Section 2: Bylaws – Trustees - Committees

Policy 2.06: Board of Trustees Code of Conduct

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1 PURPOSE

A Trustee position is an elected position, which carries with it the understanding that the electorate will decide at election time its support for the effectiveness of a Trustee. At the same time, it is important to recognize the public trust and responsibility the collective body carries and that this trust and responsibility is honoured through determining and enforcing norms of acceptable behaviour.

A code of conduct policy contributes to confidence in public education and respect for the integrity of Trustees in the community. It deals with acceptable and respectful behaviours.

2 APPLICATION

This Code of Conduct and the Enforcement Procedures apply to all Trustees of the Board, including the Chair of the Board.

3 CODE OF CONDUCT

3.1 Integrity and Dignity of Office

Trustees of the Board shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.

Trustees shall comply with the Board's Code of Conduct and any applicable Board bylaw, resolution, policy and procedure.

When acting or holding themself out as Trustee of the Board, Trustees shall conduct themselves in a manner that would not discredit or compromise the integrity of the Board.

When acting or holding themself out as a Trustee, the Trustee shall treat persons equally without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Trustees of the Board shall recognize that the expenditure of school board funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students.

Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner, especially when attending Board events, or while on Board property.

Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to Board staff or fellow Board members.

Trustees shall endeavour to participate in trustee development opportunities to enhance their ability to fulfill their obligations.

3.2 Avoidance of Personal Advantage and Conflict of Interest

No Trustee shall accept a gift from any person, group or entity that has dealings with the Board if a reasonable person might conclude that the gift could influence the Trustee when performing his or her duties to the Board, unless:

a) the gift is of nominal value,
b) the gift is given as an expression of courtesy or hospitality, and
c) accepting the gift is reasonable under the circumstances.

However, this does not, for example, preclude a Trustee from accepting a free ticket or admission to a charitable event or professional development event.

A Trustee shall not use his or her office to advance the Trustee's interests or the interests of any family member or person or organization with whom or with which the Trustee is related or associated.

No Trustee shall use his or her office to obtain employment with the Board for the Trustee or a family member.

No Trustee shall use or permit the use of board resources for any purposes other than the business of the Board.

3.3 Compliance with Legislation

A Trustee of the Board shall discharge his or her 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.

Every Trustee of the Board shall comply with this Code of Conduct and uphold the spirit of the Code.

Every Trustee shall respect and understand the roles and duties of the individual Trustees, Board of Trustees, the Chief Executive Officer and the Chair of the Board.

3.4 Civil Behaviour

No Trustee shall engage in conduct during meetings of the Board or committees of the Board, and at all other times that would discredit or compromise the integrity of the Board.

A Trustee of the Board shall not advance allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, made in bad faith or vindictive in nature against another Trustee of the Board.

When expressing individual views, Trustees shall respect the differing points of view of other Trustees on the Board, staff, students and the public.

Trustees shall at all times act with decorum and shall be respectful of other Trustees of the Board, staff, students and the public.

All Trustees of the Board shall endeavour to work with other Trustees of the Board and staff of the Board in a spirit of respect, openness, courtesy, and co-operation.

3.5 Respect for Confidentiality

No Trustee shall disclose confidential information obtained or made available to them in their role as a Trustee except as authorized by law or the Board (i.e., personal information about an identifiable individual or information subject to solicitor-client privilege that a Trustee becomes aware of because of his or her position, except when required by law or authorized by the Board to do so).

Every Trustee shall keep confidential any information disclosed or discussed at a meeting of the Board or committee of the Board, or part of a meeting of the Board or committee of the Board, that was closed to the public, and keep confidential the substance of deliberations of a meeting closed to the public, unless required to divulge such information by law or authorized by the Board to do so.

