



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

OFFICE OF THE
INTEGRITY ADVISOR'S

2021

ANNUAL REPORT





OTTAWA-CARLETON
DISTRICT SCHOOL BOARD



June 14, 2022

TO: Chair Lynn Scott and Members of the Ottawa-Carleton District School Board

I submit this Annual Report to the Ottawa-Carleton District School Board for their consideration and receipt, in fulfillment of my role as Integrity Advisor.

This Report covers the period May 2021 to May 2022.

Sincerely,

A handwritten signature in black ink that reads "Suzanne Craig".

Suzanne Craig
Integrity Advisor

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OVERVIEW



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

The Integrity Advisor is tasked with the application of the rules of the Board Member Code of Conduct (the “Code”) through the review of informal and formal complaints on referral by the Chair of the Board. In addition, the duties of the Integrity Advisor include providing comments on Board governance policies that intersect with the Code provisions.

This Office has reviewed informal and formal complaint under the Code. These complaints involved complex and systemic issues. As the mandate of this Office does not include the review of inquiries and complaints on Board policy or actions, I was unable to provide response to these concerns raised.

Throughout this 2021 year, I recognized that there is a need to strengthen the independent oversight of the conduct of Trustees. There appears to be a lack of clarity regarding the governance roles of Trustees, the Chair, and Committees, and the operational role of staff, in particular with respect to meeting management and day-to-day decision-making. Given the terms of my agreement the work to date has been limited to the review and mediation of Code complaints lodged against Trustees and to providing input around how the adherence to Code rules forms the foundation of a Trustee’s duty to responsible governance, fiduciary accountability and strategic planning for the Board.

Though the processes under the Code relating to the procedure to be followed when a Code complaint is filed is cumbersome and I have observed that there needs to be greater transparency in the complaint investigation process, the complainants who did bring forward complaints were heard, the matters raised addressed and reporting to the Board did happen. Examples of the results achieved in respect of some of the concerns raised this year can be found throughout this report.



HOW THIS OFFICE WORKS



As one of the appointed Integrity Advisors for the OCDSB, I act as an independent and impartial officer who receives concerns from the Chair of the Board, on behalf of Trustee complainants, with respect to the conduct of individual Trustees. The Code stipulates that 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. Names of complainants are confidential and investigations are conducted in private, while the investigation report is submitted to the Board in public session.

What the Integrity Advisor can do:

- Receive Code complaints from the Chair of the Board, with a request for the matter to be pursued through the informal or formal complaint process;
- Investigate complaints about individual Trustee's actions, conduct at meetings, interaction with one another, use of language that is disrespectful, harassing or meant to bully other Trustees, staff or the public;
- Determine whether the Trustee's actions or behaviour were in contravention of the Code rules;
- Complete a Report with findings to the Chair, with recommendations of sanctions and/or remedial action;

Generally speaking, ethics officers at the municipal level may receive a concern or complaint from a Trustee, staff person or member of the public. The matter will be received at the intake stage and if the matter is deemed not to be within the jurisdiction of the ethics officer, it will not be investigated and the complainant will be advised to pursue the matter through another process.

The OCDSB Code sets out the scope of the Chair's authority over matters addressed by the Code and provides the Chair and/or Vice-Chair with powers to refer the investigation of the complaint to an independent third party.

What the Integrity Advisor cannot do under the current Code and terms of engagement with the OCDSB:

- The Complaint Protocol makes no provision for anonymous complaints;
- Flag to the Board of Trustees and Board senior staff, trends in complaints that suggest systemic issues and or gaps in policy and recommend best practices and/or ways to improve clarity in obligations to enhance Code compliance.
- Overturn decisions of Board staff or the administration, the Board of Trustees or Committees;
- Assist Board staff and the public with general questions about the Office's complaint processes;
- Set Board policy;



HOW THIS OFFICE WORKS (CONT.)



