board hereby censures Trustee (insert name) for failing to adhere to sections xx of the Board Member Code of Conduct policy"; or
- "Bars Trustee xx from attending all or part of a meeting of (describe meeting) to be held on (insert date); or
- "Bars Trustee xx from sitting on the (insert name) Committee for a period commencing on (insert date) and ending on (insert date);

Decisions with respect to sanctions require a 2/3 majority vote.

5. Clarification about Censure

A "censure" is a public expression of disapproval. The Board has some discretion on the severity of the censure, for example a "warning" is less onerous than a "censure". The form of a censure could include a strong statement which draws on the language of the Code of Conduct. For example:

- "The Board hereby censures Trustee (insert name) for failing to adhere to sections xx of the Board Member Code of Conduct policy and hereby acknowledges that Trustee (insert name) discredited and comprised the integrity of the Board".

A review of motions to censure by other school districts demonstrates that there is some discretion to the Board in determining the nature and severity of a motion to censure.

6. Clarification about Barring Attendance at all or Part of a Meeting

The Board may bar a trustee from attendance at a specified meeting of the Board or a committee of the Board. Based on the advice of legal counsel, the Board has the discretion to apply this sanction to a meeting of the Board or any committee of the Board which would include Committee of the Whole and Committee of the Whole, Budget. The use of the term "a meeting" implies that a trustee could only be barred from a single meeting for any or all of the specific meetings noted in the motion.

7. Clarification about Banning from Committees

The Board may also bar a trustee from sitting on one or more committees of the Board for a specified period of time. This could apply to any Board Standing, Ad Hoc, Advisory, or Special Purpose committee. The duration of this sanction would be determined by the Board. In accordance with OCDSB policy, the sanction may not exceed six months.

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.

8. Process for Determining Sanctions

The Board is required to make decisions about sanctions by way of a resolution at a public meeting of the Board. Staff and legal counsel will be in attendance at the meeting to assist the Board in understanding its administrative and legislative responsibilities in this regard.

9. Participation in Decision-making

Participation in the decision making process regarding sanctions is similar to the process for determining a breach.

“The trustee who is alleged to have breached the Code of Conduct:

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.”

The trustee who is alleged to have breached the Code 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.”

Except for the trustee who is alleged to have contravened the Code, all members of the Board may vote on decisions regarding sanctions, including the trustee who filed the complaint.

Decisions made under the Code of Conduct policy require a vote of at least 2/3 of the Trustees of the Board elected or appointed. At the OCDSB this means that of the 11 members voting, 8 members must vote in favour in order for a motion to be carried. This is not adjusted for absences - meaning that if only 7 members were present, no motion could be carried. Similarly, if all 11 members eligible to vote were present, and 3 members abstained from voting, no motion could be carried.

10. Notice and Appeal Mechanisms

Should a member be deemed to have breached the Code, the member is entitled to notice and there is an established appeal process.

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 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.*

COMMUNICATION/CONSULTATION ISSUES:

11. There are no communication/consultation issues related to the application of sanctions, if required.

RESOURCE IMPLICATIONS:

12. There are three primary areas of cost associated with a Code of Conduct complaint; legal fees, investigation costs, and staff time. The costs in relation to this particular matter were detailed in Report 20-099.

It should be noted that there is an appeal mechanism under the policy and an appeal or any type of legal action will generate additional costs to the organization.

SUMMARY:

13. Should the Board determine there was a breach, the Board must then consider:
- Does the Board wish to apply a sanction?
 - If the Board wishes to apply a sanction, which sanction and what are the specific provisions of that sanction?

RECOMMENDATION:

Note: Should the Board determine the Code of Conduct has been breached and that sanctions should be applied, a member may put forward a motion.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education and
Secretary of the Board



BOARD (PUBLIC)
Report 20-100

16 November 2020

Code of Conduct Breach Determination - Justine Bell

Key Contact: Michele Giroux, Executive Officer, Corporate Services, (613) 596-8211 ext. 8310

PURPOSE:

1. To consider a complaint under the Code of Conduct against Trustee Justine Bell and determine whether there has been a contravention of the Code; and, if necessary, determine what action, if any, the Board might take.