No Trustee shall use confidential information, including confidential information obtained by them or made available to them in their role as a Trustee for the purpose of personal gain or for the gain of the Trustee's parent, spouse or child and shall not use such confidential information in a manner that would be detrimental to the interest of the Board. (Parent, spouse and child have the same meaning as in Section 1 of the *Municipal Conflict of Interest Act.*)

3.6 Upholding Decisions

All Trustees of the Board shall accept that authority rests with the Board, and that a Trustee has no individual authority other than that delegated by the Board.

Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission, if permitted by the Board's Rules of Order, can be brought by a Trustee.

A Trustee is expected to 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.

Each Trustee shall comply with Board policies, procedures, by-laws, and rules of order.

The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall act as spokesperson to the public on behalf of the Board unless authorized by the Board. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board.

4 ENFORCEMENT OF CODE OF CONDUCT

4.1 4.1 Definitions

"*Appellant*" means the party appealing the Integrity Commissioner's determination.

"*Business Day*" means a day from Monday to Friday, excluding Holidays as defined in Regulation 306/24 *Integrity Commissioners and Process for Alleged Breaches of the Code of Conduct.*

"*Holiday*" is defined in the *Legislation Act, 2006.*

"*Integrity Commissioner*" means a person appointed by the Board from the Minister of Education's roster of integrity commissioners or during the time no such roster exists, a person appointed by the Board who holds the qualifications to be appointed an integrity commissioner prescribed by Regulation 306/24 *Integrity Commissioners and Process for Alleged Breaches of the Code of Conduct.*

"Respondent" means the party responding to an appeal of the Integrity Commissioner's determination.

4.2 Informal Complaint Procedure

It is expected that whenever possible, allegations of a breach of the Code of Conduct ("Code") by a Trustee shall be investigated following the Informal Complaint Procedure, prior to initiating a Formal Complaint Procedure (as per below). It is recognized that from time to time a contravention of the Code may occur that is trivial, or committed 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 a breach of the Code is to assist the Trustee in understanding their obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Trustee ought to be investigated following the *Formal Complaint Procedure.* However, a Trustee does not have to first attempt an informal resolution of a complaint before commencing a formal complaint described below.

The Chair of the Board, on their own initiative, or at the request of a Trustee of the Board (without the necessity of providing a formal written complaint) who alleges a breach of the Code has occurred, may meet informally with a Trustee of the Board who is alleged to have breached

the Code, to discuss the alleged breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the Trustee and to discuss remedial measures to correct the offending behaviour. The Informal Complaint Procedure is conducted in private.

At the discretion of the Chair, they may include the Vice-Chair of the Board, or another Trustee of the Board in the above meeting.

If the allegation of a breach of the Code involves the Chair of the Board, the Vice-Chair of the Board may carry out the duties described in paragraph 2 above. At the Vice-Chair's discretion, they may include another Trustee of the Board to attend the above meeting.

The remedial measures may include, for example, a warning, an apology, and/or the requirement of the Trustee to engage in the successful completion of professional development training such as that offered by the Ontario Education Services Corporation *Professional Development Program for School Board Trustees*.

If a resolution of the informal complaint cannot be achieved, a Formal Complaint Procedure may be commenced.

4.3 Formal Complaint Procedure

7. A Trustee who has reasonable grounds to believe that a Trustee of the Board has breached the Board's Code of Conduct may notify the following persons in writing of the alleged breach:

the Chair of the Board; or

the Vice-Chair of the Board, if the notice is related to the conduct of the Chair; or

another Trustee of the Board, who is neither the complainant nor the subject of the complaint, if the notice relates to both the conduct of the Chair and the Vice-Chair.

8. The Trustee who gives notice of an alleged breach of the Board's Code of Conduct shall provide a copy of the notification to the Chief Executive Officer of the Board.

9. The person to whom the notification was made (Chair, Vice-Chair, or other Trustee, as the case maybe) shall immediately provide a copy of the written notice to the Trustee whose conduct is the subject of the alleged breach and the entire Board of Trustees. This notice shall not be public or published until published by the Board in accordance with the *Records and Information* section below.