- Review or investigate the actions, decisions or omissions of the Board administration, principals, teachers or school support staff;
- Under the Complaint Protocol an allegation that may involve a contravention of the Criminal Code of Canada is a police matter, and would not be investigated by the Integrity Advisor;
- Investigate a complaint of alleged conflict of interest under the Municipal Conflict of Interest Act involving a Trustee. These complaints are enforced through the courts.
- Provide legal advice.
- Receive or adjudicate complaints about decisions of the Board, Access to Information requests, Privacy complaints.

Typically, Code rules set the agreed upon ground rules that require elected officials to act and to be seen/or perceived to be acting in the interest of the public. Often, not being able to see one's actions from the public's perspective or a different perspective from one's own, leads to conduct by a Trustee that risks eroding public trust and creating unintentional or overt bias.

Ethics and integrity are about objectively and impartially working in the public interest, avoiding preferential treatment in favour of oneself, friends, family or a political party (because municipal governments are not built upon the party system). As elected officials, Trustees swear an oath to act on behalf of all constituents, following approved statutes, bylaws, policies and procedures. The rules of ethics enshrined in the Code are the standards that will guide and inform Trustees' conduct and decision-making as the leaders of the District.



1.1 TRUSTEE REFLECTION SESSION



In September 2021, upon request of the Chair of the Board, I facilitated a Trustee reflection session. This was a session that provided Trustees with an opportunity to share their views on the past year's issue, challenges and concerns with a view to identifying what worked and what needed more work. The 3-hour evening session included:

- A. Trustee Reflection and facilitated discussion. This followed the format of reflection sessions held in previous years. Trustees were asked to consider what brings them together as a Board. Individual Trustees have different perspectives and concerns. However, at the session Trustees were asked to consider how they would achieve the goals discussed during the session, as a Board, not as individual Trustees. Trustees discussed and considered what they believed to be Board priorities, the statutory requirements a Board must fulfill.
- B. Professional Development – training on the Board Member Code of Conduct. The Code complaint processes: Informal and Formal Code complaint process, confidentiality of the investigation process, procedural fairness and Integrity Advisor reporting.



In August 2021, the Board invited me to deliver a presentation to the Chairs of the Board Advisory Committees. The presentation covered the principles of the role of a Chair of an advisory committee, the importance of the avoidance of bias, the requirement to avoid conflicts of interest, respecting OCDSB staff and the public.

Foundational Principles of Advisory Committee Chairs:

- Act with fairness and respect toward all;
- Avoid the use of influence of her or his or their position for private or personal advantage, both real and apparent
- Responsibly oversee management of Advisory Committee meetings
- Facilitate a process that encourages a meaningful dialogue, providing understandable and timely recommendations to the Board
- Chairs play a key leadership role in working with District staff, Superintendents and Principals to identify issues that need discussion

Avoidance of Bias:

- It is recognized that Committee members will have knowledge and expertise and must act with fairness
- It is a generally agreed principle of the law that a decision-maker or advisor should be free of bias and should be perceived to not be biased in making their recommendations

Conflict of Interest:

- Chairs must avoid a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her or their official duties as an appointed member of committee

Respecting staff and the public:

- Refrain from excluding staff from meetings or discussions or interfering in staff duties
- Respect the role and professionalism of staff and particularly their duty to be politically neutral and objective
- Treat the public and staff appropriately letting all voices be heard
- Remember that the Board's Respectful Workplace Policy also applies to Chairs and Members of Committees

1.3 GOOD GOVERNANCE AND BOARD BYLAWS



Trustees:

... trustees are elected by their local communities and are expected to bring the voice of their communities to the board table, but at the same time they are expected to act as a unified body in the best interests of all students of the board (Hall, 2015).

The Director of Education is the only employee directly responsible for translating the Board's policies, values, and goals into action. Individual Trustees should not give direction to or evaluate any district employees reporting to the Director. Of assistance in this regard is the development of policy documents that set out the role of the Board of Trustees, Trustees and staff so that there are clearly delineated boundaries for the agreed upon standards while acting in the best interests of the students and communities served by the OCDSB.

In developing a comprehensive and effective governance framework that assists in clarifying roles and responsibilities of individual Trustees, it is important to seek out governance expertise of individuals who have lived experience and professionals with knowledge of issues faced by underrepresented groups so that policy is developed and reviewed through an equity lens.

