



**Special Board
Report No. 24-007**

16 January 2024

Code of Conduct - Consideration of Appeal

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

PURPOSE:

1. To consider: an appeal of the decision of the Board finding that Trustee Kaplan-Myrth contravened [Board Policy P.073.GOV Board Member Code of Conduct](#) (Appendix A); the decision of the Board imposing sanctions for the breach of the Code of Conduct; and, to determine whether the decisions should be confirmed, varied or revoked.

CONTEXT:

2. On December 19, 2023, the Board determined that Trustee Kaplan-Myrth breached sections 3.5, 3.7, 3.8, 3.15, 3.17, and 3.18 of the policy and the fiduciary expectations for civil behavior for trustees. The Board also imposed a series of sanctions, including barring Trustee Kaplan-Myrth attending the January 30th Board meeting, and from sitting on a number of committees of the Board for a three-month period.

On December 23, 2023, Trustee Kaplan-Myrth shared her intention to appeal the Board's decisions in accordance with sections 4.46 – 4.53 of the policy (the "Appeal"). Subsequently, her Appeal was received on 8 January 2024. A copy of the Appeal is attached as Appendix B.

KEY CONSIDERATIONS:

3. Decision Making for Appeal Process
The appeal process set out in the policy provides the following steps to be followed by the Board:
 - First, the Board must consider whether to confirm or revoke its determination of whether there has been a breach;
 - If the Board confirms its determination with respect to the breach, the Board must then consider whether to confirm, vary or revoke the sanctions imposed by the Board.

Any variation or revocation of the sanctions are deemed to be effective as of the date of the original determination by the Board. Both resolutions require a vote of 2/3 of the members of the Board elected or appointed.

The submissions filed on behalf of Trustee Kaplan-Myrth set out in detail the grounds for the appeal, and Trustees must carefully review and consider these submissions in reaching a decision.

4. Participation in Decision-Making

Participation in the decision making process for an appeal is much the same as the process for determining a breach and sanctions. The trustee who was found in breach of the Code may be present, but shall not participate and shall not vote on any resolution. Similarly, any member who recused themselves from the original decision-making process should recuse themselves from decision-making on the appeal.

5. Structure of the Motion and Decisions

The Board must determine whether it confirms or revokes the decision regarding the breach of the Board Member Code of Conduct and must consider whether to confirm, vary or revoke the sanctions. This can be done in a two-part motion. A sample recommendation is included below.

Decisions regarding appeals also require a vote of at least 2/3 of the members of the Board elected or appointed. At the OCDSB this means that of the 11 trustees eligible to vote (the subject of the complaint cannot vote), 8 members must vote in favour in order for a motion to be carried.

RESOURCE IMPLICATIONS:

6. The resource implications associated with the appeal process are staff time and legal costs.

COMMUNICATION/CONSULTATION ISSUES:

7. This will be a public meeting and information about the meeting will be posted on the District website. Notification about the meeting has been provided to the parties directly involved.

RECOMMENDATION:

Possible Motion To Be Adapted by the Mover:

Whereas, on 19 December 2023, the Board of Trustees considered a complaint under the Board Member Code of Conduct and made a determination that Trustee Kaplan-Myrth had breached sections of the Code of Conduct; and

Whereas, on 19 December 2023, the Board of Trustees determined that, in light of the breach of sections of the Code of Conduct by Trustee Kaplan-Myrth, the Board should impose sanctions; and

Whereas, an appeal of the Board decisions was filed by Trustee Kaplan-Myrth on 8 January 2024;

Therefore be it resolved:

- A. THAT the Board **confirm/ revoke** the determination made on 19 December 2023 that Trustee Kaplan-Myrth breached Policy P.073, Board Member Code of Conduct; and
- B. THAT the Board **confirm/revoke/amend** its decision regarding the sanctions imposed on Trustee Kaplan-Myrth at the Special Board Meeting of 19 December 2023.

Michele Giroux
Executive Officer, Corporate Services

Pino Buffone
Director of Education and Secretary of
the Board

Attachments:

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

Appendix B - Trustee Kaplan-Myrth Appeal