CONTEXT:

2. The school district has a Board Member Code of Conduct policy which establishes standards of practice and behavior for the Board of Trustees. In September 2020, a complaint was filed alleging Trustee Bell had failed to uphold sections 3.18, 3.28 and 3.29 of the Code. Chair Scott and Vice-Chair Penny reviewed the complaint against the policy and determined that a formal review of the complaint would begin, using a third party investigator. As this incident was closely related to the incident noted in Report 20-099, the same investigator was used and both incidents are addressed in one report to the Board. Under the policy, the investigator must submit a report of the finding of facts which does not include a determination of whether the Code has been breached nor does it provide any recommendations. The Board must review the finding of facts and determine whether the Code has been breached. Should the Board determine that there has been a breach of the Code of Conduct, the Board shall then consider what sanctions, if any, shall be applied.

KEY CONSIDERATIONS:

3. Submission of Code Complaint
On Thursday, August 27, 2020, Trustee Bell reposted a statement regarding a decision of the Board on her Twitter account. Trustee Donna Blackburn filed a formal complaint with the Chair on September 2, 2020. The complaint alleged that Trustee Bell's social media activity was inconsistent with the Civil Behaviour expectation established in section 3.18, and the Upholding Decisions expectation established in sections 3.28 and 3.29 of the Board Member Code of Conduct policy. A copy of the complaint was distributed to trustees in accordance with section 4.19 of the policy (P.073.GOV).

4. Third Party Investigator Retained

An independent third party investigator was retained by the District to investigate the complaint. The investigator was provided with a copy of the Board Member Code of Conduct policy, the complaint, the minutes of the Board and Committee of the Whole Budget meetings and relevant Board governance policies. The investigator met with staff and legal counsel and was asked to undertake an investigation in accordance with the provisions of the policy. Under section 4.24 of the policy, the investigation 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.*
- c. *The trustee who is alleged to have breached the Code of Conduct 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 and in writing.*
- d. *It is expected that the formal review will be conducted within a reasonable period of time which will depend on the circumstances of the case. The trustee who is alleged to have breached the Code of Conduct 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 deem appropriate in the circumstance.*
- e. *If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review, the formal review will continue in his/her absence.*

5. Investigator's Report

The policy requires the investigator to provide a confidential draft copy of the report to the trustee who filed the complaint and the trustee who is alleged to have breached the Code. Both Trustees Blackburn and Bell received the draft report and had an opportunity to provide comments to the investigator.

The investigator submitted the final report to the District on Monday, November 2, 2020. The final report was shared with the Board on Friday, November 13, 2020. A copy of the investigator's report is included in the November 16, 2020 Special Board Meeting agenda. In accordance with section 4.26 of the policy, the final report of the investigator is a finding of facts and does not contain a recommendation or opinion as to whether the Code of Conduct has been breached.

6. Process for Determining a Breach

The Board is required to review the report, and as soon as practical, make a decision as to whether the Code has been breached. Under section 4.30, "The Board shall consider only the findings in the final report when voting on the decision and sanction." The Board decision is made by way of resolution of the Board at a public meeting of the Board.

Staff and legal counsel will be in attendance at the meeting to assist the Board in understanding its administrative and legislative responsibilities in this regard.

7. Participation in Decision-making

In terms of participation in the process, all parties to the complaint had equal opportunity to provide facts to the investigator – through interview or in writing. In addition, both the complainant and the subject of the complaint had the opportunity to review and comment on the investigator's report before the final report was prepared.

The Code of Conduct policy, section 4.33, provides the following restrictions on participation in the decision-making:

"The trustee who is alleged to have breached the Code of Conduct:

- 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."*

The trustee who is alleged to have breached the Code 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."