To be an effective governance tool, OCDSB Bylaws should:

- Have defined terms with consistent meaning and application.
- Be clear so they can be easily understood by Trustees, staff and the public.
- Include sufficient clarity and detail so that multiple interpretations are avoided – or the creation of commentary to set out the adopted interpretation, to create clear, fair decision-making processes without bias.

In particular, during this reporting year, I have identified that there may be practices, that have come to be viewed as approved rules, that are not in fact enshrined in approved policy and conversely, there have been requests by Trustees for action by staff, the direction for which has not been brought forward through approved Board processes and for matters not currently in the District's strategic plan.

It is clear that not all Trustees fully understand the OCDSB bylaw provisions, when and how to use motions and meeting rules, the purpose for them or why they are not consistently applied in each situation. The Executive Officer and the Manager of Board Services are important roles in advising Trustees on the interpretation of the Bylaws in various circumstances. Disagreement with a Trustee's perspective, that there may be institutional impediments that overtly or systemically produce disproportionate adverse outcome for certain communities, are not reasons to not follow approved Board rules and bylaws.

1.4 HOW DO TRUSTEES OBTAIN INFORMATION?



In this reporting year, I have observed through review of Committee and Board meetings, as well as investigation or mediating Code complaints that there is a need to provide clear guidance to Trustees and staff on the process to be followed by individual Trustees when seeking Board-held information.

Rules 3.22 -26 of the Code relating to Confidential Information, make specific reference to the responsibility of Trustees to maintain confidentiality. In particular, Rule 3.26 states:

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).

However, outside of the specific requirement regarding personal information, Trustees require a clear understanding of what information processes they must follow in relation to the obtaining information relating to their duties, roles and responsibilities.

Trustees carry out their duties as defined within section 218.1 of the Education Act. It is the Board as a whole that approves budget, policy, Committee processes and other such matters. Requests from Trustees for information that is not covered by confidentiality is an allowable action under the Code.

The principle of open government is one that allows citizens to scrutinize the activities of elected officials and public servants to ensure that they are acting in the public interest. One pillar that supports open government is freedom of information legislation, which gives people the right to access government-held information. This legislation also provides a recognizable threshold against which general access guidelines may be measured. While the Board of Trustees may request information held by the District in order to carry out its decision-making role, the process through which information is requested of staff, the time that will be involved in staff obtaining the requested information and determining what priority responding to requests for information should take, should be clearly applied on the basis of consistent criteria.

2.1

ACTIVITIES OF THE INTEGRITY ADVISOR



The Office received 6 informal complaints and 3 formal complaints (the 3 complaints were included in 1 request from the Chair) made naming Trustees under the Code in the reporting period of this Annual Report.

Of the 3 formal complaints and 6 informal complaints, all were resolved through mediation.

While the Code complaints contained allegations of conduct that I found did trigger Code rules, the inquiries were more about process than contravention of integrity rules.

Informal And Formal Complaints

In an effort to find immediate solutions, Trustees often bring forward motions at Committee meetings or take to Twitter or other social media platforms, to explain to the public that they are seeking solutions. Communication and informing the public through social media or on other platforms is conduct allowed under the Code. However, during this reporting period, I have found that some of the post/comments subject of Code complaints, inaccurately represented a decision or position of the Board. In addition, the comments appeared to have the effect of trying to shame Trustee colleagues who voted a particular way and during a meeting and vilify any Trustee who did not hold the position of the many. The Code is not intended to prevent Trustees from speaking their truths with candor and honesty. However, to conduct a discussion on social media or elsewhere linking one's belief that the decision of the Board to reject or accept a position was an incorrect one, alleging that the Board has not listened to the public and ignored affected groups, does run afoul of Rule 3.15 of the Code that prohibits Trustees from impugning or maligning a debate or decision or otherwise eroding the authority of the Board. Making comments about a Board decision and how one voted is permitted under the Code. What is not permitted is to take personal attacks against other Trustees or members of the public that is disrespectful or insulting, focusing on the person and not the issue at hand.

