
POLICY P.073.GOV

TITLE: BOARD MEMBER CODE OF CONDUCT

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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 **Complaint** means a written allegation filed with the Integrity Commissioner that a Board member has breached this Code of Conduct.
- 2.3 **Complainant** means the Board member who files a complaint alleging that another Board member has breached this Code of Conduct.
- 2.4 **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.
- 2.5 **District** means the Ottawa-Carleton District School Board.
- 2.6 **Fiduciary duty** means legal responsibility for what belongs to another, that is, trusteeship.
- 2.7 **Formal Review Process** means the process whereby a written, signed complaint of an alleged breach is formally investigated and a written report has been provided to the Board for a determination.

- 2.8 **Informal Review Process** means the process whereby the Integrity Commissioner meets with a trustee informally, and in private, to discuss an alleged breach and any remedial measures to correct the offending behaviour.
- 2.9 **Integrity Commissioner** means the neutral, independent officer appointed by the Board who manages the informal and formal review processes contained herein.
- 2.10 **Respect** means honouring oneself and others through words and actions, supporting diversity of beliefs, and treating the world and everything in it with dignity.
- 2.11 **Respondent** means the Board member who is alleged to have breached the Code of Conduct and against whom a complaint has been filed with the Integrity Commissioner.
- 2.12 **Trustee/Board member** 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 endeavor 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, indirect or deemed pecuniary interest in a matter before the Board in accordance with the *Municipal Conflict of Interest Act* and P.025.GOV Board Member Conflict of Interest.
- 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, staff of the Board, community volunteers and parents 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 District 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.
- 3.22 All Board members shall make every effort to resolve conflict should it arise, by raising their concerns directly with the other Board member.

Respect for Confidentiality

- 3.23 Board members shall maintain the confidentiality of privileged information discussed in closed sessions.
- 3.24 Board members shall not use/disclose confidential information for any purpose, including for personal gain or to the detriment of the Board.
- 3.25 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.
- 3.26 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*.
- 3.27 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

- 3.28 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.
- 3.29 Each Trustee shall uphold and not undermine the implementation of the decisions of 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.
- 3.30 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.

- 3.31 Each Trustee shall comply with Board policies, procedures, By-Laws and Standing Rules.
- 3.32 The Chair of the Board is the official spokesperson of the Board. No other Trustee shall speak on behalf of the Board or represent themselves as the spokesperson for the Board unless expressly authorized by the Chair of the Board. When individual Trustees express their opinions in the media, they must make it clear that they are not speaking on behalf of the Board.

4.0 SPECIFIC DIRECTIVES

Role of the Chair/Presiding Officer

- 4.1 The Code of Conduct applies equally to all Board members including the Chair of the Board.
- 4.2 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.
- 4.3 Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting shall be deemed to have breached this Code.
- 4.4 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.
- 4.5 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.
- 4.6 Persistent improper use of the rules of order by the Chair or Presiding Officer is deemed to be a breach of this Code.

Identifying a Breach of the Code

- 4.7 A Board member who has a concern that another Board member may have engaged in conduct which represents a breach of this Code of Conduct should first consider

whether there is an opportunity for resolution of the concern through direct discussion with the Board member. The assistance and advice of the Integrity Commissioner may be requested by either Board member.

- 4.8 A Board member who has reasonable grounds to believe that another Board member has breached the Board's Code of Conduct may file a complaint with the Integrity Commissioner for review.
- 4.9 Complaints filed with the Integrity Commissioner must be made in writing and include:
- 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.
- 4.10 Any allegation of a breach of the Code must be filed with the Integrity Commissioner no later than four weeks after the alleged breach comes to the knowledge of the complainant. Notwithstanding the foregoing, in no circumstance shall a review of a complaint be initiated after the expiration of three months from the time the contravention is alleged to have occurred.

Review of Complaint

- 4.11 It is recognized that from time to time a Board member may engage in conduct which is inappropriate but which occurred 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 such a potential breach of the Code is to assist the trustee in understanding their obligations under the Code. Whenever possible, complaints shall be managed using the Informal Review Process.
- 4.12 A review of the complaint shall not be conducted if the Integrity Commissioner determines 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 review.
- 4.13 If a complaint 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 complaint shall be processed under that procedure.
- 4.14 Notwithstanding 4.13, the Integrity Commissioner determines whether a complaint is managed through the Informal Review Process or the Formal Review Process.

Informal Review Process

- 4.15 The Integrity Commissioner shall meet informally with the respondent and/or the complainant, to discuss the alleged breach. The purpose of the meeting is to bring the allegation to the attention of the respondent and to discuss possible remedial measures to correct the offending behaviour.
- 4.16 The Informal Review Process is conducted in private. The details of the complaint, the informal process or the remedy are not reported to the Board.
- 4.17 As a remedy, the parties may agree to a remedial measure that is appropriate to the nature of alleged breach, for example, an apology.
- 4.18 If the parties cannot agree on a remedy, the Integrity Commissioner may determine that the complaint will be managed by the Formal Review Process..

Formal Review Process

- 4.19 The Integrity Commissioner shall provide to all Board members a confidential copy of the complaint within ten (10) days of receiving it or determining that the complaint will be managed by the formal process following the failure of an informal process.
- 4.20 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 respondent has breached this Code.
- 4.21 The formal review of a complaint shall be managed and/or investigated by the Integrity Commissioner or an outside consultant designated by the Integrity Commissioner.
- 4.22 A formal review 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 complainant, and the respondent.
 - c) The respondent shall receive details of the allegation and have an opportunity to respond to the allegations both in a private meeting with the Integrity Commissioner and in writing.
 - d) The formal review will be conducted within 90 calendar days of the receipt of the written complaint. If a longer period of time is required to complete the inquiry, the reason for the extension will be explained in the final report to the Board.
 - e) The respondent shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of time as the Integrity Commissioner deems appropriate in the circumstance.
 - f) If the respondent refuses to participate in the formal review, the formal review will continue in his/her absence.

Suspension of Formal Review

- 4.23 If in the conduct of the formal review, the Integrity Commissioner discovers 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.

- 4.24 The final report of the Integrity Commissioner shall
- a) outline the finding of facts
 - b) make a recommendation as to whether there has been a breach of the Code of Conduct; and
 - c) make a recommendation regarding a sanction, if required.

Decision

- 4.25 A decision by the Board of Trustees shall be made as soon as practical after receipt of the final report.
- 4.26 No trustee shall undertake his/her own investigation of the matter. The Board shall vote on the decision and sanction on the basis of the facts determined by the Integrity Commissioner in the final report.
- 4.27 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.
- 4.28 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.
- 4.29 The respondent:
- 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.
- 4.30 The complainant may vote on the resolution to determine whether or not there is a breach and/or the imposition of a sanction.

- 4.31 ~~The respondent 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

- 4.32 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.
- 4.33 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.
- 4.34 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.
- 4.35 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.
- 4.36 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

- 4.37 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 they 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.
- 4.38 If the Board revokes a determination any sanction imposed by the Board is also revoked.

- 4.39 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.
- 4.40 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.
- 4.41 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.
- 4.42 The Board shall provide to the Board member 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.
- 4.43 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.
- 4.44 If appropriate, the original sanction may be stayed pending consideration of the appeal by the Board of the determination or sanction.

Administrative Matters

- 4.45 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.
- 4.46 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.
- 4.47 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).

- 4.48 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.
- 4.49 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.
- 4.50 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