Except for the trustee who is alleged to have contravened the Code, all members of the Board may vote on decisions regarding Code of Conduct. The trustee who filed the complaint is entitled to vote.

Decisions made under the Code of Conduct policy require a vote of at least 2/3 of the Trustees of the Board elected or appointed. At the OCDSB this means that of the 11 members voting, 8 members must vote in favour in order for a motion to be carried. This is not adjusted for absences - meaning that if only 7 members were present, no motion could be carried. Similarly, if all 11 members eligible to vote were present, and 3 members abstained from voting, no motion could be carried.

8. Factors in Breach Decisions

The Board must consider whether a breach of the Code of Conduct policy has occurred. In making this decision, the Board must focus their deliberation on this particular complaint using the investigator's report as the statement of facts.

Section 4.30 of the policy provides that "*The Board shall 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.*"

In order to ensure clarity in decision-making, any motion put forward regarding a breach should be structured as follows:

Upon review of the facts as documented in the investigator's final report dated (insert date) regarding a Code of Conduct complaint filed by (insert name) in relation to (insert name), the Board finds:

THAT Trustee _____ has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to

This structure ensures clarity of decision-making whether the motion is carried or fails.

In the event the Board decides the Code has been breached, it must then determine what sanctions, if any, shall be imposed. That is a separate decision making process which is detailed in Report 20-102.

COMMUNICATION/CONSULTATION ISSUES:

9. There are no communication or consultation issues related to the determination of breach.

RESOURCE IMPLICATIONS:

10. There are three primary areas of cost associated with a Code of Conduct complaint; legal fees, investigation costs, and staff time. The investigation costs and legal fees are funded through the legal services budget and are estimated at \$5,000. In terms of staff time, it is estimated that the administration of this complaint involved approximately 10 hours of work.

SUMMARY:

11. The Board must consider the finding of facts and make decisions based on the following questions:

- With respect to the Code of Conduct complaint dated September 2, 2020 and based on the final report of the investigator, did Trustee Bell contravene the Code of Conduct?

RECOMMENDATION:

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Bell the Board finds:

THAT Trustee Bell (insert HAS or HAS NOT) has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education and
Secretary of the Board

Attachments:

Appendix A: Policy P.073.GOV Board Member Code of Conduct



Appendix A to Report 20-100

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 **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 **District** means the Ottawa-Carleton District School Board.
- 2.4 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.
- 2.5 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written response has been provided to the Board.
- 2.6 **Informal Review Process** means the process whereby the Chair of the Board meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.
- 2.7 **Respect** means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.

- 2.8 **Trustee** 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 pecuniary interest in a matter before the Board.
- 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 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 Code of Conduct, and Policy P.009.HS: 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.

Respect for Confidentiality

- 3.22 Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- 3.23 Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- 3.24 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.
- 3.25 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*.
- 3.26 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

- 3.27 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.
- 3.28 Each Trustee shall uphold the implementation of any Board resolution after it is 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.
- 3.29 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.
- 3.30 Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.
- 3.31 The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or Board to do so. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVESRole 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.
- 4.4 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.
- 4.5 Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.
- 4.6 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.
- 4.7 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.
- 4.8 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.
- 4.9 A Board member who believes that another Board member's behavior has been egregious, shall raise his or her concern with that Board member.
- 4.10 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

- 4.11 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.

- 4.12 Any allegation of a breach of the Code must be brought to the attention of the Chair of the Board no later than six (6) weeks after the alleged breach comes to the knowledge of the trustee reporting the alleged breach. Notwithstanding the foregoing, in no circumstance shall a review of an alleged breach of the Code be initiated after the expiration of six (6) months from the time the contravention is alleged to have occurred.
- 4.13 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.
- 4.14 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 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 a breach of the Code is to assist the trustee in understanding his/her obligations under the Code. Only serious and/or recurring breaches of the Code by a trustee should be investigated following the Formal Review Process.