In all of the complaints that were referred to me, the complainants alleged that the Trustees had contravened rules 3.15-3.21 of the Code: Civil Behaviour, with behaviour that was disrespectful and conduct that to the objective bystander would be taken as abusive or insulting towards another Trustee. When proceeding through a mediated facilitation of a formal complaint, it has been my practice to take the comments made by the parties at face value with the presumption that both the Complainant and the Respondent seek Trustees' adherence to the Code rules. I compare any statements made by the parties during this process against statements of witnesses (other Trustees, staff). I accept the Complainant's and the Respondent's verbal and written submissions provided during the Code complaint process.

The objective of a Formal Code complaint process is to discover facts upon which to make a decision on whether a Trustee, on a balance of probabilities, has contravened the Code of Conduct rules. The purpose-driven function of the complaint process allows the Integrity Advisor the discretion to conclude a matter with recommendations, as part of an informal resolution of a Formal Complaint. It was very apparent while reviewing allegations made in Code complaints that some Trustees referred to the Code process as a weapon rather than a governance tool. In fact, I have heard Trustees make statements such as "I will Code Trustee A" or "I am being Coded" or "Trustee C wants to Code me". The inference in using the word as a verb appears to be an attempt to weaponize the Code in such a way as to silence criticism of one Trustee against another. The very word "Code" seems to invoke both a feeling of being harassed and threatened.

2.1 ACTIVITIES OF THE INTEGRITY ADVISOR (CONT.)



Of assistance in clarifying what the Code is and the role of an Integrity Advisor, one may review the relevant sections set out by Justice Bellamy in the 2005 Bellamy Report in describing the role of an Integrity Commissioner, which is similar to that of an Integrity Advisor:

An integrity commissioner provides significant profile to ethical issues inside City government and sends an important message to constituents about the City's commitment to ethical governance.

No matter how comprehensive the rules, there will on occasion be situations where the ethical course of action is not clear and an individual will need authoritative advice and guidance.

Without enforcement, the rules are only guidelines. Although research shows that a values-based approach to ethics policy, focusing on defining values and encouraging employee commitment, is preferable to a system of surveillance and punishment, where the public interest is involved, there should be a deterrent in the form of consequences for bad behaviour. The rules must have teeth.

Justice Bellamy went on to state that an Integrity Commissioner should have certain attributes, which include:

- excellent and effective communication skills in functions including presentations, public speaking, and one-on-one interactions with employees of all levels
- objectivity and thoughtfulness
- ability to establish and maintain credibility and trust throughout the organization
- ability to quickly assimilate information relating to complex issues
- ability to network on all levels of an organization
- political astuteness
- personal and professional maturity
- working knowledge of applicable laws and regulations
- discretion and ability to protect confidential information
- ability and willingness to take a difficult or unpopular position if necessary

The Code of Conduct is an accountability tool that may be employed to transparently review conduct of a Trustee by an independent objective investigator. The rules of the Code represent a commitment of a Board of Trustees to collectively abide by the standards of conduct set out in the ethics document. Individual Trustees should welcome the Code as a way to outwardly demonstrate to the public that they agree to be held accountable for their actions. It is the purpose of the Code to establish rules to guide Members of the Board of Trustees and Members of Advisory Committees (using only the provisions that apply to them in respect of their restricted advisory function) in performing their diverse roles in representing their schools, students and communities and recognize their accountability for managing District resources allocated to them.

2.1 ACTIVITIES OF THE INTEGRITY ADVISOR (CONT.)



OCDSB Trustees recognize their obligation to not only obey the law, policies and procedures¹, but to go beyond the minimum standards of behaviour and act in a manner that is of the highest ethical ideals so that their conduct will bear the closest public scrutiny.

In the complaints that were concluded through facilitated mediation, Trustees named in the complaint were advised that a determination of compliance or contravention of the Code can only be made following an investigation of a Formal Complaint. In all but 1 complaint referred to me by the Chair, the Respondent confirmed that they understood their actions ran contrary to the Code and the parties agreed to an information resolution. I reported my conclusions to the Chair.

