



COMMITTEE OF THE WHOLE REPORT 23-036

09 May 2023

APPROVAL OF REVISIONS TO P.073.GOV BOARD MEMBER CODE OF CONDUCT

Key Contact: Janice McCoy, Executive Officer, Ext: 8607

PURPOSE:

1. To seek approval of the proposed revisions to P.073.GOV Board Member Code of Conduct.

STRATEGIC LINKS:

2. The review and confirmation of the Board's policy on Board Member Code of Conduct is a legal responsibility and connects to the stewardship objectives outlined in the current strategic plan. Additionally, proceeding with the process of appointing an Integrity Commissioner which was commenced by the previous Board, signals the Board's continuing commitment to ensuring its operations and decision-making are carried out to the highest possible ethical standards in alignment with the Culture of Social Responsibility pillar of the 2019-2023 Strategic Plan.

CONTEXT:

3. Under *Ontario Regulation 246/18, Members of School Boards—Code of Conduct* every school board is required to adopt a code of conduct that applies to members of the Board and to review it on or before May 15, 2023 and on every fourth year thereafter.

As outlined in Report 23-018, the preferred starting point for the current review is the version of Policy P.073.GOV which was approved in 2019, pending the appointment of the Integrity Commissioner.

In the course of reviewing the latest approved revisions to the code of conduct, staff conducted a comparative analysis with other large school boards' codes of conduct and identified gaps that informed the current proposed revisions along with feedback received from trustees and members of the community. This report seeks approval to the revisions proposed in Appendix A to this report.

KEY CONSIDERATIONS:

4. Summary of Key Proposed Changes

Section	Revision
Throughout Policy	Migrating the policy to a new template with an equity statement at the forefront.
Throughout Policy	Aligning the terms used to refer to trustees.
Section 3.2	Clarifying that the scope of the policy includes oral and written communications and is also applicable to social media.
Section 3.3	Explicitly identifying additional legislation that applies to trustees and their conduct.
Section 3.13	A new section clarifying that employment cannot affect the member performance of their duties to the Board.
Section 3.20	Merging 3.17, 3.18, and 3.19 into a new section.
Section 3.21	Adding the Human Rights Policy to the list of policies explicitly listed for the Trustees to follow and model.
Section 3.25	Clarifying that members may consult with the Director or designate or seek the advice of the Integrity Commissioner where there is doubt about confidentiality of information.
Section 3.34 - 3.37	A new section that explicitly prohibits reprisal against complainants or any individual who participates in an investigation or the obstruction of an investigation. This type of provision is common in complaints based processes and is viewed as an important element in ensuring the integrity of the process.
Section 4.1	Clarifying that the policy applies to Student Trustees as well.
Section 4.8	A new section to clarify that written advice from the IC is binding in any future consideration of that conduct as long as the member disclosed all relevant facts to the IC before the advice was provided.
Section 4.9	A new section that requires the Integrity Commissioner to work with the Director and the Chair when providing advice to a member of the Board.

Section 4.41	Adding professional development as a less onerous sanction.
Section 4.59	A new section on restorative actions that could be recommended by the Integrity Commissioner following resolution of a complaint.
Section 4.60	A new section clarifying the legislative requirement of reviewing this policy every four years.
Section 4.61	A requirement of trustees to sign an acknowledgement of this policy every election year.

Other Policies Applicable to Trustee's Conduct

5. In the course of reviewing the Code of Conduct, questions arose about the implementation or enforcement of other policies that apply to trustees, namely [P 147 GOV - Human Rights](#), [P 009 HR - Respectful Workplace \(Harassment Prevention\)](#), and [P 129 GOV - Complaints Resolution Policy](#). One option which staff considered was expanding access to the complaints process in P.073.GOV beyond Board members, to allow members of the public and/or staff to bring forward concerns as alleged breaches of the Code, for review by the Integrity Commissioner. An alternative approach, which staff are continuing to review, would be to vest the Integrity Commissioner with responsibility to review concerns that are raised under these policies related to conduct involving a trustee. Staff are in the process of reviewing Policy [P 141 GOV - Integrity Commissioner](#) to assess what revisions may be required to support the complaints processes initiated under other policies of the Board; These policies and associated procedures might also require some revisions to clarify their application to trustees.

6. Bill 98, An Act to Amend Various Acts Relating to Education and Child Care
On April 17, 2023, Bill 98, *An Act to amend various Acts relating to education and child care*, was tabled at the Legislative Assembly of Ontario. This Bill proposes numerous amendments to the *Education Act*, including pertaining to codes of conduct. Should this bill receive royal assent, it would require future revisions to Policy P.073.GOV: Board Member Code of Conduct as well as the revision or rescission of Policy [P 141 GOV - Integrity Commissioner](#). Some major amendments within the proposed bill include:

- enshrining the requirement for codes of conduct in the Act, rather than through regulation;
- requiring boards to appoint an integrity commissioner to review alleged breaches;
- the creation of a roster of Integrity Commissioners from which to appoint;
- vesting integrity commissioners, rather than boards, with the power to determine whether the code has been breached and to determine appropriate sanctions;
- expansion of possible sanctions to include those that, in the opinion of the integrity commissioner are reasonable and appropriate in the

circumstances and/or would promote compliance with the code of conduct;

- an appeal process for hearing appeals from a trustee or a board with regard to the determination of a breach or the sanctions imposed by an Integrity Commissioner that requires a panel of three Integrity Commissioners selected by the Deputy Minister or designate to review the appeal; and
- publishing information on the Board website about matters referred to Integrity Commissioners, as well as decisions and determinations by Integrity Commissioners, and appeal determinations made by a panel.

Notwithstanding the introduction of Bill 98, the requirement for boards to review and confirm their existing codes of conduct by May 15, 2023 remains in place. As a result, staff is recommending that the board proceed with considering the proposed revisions to the policy, as set out in Appendix A, as originally planned. Once the bill becomes law, it is anticipated that boards will be provided with a transition period to update current codes in line with the legislative and regulatory requirements, and appropriate steps can be taken to update the policy at that time. In the interim, the revisions to the policy are aligned with the District's commitment to enhancing its governance framework.

RESOURCE IMPLICATIONS:

7. Although there are no resource implications for the revisions proposed under this policy per se, there have been and will continue to be costs associated with the office of the Integrity Commissioner, or other parties, as and when required to support matters arising under this policy.

COMMUNICATION/CONSULTATION ISSUES:

8. In alignment with Tier 2 policy revisions, the revised draft of the policy was posted on the District's website and presented to the Audit Committee for feedback. Limited public feedback was received and mostly encouraged opening the complaints process to members of the public. The feedback received from Committee of the Whole on April 4, through the website, and from the Audit Committee have been considered and, where possible, integrated in the revised version attached as Appendix A to this report.

RECOMMENDATION:

THAT the proposed changes to Policy P.073.GOV Board Member Code of Conduct, attached as Appendix A to Report 23-036, be approved.

Janice McCoy
Executive Officer

Michele Giroux
Director of Education and
Secretary of the Board

APPENDICES

Appendix A - Revised draft of P.073.GOV Board Member Code of Conduct.