Informal Review Process

- 4.15 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, may meet informally with a trustee of the Board who is alleged to have breached the Code, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the trustee and to discuss possible remedial measures to correct the offending behaviour. The informal review process is conducted in private.
- 4.16 As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.
- 4.17 If the Chair of the Board and the trustee alleged to have breached this Code cannot agree on a remedy, a formal complaint may be brought against the trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Review Process below.

Formal Review Process

- 4.18 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.

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 Chair of the Board shall provide to all trustees of the Board a confidential copy of the complaint within ten (10) days of receiving it. 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 has breached this Code.

Refusal to Conduct Formal Review

- 4.20 If the Chair and Vice-Chair of the Board are of the opinion 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 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.

- 4.21 If an allegation 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 shall be processed under that procedure.

Steps of Formal Review

- 4.22 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.
- 4.23 The Chair and Vice-Chair shall determine if the formal review will be undertaken by an outside consultant.
- 4.24 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.
 - c) The trustee who is alleged to have breached the Code of Conduct 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 and in writing.
 - d) It is expected that the formal review will be conducted within a reasonable period of time which will depend on the circumstances of the case. The trustee who is alleged to have breached the Code of Conduct 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 deem appropriate in the circumstance.
 - e) If the trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal review, the formal review will continue in his/her absence.
- 4.25 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.
- 4.26 The final report of the investigators shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.
- 4.27 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

- 4.28 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

- 4.29 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.
- 4.30 The Board shall 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.

- 4.31 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.
- 4.32 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.
- 4.33 The trustee who is alleged to have breached the Code of Conduct:
- 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.
- 4.34 The trustee who filed the complaint may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.
- 4.35 The trustee who is alleged to have breached the Code 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

- 4.36 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.
- 4.37 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.

- 4.38 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.
- 4.39 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.
- 4.40 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

- 4.41 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 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.
- 4.42 If the Board revokes a determination any sanction imposed by the Board is also revoked.
- 4.43 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.
- 4.44 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.
- 4.45 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.
- 4.46 The Board shall provide to the Trustee 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.

- 4.47 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.
- 4.48 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

- 4.49 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.
- 4.50 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.
- 4.51 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).
- 4.52 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.
- 4.53 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.
- 4.54 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



BOARD (PUBLIC)
Report 20-102

16 November 2020

**Code of Conduct – Possible Application of Sanctions -
Justine Bell**

Key Contact: Michele Giroux, Executive Officer, Corporate Services, (613) 596-8211
ext. 8310

PURPOSE:

1. To consider whether sanctions, if any, should be applied in the event that the Board of Trustees renders a decision that there has been a breach of the Board Member Code of Conduct in relation to a complaint filed against Trustee Justine Bell.

CONTEXT:

2. The Board Member Code of Conduct policy establishes standards of practice and behavior for the Board of Trustees. Under the policy, when dealing with formal complaints, the Board must make a decision as to whether the Code has been breached. Should the Board determine that there has been a breach of the Code, the Board shall then consider what sanctions, if any, shall be applied.

KEY CONSIDERATIONS:

3. Decision Regarding Breach
On November 16, 2020 the Board will consider the final report of the investigator relating to an alleged breach of the Board Member Code of Conduct by Trustee Justine Bell. The details of the complaint and the process for making a decision regarding a breach are outlined in Report 20-100.
4. Application of Sanctions
If the Board determines that there has been a breach of the Code of Conduct, it must then determine whether a sanction shall be imposed. "No sanction shall be imposed where the Board decides the trustee took all reasonable measures to prevent the breach; the contravention was trivial or committed through inadvertence; or an error of judgment was made in good faith."

Under the policy, the sanctions available to the Board are:

- censure of the Board member;

- bar the Board member from attending all or part of a meeting of the Board or a meeting of a committee of the Board; or
- bar 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.

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.