¹The 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



3.0 ISSUES OF NOTE



3.1 The Role of the Chair and Vice-Chair of the Board

In accordance with the rules of the OCDSB, the Chair of the Board or the Vice-Chair acting as Chair of the meeting, will determine if a Trustee bringing forward a motion will be heard or whether a Trustee who has the floor will be allowed to continue. Comments that are not allowed and should be stopped by the Chair or Vice-Chair are comments:

- that run afoul of the Code rules because they are making allegations of misconduct and/or a breach of the Code of Conduct (allegations of a breach should follow the procedure set out in the Code and not be waved about during a meeting as a threat to silence a colleague);
- that are in bad faith or insulting in nature against another member of the Board;
- that are sarcastic and allegations made in an aggressive tone or language.

All of the above take the discussion of the Board off topic away from the business at hand and into behaviour that is unacceptable for an elected official in the exercise of their duty. It is the responsibility of the Chair and not individual Trustees to manage the speakers at a Board meeting, cede the floor to a Trustee and determine what comments are inappropriate, including when uttered by a member of the public making a deputation or presentation at a meeting. When the Chair fails to apply the procedural rules in respect of disrespectful interruptions, even if on the basis of attempting to be fair, what inevitably follows is an inability to maintain decorum. In addition, when Trustees fail to recognize the authority of the Chair or Vice-Chair, they demonstrate a disrespect for the Trustee who has the floor, the Board, as well as staff and the public in attendance.

The Wilson and Hall reports painted an unflattering portrait of the Toronto District School Board in 2014 and 2015². Though their findings were about a different Board with a different set of circumstances, there are some “take aways” from those reports that are generally helpful for any School Board seeking to improve board governance. They described the culture of the TDSB as dysfunctional, the roles and responsibilities of Trustees poorly understood, impaired trustee and senior staff relationships, and many other facets of poor governance. Commissioner Hall described:

“jockeying among the 22 trustees to get a 12-trustee majority” that, once secured, made it difficult for the remaining Trustees to engage in a critical discussion of the item under consideration; treating information as “currency” that was shared among an “in group” and isolated the “out group,” leaving the latter feeling marginalized; actions that showed “a clear lack of understanding of the difference between governance and operations”; “partisan politicization” of the position of Trustee where decisions were made “in the best interest of one’s political career rather than the best interests of the students of the board; a complicated and “all encompassing” strategic plan without “clear performance measures;”

² Toronto District School Board Governance Advisory Panel Report, Submitted to the Honourable Liz Sandals, Minister of Education, on August 19, 2015.



3.0 ISSUES OF NOTE (CONT.)



3.2 OCDSB Communications

Throughout this reporting period, in reviewing complaints, I observed that some Trustee not only inform their constituents about District information through social media but attempt to continue a deliberation started or concluded at a Board meeting. The Code rules require a Member to conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct; and must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity. Trustees are required to refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice; interfere with the professional independence of staff or denigrate a decision made by the District. Trustees shall not display materials or transmit communications that are inappropriate, offensive, insulting or derogatory.

While the above is important and required under the Code, the Code is not in place to thwart individual representation and stifle dissent of individual Trustees. The issue is not whether a Trustee should or could express a position on the community issue, but rather whether they have violated the standards of ethical conduct through their tweets.

The role of the Integrity Advisor is not to adjudicate statements of opinion. The law recognizes that there are occasions in which elected officials (in this case, Trustees) are permitted to speak without fear of criminal, civil, or other sanction, which would include Code sanctions. A privileged occasion is described by the Supreme Court of Canada in *Hill v. Church of Scientology of Toronto*:

...a privileged occasion is ... an occasion where the person who makes a communication has an interest or a duty, legal, social, or moral, to make it to the person to whom it is made, and the person to whom it is so made has a corresponding interest or duty to receive it. This reciprocity is essential.³

Politicians in council meetings, parliament, the legislature and at School Board meetings, must be free to engage in vigorous debate on important matters of social relevance. The courts have accepted that the present state of law only gives a qualified privilege to municipal elected officials for their remarks during their municipal meetings or directly related to items discussed at meetings. The posting of social media comments by a Trustee enjoys qualified privilege, only insofar as it is necessary in the approved and recognized exercise of their statutory role and in so doing, they do not denigrate the decision-making authority of the Board or disrespect/insult another Trustee, staff person or the public. The determination of what would be seen to be disrespectful, or insulting is in accordance with the reasonableness standard (on a balance of probabilities, what would an individual in the same circumstances, reasonably believe).