10. No Trustee shall give notice of an alleged breach of the Code if the allegation is frivolous or vexatious or the notice is given in bad faith.

11. No trustees shall engage in reprisal or the threat of reprisal against:

a. a trustee who gave notice of an alleged breach of the code; or

b. any person who provides information about the alleged breach to the person appointed by the board to investigate the breach.

12. The *Statutory Powers Procedure Act* does not apply to anything done regarding the enforcement of the Code as particularized in s. 218.3.2(13) of the *Education Act.*

4.4 Notice of Breach

13. The written notice of a breach of the Code shall include:

a. the name of the Trustee alleging the breach and their contact information;

b. the name and contact information of the Trustee whose conduct is the subject of the notification;

c. the date of the alleged breach;

d. a description of the alleged breach;

e. the provision of the Code that was allegedly breached;

f. the date on which the Trustee alleging the breach first knew that the alleged breach occurred;

g. the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.

14. Generally, a complaint of an allegation of a breach of the Code is to be made within 60 days after the alleged breach occurred or was discovered, whichever is later. See particulars of this timeline below under *Refusal to Commence an Investigation* and *Discovery of Breach*

4.5 Resolution of Notice of Breach

15. When a formal complaint is brought against a Trustee of the Board, during the 20-Business Day period prior to an Integrity Commissioner being appointed as described below, the Board may attempt to resolve the matter as follows:

a. the Chair of the Board, or in the absence of the Chair or if the notice of the breach relates to the conduct of the Chair, the Vice-Chair of the Board or if the notice relates to the conduct of the Chair and the Vice-Chair then another Trustee appointed by the Board who is neither the complainant nor the subject of the complaint may attempt to resolve the matter in private as between the parties.

b. this process may include the Chair/Vice Chair/Trustee, through the Chief Executive Officer or their designate, retaining legal counsel and/or a mediator to assist in resolving the matter.

c. the process may also include a discussion and the use of remedial measures including, a warning, an apology, and/or the requirement of the Trustee to engage in the successful completion of professional development training such as that offered by the Ontario Education Services Corporation *Professional Development Program for School Board Trustees.*

d. if the matter is resolved to the satisfaction of the Trustee alleging the breach, the Trustee shall withdraw their notice of the breach.

e. the Board of Trustees will be advised whether the matter has been resolved and any agreed upon remedial measures or other basis for resolving the matter.

16. If the complaint described in the notice of breach is not resolved within 20 Business Days after the Trustee alleged to have breached the Code has received the notice, the matter shall be referred to an Integrity Commissioner appointed by the Board as described below under *Appointment of Integrity of Commissioner.* This is to be done as soon as reasonably possible.

4.6 Appointment of Integrity Commissioner

17. If the complaint is not resolved as described above (under *Resolution of Notice of Breach*), the Trustee (Chair, Vice-Chair or other Trustee) to whom the notification of the breach was given shall refer the complaint to the Integrity Commissioner appointed and paid for by the Board.

18. If a roster of Integrity Commissioners has been created by the Minister of Education, an appointment of an Integrity Commissioner shall be from the roster of Integrity Commissioners.

19. If a roster of Integrity Commissioners has not been created by the Minister of Education, then the Board shall appoint an external independent person who has the qualifications set out in Regulation 306/24 *Integrity Commissioners and Process for Alleged Breaches of the Code of Conduct* and in consultation with the Chief Executive Officer. 20. The appointment of an Integrity Commissioner by the Board is hereby delegated to the Trustee (Chair, Vice-Chair or other Trustee, as the case may be) in consultation with the Chief Executive Officer.

20. The appointment of an Integrity Commissioner by the Board is herby delegated to the Trustee (Chair, Vice-Chair or other Trustee, as the case may be) in consultation with the Chief Executive Officer.

4.7 Investigation

21. Subject to *Refusal to Commence an Investigation* described below, the Integrity Commissioner appointed by the Board investigate shall commence an investigation into the alleged breach of the Code of Conduct no later than 14 days after being appointed by the Board.

