

## AD HOC CODE OF CONDUCT COMMITTEE

September 17, 2019, 3:30 pm  
Trustees' Committee Room  
133 Greenbank Road  
Ottawa, Ontario

Trustee Members: Lynn Scott , Christine Boothby, Donna Blackburn, Keith Penny

Staff and Guests: Michele Giroux (Executive Officer of Corporate Services), Sue Baker (Acting Manager of Board Services), Engy Abdel Masieh (Policy Analyst), Nicole Guthrie (Senior Board Coordinator)

1. Call to Order

Chair Blackburn called the meeting to order at 3:39 p.m

2. Approval of the Agenda

**Moved by Trustee Penny,**

**THAT the agenda be approved.**

**Carried**

3. Matters for Action:

There were no matters for action.

4. Matters for Discussion:

4.1 Report 19-079, Approval of Draft Policy P.141.GOV Integrity Commissioner (M. Giroux, ext.8310)

Your committee had before it Report 19-079, seeking approval of the draft Policy P.141.GOV Integrity Commissioner and a Role Description of the Integrity Commissioner of the Ottawa-Carleton District School Board.

During the discussion and in response to questions, the following points were noted:

- It is anticipated that the Integrity Commissioner will play an advisory role, advising the Board on matters of conflict of interest, legislative changes, and practices or experiences from other school boards. In addition to playing an investigative role the Integrity Commissioner may educate trustees and provide deeper learning which may inform policy, procedure and practice;

- The Integrity Commissioner is not an employee of the District but would instead be a contractor to the Board and would report directly to the Board;
- Staff plan to speak with the City of Ottawa staff and other school boards who utilize the service of a contract Integrity Commissioner to review the mechanics and nature of the contract;
- The cost, as outlined, is based on the anticipation of the work of the committee. Staff is confident that should the position be advertised via a request for proposal (RFP) process they can determine what the market will bear. The proposals may indicate the time and payment are inadequate;
- The District would proceed to a call for proposals which will involve purchasing and possibly the creation of a selection committee to determine a successful applicant;
- The relationship between the Integrity Commissioner, Chair, and Director needs clarification;
- Trustees expressed concern regarding the hours and expenditures of the Integrity Commissioner. Staff noted that billing and reporting on billing may be addressed in the procedure or the contract;
- The contract of the Integrity Commissioner needs to be managed by the Chair and the Vice-Chair, and that should address the issue of the overlap of scope;
- Trustees noted that the notion of sharing an Integrity Commissioner had not worked well for other school boards and in speaking with colleagues it was felt that the synergy of the arrangement did not evolve as anticipated. Their colleagues also advised that the scope of work be carefully and narrowly defined;
- Trustees suggested that the procedure be specific to ensure costs are contained;
- Trustees sought clarification on the notion that the Integrity Commissioner would provide education to the public and whether or not they would be the correct person to respond to public queries;
- A complaint would trigger the involvement of the Integrity Commissioner. Whether informal or formal, a secondary of the Integrity Commissioner is mediation;
- Section 3.6 is consistent with the practice at other boards and therefore should not be eliminated. Staff recommended that the order

of the two sentences be reversed. The language may be altered and the words "information and awareness" be used instead of "education";

- Staff advised that the Integrity Commissioner may have an educational role and could provide training to trustees on changes to related legislation on an as-needed basis where gaps have been identified. The Integrity Commissioner could provide background assistance and appropriate responses to public inquiries;
- The report notes an annual retainer of \$25,000 payable monthly on an assumption of 20 hours of work per month. Work beyond the 20 hours of standard work would be remunerated at \$200 per hour. Supply Chain Management may advise otherwise;
- Major complaints will utilize a significant amount of the Integrity Commissioner's time. Notification of whether or not the work will exceed the monthly hours must be a feature in the contract;
- The issue of a retainer can be addressed in the contract and will be a part of the bidding and negotiation process. The contract must specify whether or not the amount would be forfeit if unused or rolled forward for the continuation of use in other months;
- The Integrity Commissioner does not replace the use of the provincial Ombudsmen;
- Trustee Scott commented that the provision of training and information sessions for trustees is important for a new Board, and it should be a part of the orientation process;
- The duties of the Integrity Commissioner in other municipalities and boards include policy review of the Code of Conduct. Trustees expressed the view that they would prefer to avoid the full-time use of an Integrity Commissioner but do not want to limit the scope;
- Trustees suggested a 2-year term with an assessment at the end of the two years;
- Trustees preferred the Integrity Commissioner be a single individual rather than the use of a firm or a roster of personnel;
- Trustee Blackburn expressed concern over the potential costs should the scope of work extend beyond mediating and adjudicating code of conduct complaints;
- Trustee Boothby expressed concern over the inclusion of the review of new policies and procedures as part of the scope of work;

- All integrity and conflict matters will reside with the Integrity Commissioner. They will be the primary contact;
- Recent changes to Municipal Conflict of Interest Act, 2017 require reporting and documentation and advise elected bodies to avail themselves of an expert for advice;
- There is currently no legal requirement for a registry of conflict of interest;
- Trustees requested a legal opinion on the practice of the two-third majority vote;
- Trustees sought clarification regarding the custody and control of the files. Executive Officer Giroux noted that the files are the record of the Board and that all records would be subject to MFIPPA. She noted that there is an exemption that may apply to the work of the Integrity Commissioner. Trustees advised that all files should be transferred to the incoming Integrity Commissioner, not just those open;
- Section 3.4 reflects the language within Policy P.073.GOV Board Member Code of Conduct;
- Trustees sought clarification on section 3.5 regarding the ability of the Integrity Commissioner to summon evidence and examine under oath;
- Trustee Scott expressed the view that the complainant should control complaints. She expects the complainant to have made an effort to address the issue independently, following Policy P.073.GOV Board Member Code of Conduct, Policy P.129.GOV Complaints Resolution Policy and Procedure PR.670.GOV: Complaints Resolution Procedure;
- The requirements of the Integrity Commissioner do require knowledge of the law, but the title of lawyer need not be a requirement for the position. The Board may specify whether or not a law degree is required. Trustee Boothby expressed the view that the Integrity Commissioner does not need to be a lawyer. She noted that mediation training and knowledge of the law are preferred;
- Legal opinions would be directed to the District's legal team;
- Trustee Boothby sought clarification on whether or not the Integrity Commissioner will be held to legal advice standard; and
- Many Integrity Commissioners are not lawyers, and a law degree is not a requirement. Should the Integrity Commissioner be a lawyer, the contract must clarify the role of the Integrity Commissioner.

Executive Officer Giroux advised that legal counsel will review the document and respond to the questions of the committee. The committee will reconvene to hear results.

Trustee Penny requested that staff seek the advice and input from other boards of education on their experiences in the use of an Integrity Commissioner. Chair Scott advised that Corrie McBain (Chair of the York Region District School Board), Robin Pilkey (Trustee of Toronto District School Board) and Michael Barrett (Chair of the Durham Region School Board) have considerable knowledge on the subject and would be excellent contacts.

Trustee Scott noted that the Ad Hoc Code of Conduct Committee is not the selection committee for the Integrity Commissioner. The Board appoints a selection committee.

5. New Business -- Information and Inquiries

There was no new business.

6. Adjournment

The meeting adjourned at 4:59 p.m.

---

Donna Blackburn, Chair, Ad Hoc Code of Conduct Committee