³[1995] 2 S.C.R. 1130 (S.C.C.) at para 143

3.0 ISSUES OF NOTE (CONT.)



3.3 Roles and Responsibilities of Trustees: Disrespectful Conduct

The Code complaints referred to and reviewed by me, raised substantive issues that dealt with the roles and responsibilities of the Board of Trustees versus the role and responsibilities of individual Trustees.

Section 169.1 of the Education Act states that:

169.1 (1) Every board shall,

- (a) promote student achievement and well-being;
 - (a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
 - (a.2) promote the prevention of bullying;
- (b) ensure effective stewardship of the board's resources;
- (c) deliver effective and appropriate education programs to its pupils;
- (d) develop and maintain policies and organizational structures that,
 - (i) promote the goals referred to in clauses (a) to (c), and
 - (ii) encourage pupils to pursue their educational goals;
- (e) monitor and evaluate the effectiveness of policies developed by the board under clause (d) in achieving the board's goals and the efficiency of the implementation of those policies;
- (f) develop a multi-year plan aimed at achieving the goals referred to in clauses (a) to (c);
- (g) annually review the plan referred to in clause (f) with the board's director of education or the supervisory officer acting as the board's director of education; and
- (h) monitor and evaluate the performance of the board's director of education, or the supervisory officer acting as the board's director of education, in meeting,

Generally, the Board of Trustees is required to promote student achievement and well-being; ensure the effective stewardship of the Board's resources; deliver effective and appropriate education programs to its pupils; and develop and maintain policies and organizational structures that promote the goals of the OCDSB.

3.0 ISSUES OF NOTE (CONT.)



Individual Trustees are expected, but not limited, to: attend and participate in meetings of the Board and Committees; bring the concerns of parents, students and the OCDSB's stakeholders to the Board; consult with parents, students and the OCDSB's community stakeholders. Section 218.1 of the Education Act sets out the duties of individual Trustees must;

218.1 A member of a board shall,

- (a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1;
- (b) attend and participate in meetings of the board, including meetings of board committees of which he or she is a member;
- (c) consult with parents, students and supporters of the board on the board's multi-year plan under clause 169.1 (1) (f);
- (d) bring concerns of parents, students and supporters of the board to the attention of the board;
- (e) uphold the implementation of any board resolution after it is passed by the board;
- (f) entrust the day-to-day management of the board to its staff through the board's director of education;
- (g) maintain focus on student achievement and well-being; and
- (h) comply with the board's code of conduct. 2009, c. 25, s. 25.

Of significance is the guidance developed for school boards and Trustees set out in the Ontario Public School Boards' Association (OPSBA) Good Governance Guide:2018-2022 (the "Guide"). In particular with respect to the roles and responsibilities of Trustees, the Guide states:

In carrying out their role, trustees have the very real challenge of balancing their responsibilities and allegiances as representatives of their communities with their role as education leaders within the decision-making body of the board as a whole. This dual responsibility can mean that the ultimate decisions made are at variance with the specific interests of a particular geographical constituency, demographic population, or interest group. All trustees are expected to act in the best interest of the board and its students. Effective board governance is dependent on a clear understanding of, and respect for, roles and responsibilities. As trustees communicate with their communities and hear their concerns, they must at the same time convey that changes to existing board policy require consideration by the full board. Trustees, as individuals, do not have authority to make decisions or take action on behalf of the board.⁴

Over the course of the period covered in this Annual Report, there have been some Trustees that have stated in public Committee and Board meetings that any decision of the Committee or Board to not approve a particular motion was tantamount to a decision to uphold systemic discrimination and an example of how institutional bias effected through decisions not to change, produces outcomes that disproportionately disadvantages certain groups (low income, racialized, special needs).

