



**AD HOC CODE OF CONDUCT COMMITTEE
COMMITTEE OF THE WHOLE
Report 19-041**

**1 April 2019
16 April 2019**

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

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PURPOSE:

1. To present draft revisions to P.073.GOV Board Member Code of Conduct, which include incorporating the role of an Integrity Commissioner.

CONTEXT:

2. Ontario Regulation 246/18, Members of School Boards – Code of Conduct came into force under the Education Act on 12 April 2018. The Regulation requires every school board to adopt a code of conduct that applies to the members of the Board, and to review the code on or before 15 May 2019 and on or before May 15 every fourth year thereafter.

At the meeting of 26 February 2019, the Board established an Ad Hoc Code of Conduct Committee mandated to:

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

The Ad Hoc committee held its first meeting on 7 March 2019. Following a discussion of preliminary revisions to the code of conduct and the potential for a role for an integrity commissioner in managing complaints, the Ad Hoc committee recommended to the Board,

THAT revisions to P.073.GOV Board Member Code of Conduct move forward with a view to appointing an integrity commissioner.

This motion was carried by the Board at its meeting of 26 March 2019. Revisions to the code of conduct in have been undertaken with the Board's support of this motion this in mind.

KEY CONSIDERATIONS:

3. Role of Integrity Commissioner with Respect to P.073.GOV

As discussed in 19-013 Review of Policy P.073.GOV Board Member Code of Conduct, although there is no legislative requirement for school boards to appoint integrity commissioners, at least four Ontario district school boards have done so. The integrity commissioner model emerging within the school board context includes advisory, investigative, educational, dispute resolution and, in some cases, meeting governance support functions within the scope of duties. In all models established to date, the integrity commissioner is appointed by the board of trustees for a five-year, non-renewable term and plays a key role in managing and investigating complaints under the board's code of conduct.

In the current Code of Conduct, the Chair of the Board plays a key role in managing and reviewing complaints. Contained in the draft revisions to P.073.GOV is a model whereby complaints filed alleging a breach of the code of conduct are received and managed by an integrity commissioner. This approach is advisable for these reasons:

- i. The Chair is a fellow member of the Board with the complainant and the respondent trustees. A component of the Chair's role is to encourage collegiality among trustees. Maintaining a distance from the participants in a complaint process enables the Chair to take a neutral role and to avoid decision-making which might be perceived as favouring one trustee over another;
- ii. A feature of engaging an Integrity Commissioner is that it signals to ratepayers and other stakeholders that Code of Conduct complaints are being addressed in a neutral manner by an objective third party. A continuing role of the Chair in the complaint process may be perceived as allowing continued control over the process by the Chair; and
- iii. One of the qualifications which will be sought in candidates for the role of Integrity Commissioner would be expertise in methodologies of dispute settlement. Application of such expertise would be particularly valuable at the early stages of a dispute which might lead to a Code of Conduct complaint.

4. Summary of Key Changes

The attached preliminary draft (Appendix A):

- Encourages the use of civil behaviour to resolve conflict between members (3.22, 4.7);
- Limits the timeframe during which a complaint may be filed following an alleged breach of the code to four weeks (4.10);
- Limits the duration of a formal review of an alleged breach of the code to 90 days (4.22d);

- Adds a definition of Integrity Commissioner;
 - Contemplates and incorporates the role of an Integrity Commissioner with respect to the process of handling complaints alleging a breach of the code of conduct (4.7-4.24)
 - Encourages the use of the Informal Review Process to review complaints (4.13);
 - As per the OPSBA revised template, removes former clause 4.25 whereby the investigators shall provide a confidential draft copy of their report and the finding of fact to the respondent and complainant for their written comment;
 - As per the OPSBA revised template, stipulates that the final report resulting from a formal review process contain both a finding of fact and a recommendation or opinion as to whether the code of conduct has been breached (4.24);
 - Clarifies the role of the Chair of the Board as the official spokesperson of the Board (3.32);
 - Adds definitions for complaint, complainant and respondent for the purpose of clarifying and simplifying language and phrasing throughout the policy; and
 - Changes all pronouns from first person singular to third person plural.
- For reference, Appendix B is a copy of the draft policy in which all changes made are indicated using track changes.

5. Appointment of an Integrity Commissioner

If the Board decides to proceed with the changes to P.073.GOV as indicated in Appendix A, staff will develop a draft policy authorizing the appointment of an integrity commissioner. Such a policy could address such issues as:

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

RESOURCE IMPLICATIONS:

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

COMMUNICATION/CONSULTATION ISSUES:

7. Once the Ad Hoc Committee makes its final recommendations, they will go forward to COW. Members of the public and members of the committee will have an opportunity to review the proposed changes and make any recommendations. Given the legislative complexities of these policy changes, staff does not believe that a broader public consultation process on this policy would generate much public input. Key stakeholders may have a broader interest and will have a voice at the COW table when the draft changes are discussed.

STRATEGIC LINKS

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

RECOMMENDATION

THAT the revisions to P.073.GOV, attached as Appendix A to Report 19-041, be approved.

Michele Giroux
Executive Officer, Corporate Services

Camille Williams-Taylor
Director of Education

APPENDICES

Appendix A Draft P.073.GOV Board Member Code of Conduct (Changes incorporated)

Appendix B Draft P.073.GOV Board Member Code of Conduct (Changes indicated using track changes for reference).