In making decisions with respect to sanctions, the Board is encouraged to be clear and specific, referencing the type of sanction to be imposed and the names/dates/time period for any sanctions relating to committees. For example:

- "The Board hereby censures Trustee (insert name) for failing to adhere to sections xx of the Board Member Code of Conduct policy"; or
- "Bars Trustee xx from attending all or part of a meeting of (describe meeting) to be held on (insert date); or
- "Bars Trustee xx from sitting on the (insert name) Committee for a period commencing on (insert date) and ending on (insert date);

Decisions with respect to sanctions require a 2/3 majority vote.

5. Clarification about Censure

A "censure" is a public expression of disapproval. The Board has some discretion on the severity of the censure, for example a "warning" is less onerous than a "censure". The form of a censure could include a strong statement which draws on the language of the Code of Conduct. For example:

- "The Board hereby censures Trustee (insert name) for failing to adhere to sections xx of the Board Member Code of Conduct policy and hereby acknowledges that Trustee (insert name) discredited and comprised the integrity of the Board".

A review of motions to censure by other school districts demonstrates that there is some discretion to the Board in determining the nature and severity of a motion to censure.

6. Clarification about Barring Attendance at all or Part of a Meeting

The Board may bar a trustee from attendance at a specified meeting of the Board or a committee of the Board. Based on the advice of legal counsel, the Board has the discretion to apply this sanction to a meeting of the Board or any committee of the Board which would include Committee of the Whole and Committee of the Whole, Budget. The use of the term "a meeting" implies that a trustee could only be barred from a single meeting for any or all of the specific meetings noted in the motion.

7. Clarification about Banning from Committees

The Board may also bar a trustee from sitting on one or more committees of the Board for a specified period of time. This could apply to any Board Standing, Ad Hoc, Advisory, or Special Purpose committee. The duration of this sanction would be determined by the Board. In accordance with OCDSB policy, the sanction may not exceed six months.

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.

8. Process for Determining Sanctions

The Board is required to make decisions about sanctions by way of a resolution at a public meeting of the Board. Staff and legal counsel will be in attendance at the meeting to assist the Board in understanding its administrative and legislative responsibilities in this regard.

9. Participation in Decision-making

Participation in the decision making process regarding sanctions is similar to the process for determining a breach.

“The trustee who is alleged to have breached the Code of Conduct:

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.”

The trustee who is alleged to have breached the Code 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.”

Except for the trustee who is alleged to have contravened the Code, all members of the Board may vote on decisions regarding sanctions, including the trustee who filed the complaint.

Decisions made under the Code of Conduct policy require a vote of at least 2/3 of the Trustees of the Board elected or appointed. At the OCDSB this means that of the 11 members voting, 8 members must vote in favour in order for a motion to be carried. This is not adjusted for absences - meaning that if only 7 members were present, no motion could be carried. Similarly, if all 11 members eligible to vote were present, and 3 members abstained from voting, no motion could be carried.

10. Notice and Appeal Mechanisms

Should a member be deemed to have breached the Code, the member is entitled to notice and there is an established appeal process.

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 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.*

COMMUNICATION/CONSULTATION ISSUES:

11. There are no communication/consultation issues related to the application of sanctions if required.

RESOURCE IMPLICATIONS:

12. There are three primary areas of cost associated with a Code of Conduct complaint; legal fees, investigation costs, and staff time. The costs in relation to this particular matter were detailed in Report 20-100.

It should be noted that there is an appeal mechanism under the policy and an appeal or any type of legal action will generate additional costs to the organization.

SUMMARY:

13. Should the Board determine there was a breach, the Board must then consider:
- Does the Board wish to apply a sanction?
 - If the Board wishes to apply a sanction, which sanction and what are the specific provisions of that sanction?

RECOMMENDATION:

Note: Should the Board determine the Code of Conduct has been breached and that sanctions should be applied, a member may put forward a motion.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education and
Secretary of the Board