Though I have observed that Board Trustees are committed to the principles of anti-racism, anti-discrimination and

⁴ OPSBA Good Governance Guide: 2018-2022, p.36

3.0 ISSUES OF NOTE (CONT.)



equity documents of the Board and that the OCDSB has continued to identify ways to make a difference in the lives of racialized, low-income, special needs, First Nation, Indigenous, and new Canadians, it is clear from the behaviour that I have witnessed during Committee and Board meetings that individual Trustees' positions on a solution, differ vastly one from the other and some Trustees believe that a desire to eradicate systemic bias and discriminatory practices in Board policies justifies a position of non-adherence to approved and existing procedural rules.

In response to Trustees who assert that a Complaint is frivolous or harassing and that the Office of the Integrity Advisor is being weaponized, it is my position that my role is that of a third-party decision-maker vested with the power under the terms of my agreement, to receive and evaluate a Code complaint. If I determine that on its face, the complaint is frivolous, vexatious or not made in good faith, I will dismiss the matter and report my findings to the Chair. However importantly, if I determine that a complaint, while touching on matters that may be viewed by a Respondent as frivolous or motivated by racial bias or animus is properly addressed to matters within the Code, that does not by itself mean the complaint is frivolous or made in 'bad faith.' A valid complaint that addresses conduct caught by the Code will generally not be in bad faith, in the absence of actual or constructive fraud, design to mislead or deceive, or a dishonest purpose. Some Trustees have indicated to me in their comments or in their refusal to respond to my request to discuss a Code complaint, that the complaint is motivated by animus and thus they should not be required to provide a response as the substance to the complaint seeks to have the Integrity Advisor carry out an investigation that is politically or otherwise motivated and that the failure to "provide evidence" acceptable to the Trustee named in the complaint demonstrates a desire to cause an investigation to be made without any proper factual foundation.

As a procedural safeguard against the Code being used as a weapon, the Board Code contains a complaint process that sets out how the Integrity Advisor will conduct her preliminary review prior to deciding whether or not to commence an investigation. Trustees that take the position that this Office should immediately dismiss complaints made by certain Trustees or that touch on certain issues, demonstrates a lack of understanding of the role of an Integrity Advisor, the process followed when a complaint is received and the roles and responsibilities of individual Trustees. I have made it clear to Trustees through my reports to the Chair, that this Office is entirely aware of the concerns raised by Trustees about other Trustees and about the need for the Board to address systemic racism and institutional bias that creates disproportionately negative impacts for marginalized groups of students and communities. This Office is aware of circumstances in which microaggressions have demonstrated behaviour that, if investigated, could lead to a finding of discriminatory behaviour.

In my review of Code complaints this year, I have reported that personality clashes, microaggressions and outright rudeness by some Trustees is conduct captured and prohibited by the Code and if any Trustee witnesses such conduct, the appropriate course of action is to bring forward an informal or formal Code complaint to the Integrity Advisor. That being said, in circumstances where a Code complaint has been brought forward and this Office has identified the substance of the complaint to be either non-adherence to procedural rules or rules of the Code, the fact that the Trustee named in the complaint is dissatisfied with the policy of the Board or staff's handling of the matter and continues their inappropriate behaviour or levels accusations at Trustees, has brought disrepute to the work of the Board, staff and diminished the trust from the public.

I have witnessed some Trustees who were personally attacked when they publicly took a particular position at Board