22. The Integrity Commissioner to whom the alleged breach is referred to by the Board to investigate may define the scope of the investigation.

23. The Trustee alleged to have breached the Code shall be provided with the opportunity to respond to the allegations, as well as a right of reply, where appropriate. The Integrity Commissioner shall determine this, the timelines, and form of such a response.

4.8 Refusal to Commence Investigation

24. The Integrity Commissioner may refuse to commence an investigation into the alleged breach of the Code if, a. The complaint was made more than 60 days after the day the alleged breach occurred or was discovered, whichever is later, unless the Integrity Commissioner is satisfied the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay; or

b. In the opinion of the Integrity Commissioner, the complaint is made in bad faith or is frivolous or vexatious.

25. If a breach relates to a series of incidents, the 60-day period above runs from the day the last incident in the series occurred or was discovered.
26. The Integrity Commissioner shall provide written notice of a refusal to commence an investigation to the Trustee who is the subject of the complaint and the Board, and the decision of the Integrity Commissioner is final.

4.9 Discovery of Breach

27. A breach is discovered on the earlier of:

a. The day on which the Trustee notifying the Board of the alleged breach first knew that the breach had occurred; and

b. The day on which a reasonable person with the abilities and in the circumstances of the Trustee notifying the Board first ought to have known of the matters referred to in paragraph (a) above.

4.10 Powers of the Integrity Commissioner

28. In the course of conducting the investigation, the Integrity Commissioner may:

a. require the production of any records that may in any way relate to the investigation;

b. examine and copy any records required under paragraph (a) above; and

c. require any officer of the Board or any other person to appear before them and give evidence, on oath or affirmation, relating to the investigation.

29. Section 33 of the *Public Inquiries Act, 2009* applies to an investigation.

4.11 Decision Process

30. The Integrity Commissioner shall make any determination with respect to a complaint of alleged breach of the Code no later than 90 days after commencing the investigation, or within such other time period as may be prescribed by regulation, unless the Integrity Commissioner notifies the Board and the Trustee who is the subject of the complaint that an extension is necessary and of the reasons for the extension.

31. The Integrity Commissioner shall provide the Trustee whose conduct was the subject of the complaint and the Board written notice of a determination that the Trustee has or has not breached the Code and of any sanctions imposed.

32. The written notice must include:

a. the reasons for the determination;

b. the reasons for any sanctions; and

c. information about the right to appeal.

4.12 Potential Sanctions

33. If the Integrity Commissioner determines, following an investigation, that the Trustee has breached the Code, the Integrity Commissioner may impose one or more of the following sanctions:

a. Censure the Trustee;

b. Requiring the Board to reduce the Trustees honorarium by an amount not exceeding the amount prescribed in Regulation 357/*06 Honoraria for Board Members* which currently is 25% of the Trustees combined base and enrollment amount for the year of the term of office in which the breach occurred;

c. Barring the Trustee from attending all or part of one or more meetings of the Board or one or more meetings of a committee of the Board, for the period of time specified by the Integrity Commissioner up to a maximum of 90 days or the balance of the Trustee's term of office, whichever is less;

d. Barring the Trustee from sitting on one or more committees of the Board, for the period of time specified by the Integrity Commissioner, up to a maximum of 90 days or the balance of the Trustee's term of office, whichever is less;

e. Barring the Trustee from becoming the chair or vice-chair of the Board or of any committee of the Board, or removing the Trustee from any other positions;

f. Barring the Trustee from exercising the privileges of a Trustee or acting as a Board representative, or removing the Trustee from a position the Trustee holds as a Board representative;

g. Subject to any other limits set out in the above paragraphs(a) to (f), any other sanction that, in the opinion of the Integrity Commissioner, is reasonable and appropriate in the circumstances;

h. Subject to any other limits set out in the above paragraphs (a) to (f), any other sanction that, in the opinion of the Integrity Commissioner, would promote compliance with the Board’s Code.