3.0 ISSUES OF NOTE (CONT.)



meetings and the continued verbal attacks has led to a reticence on the part of many Trustees to speak candidly at public meetings. During my review of complaints, there have been Trustees who have shared with me that they are committed to anti-oppression and anti-black racism work and the dismantling of institutional constructs of unconscious bias. However, some of these same Trustees take issue when their motivation for voting a particular way is attributed to being complicit to supporting systemic discrimination. The Code and the Board's procedural rules require Trustees to refrain from levelling personal attacks one to the other. Attempts to hold some Trustees accountable has taken the form of disruptive behaviour during Committee and Board meetings, and general incivility, in particular against certain Trustees and disobedience of the ruling of the Chair and Vice-Chair. Certain notices of motions that have come forward cover matters that are not within the purview the Board's decision-making authority. The Board is one corporate body that only has authority to act legally as a body. Certain motions are not brought forward in the "right space" and as a result, when credibility is given to matters that should not be on the table, there is an utter absence of effective governance. What individual Trustees understand language to mean is crucial to understanding what is within staff's realm of responsibility. When staff is given an ultimatum by the Board: we want a decision on this matter now, there is no getting away from descending in to conflict, aggression and arriving at a stalemate that does not benefit anyone, least of all the students for whom decisions need to be made. The governance reason for this continued disruptive conduct that is contrary to the Code, is the lack of understanding by some Trustees of the effect of their inappropriate behaviour on the morale of the Board and staff and the lack of understanding of the roles and responsibilities of individual Trustees, the Board and staff.

3.4 Trustee -Staff Interaction

The OPSBA Governance Guide (the "Guide") sets out the general principles in respect of school boards, trustees, school board staff and their respective roles and responsibilities. The Guide states that:

In carrying out their role trustees have the very real challenge of balancing their responsibilities and allegiances as representatives of their communities with their role as education leaders within the decision-making body of the board as a whole.⁵

With reference to an individual Trustee's role, the Guide states that:

A clear understanding of a school board trustee's role and responsibilities is fundamental to good governance. A school board trustee is a member of a board, not a member of a parliament, and it is important for both trustees and the general public to understand that school board trustees hold no individual authority. The school board, as a corporate body, is the legislative source of all decisions, and individual trustees are granted no authority through the Education Act.⁶

It is clear that many of the issues discussed at Committee and Board meetings are extremely important to the

⁵ *Good Governance: A Guide for Trustees, School Boards, Directors of Education and Communities, 2014, OESC, p.24-25*
⁶ *Ibid, p.32*



3.0 ISSUES OF NOTE (CONT.)



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD



Trustees as they bring forward community concerns in respect of student achievement. Representing constituents is a legitimate function of a Trustee under the Education Act, however, the way in which concerns are brought forward must respect the boundaries that define the role of a Trustee from that of the administration, as well as understanding the distinction between policy development and implementation or operationalizing a policy. Maintaining a focus on student achievement and wellbeing does not give license to run roughshod over staff or insult fellow colleagues. Long meetings, competing priorities, limited financial resources and disagreements on what agenda item is on the floor, often lead to heightened emotions and short tempers in meetings. Staff at meetings are not in a position to “respond in kind” to pointed comments or microaggressions. While an occasional misplaced comment happens in all workplaces, it is incumbent upon Trustees of the OCDSB in adherence to their Code obligations, to treat staff with respect and to ensure that their work environment is free from disparaging comments or actions.

CLOSING REMARKS



OTTAWA-CARLETON
DISTRICT SCHOOL BOARD

Through an Equity Lens:

During the review of the myriad of matters and concerns that came to this Office, I have observed that there is a need for a deeper or different discussion when the policies and decision-making of the Board have outcomes that are not reflective of an equity context, and when the outcomes of Board decisions adversely impact certain communities disproportionately and more often than others.

However, as urgent as these discussions are, there must be a safe and respectful space where shared values and the consistent application of fair processes intersect, and these discussions should be about issues and not the individual personalities of Trustees, following the rules in place. If the rules need to change, the Board as a body, must make this determination, not individual Trustees.

Going Forward:

The OCDSB Board Member Code of Conduct is an ethics document containing approved rules upon which Trustees have agreed that their conduct will be measured. In order for there to be a fair and consistent application of the Code rules to the actions and behaviour of individual Trustee, the values, vision, processes and rules of the Board must be shared, understood and respected by all of Trustees. If what is in place needs to be changed, meaningful discussions should take place. Based on my review of complaints over this reporting period, I recommend that the Board consider a review of the Board Member Code of Conduct, which would include what type of ethics officer model to adopt. I also recommend that the Board consider the development of Information Bulletins to succinctly set out the rules to assist Trustees in their professional development regarding roles and responsibilities, to provide “at a glance” plain language guidance to set out steps that Trustees should follow to ensure compliance with their Code obligations.