34. For greater certainty, the imposition of a sanction barring a Trustee from attending all or part of one meeting of the Board shall be deemed, for the purpose of clause 228(1)(b) of the *Education Act* to be authorization for the Trustee to be absent from the meeting.

35. Any Trustee who is barred from attending all or part of the 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 meaning and that are not available to members of the public.

4.13 Appeal

36. Either the Board or the Trustee whose conduct was the subject of an investigation may appeal the Integrity Commissioner's decision, the sanctions imposed, or both, and the Board and the Trustee are the parties to an appeal.

37. The Trustee whose conduct was the subject of the investigation shall not vote on the Board resolution to determine whether the Board will appeal the Integrity Commissioner's decisions on breach or sanctions.

38. The Board or the Trustee who appeals the Integrity Commissioner's determinations shall give written notice of the appeal to the other party and the Deputy Minister of Education no later than 15 Business Days after receiving written notice of the Integrity Commissioner's determination.

4.14 Hearing of the Appeal

39. The appeal shall be heard by a panel of three Integrity Commissioners appointed by the Deputy Minister of Education or their delegate (no later than 15 Business Days after the Deputy Minister or delegate receives the notice of appeal), but the panel shall not include the Integrity Commissioner whose determination is the subject of the appeal.

40. One of the appointed Integrity Commissioners shall be named by the panel to act as chair and co-ordinate the hearing of the appeal.

41. The chair of the panel shall notify the parties to the appeal of:

a. the appointment of the panel; and

b. the requirements regarding written submissions of the parties and the requirements of the panel's written decision.

42. The panel shall hear the appeal in writing.

4.15 Parties Written Submission

43. The Appellant shall provide written submissions to the panel and the Respondent no later than 20 Business Days after receiving notice that the panel has been appointed.

44. The Respondent shall provide written submissions to the panel and the Appellant no later than 20 Business Days after receiving the Appellant's submissions.

45. The Appellant shall provide their written reply to the Respondent's submissions no later than 10 Business Days after receiving the Respondent's submissions.

46. The chair of the panel may extend any timeline regarding the above written submissions at the written request of a party in order to provide for the fair, just and expeditious resolution of the appeal.

47. A decision to extend a timeline above shall be provided to the parties in writing and a copy of the decision shall be provided to the Deputy Minister of Education.

4.16 Consideration by the Panel

48. The panel shall convene to consider the appeal at such times and in such places as they may determine. The panel may be convened by electronic means.

4.17 Panel Decisions on Processes During the Appeal

49. The panel may:

a. define or narrow the scope of the appeal;

b. limit the length of submissions from the parties;

c. make interim decisions and orders; and

d. on its own motion, and without holding a hearing, dismiss an appeal as frivolous or vexatious or commenced in bad faith. A panel decision on its motion is final.

50. The chair of the panel shall notify the parties of any decisions made by the panel above.

4.18 Decision of the Panel

51. The panel shall provide its decision and its reasons, including any dissent, to the parties in writing no later than 30 Business Days after receiving the Respondent's submission.

52. The panel shall provide a copy of the decision, reasons and dissent to the Deputy Minister of Education.

53. If the panel overturns the determination as to whether there is a breach of the Code made by the Integrity Commissioner, any sanction imposed by the Integrity Commissioner is revoked.

54. If the panel upholds the determination made by the Integrity Commissioner, the panel shall, within 30 Business Days after receiving the Respondent's submissions on the appeal, uphold, vary or overturn the sanction.

55. If a sanction is varied or overturned, the variation or overturning shall be deemed to be effective as of the date of the original determination made by the Integrity Commissioner.

56. The decision of the panel respecting the determination of the Integrity Commissioner is final.

57. A board shall keep records and publish information on its website about each of the following:

a. a matter referred to an Integrity Commissioner for investigation and determination;

b. a decision of the Integrity Commissioner to refuse to commence an investigation under Refusal to Commence Investigation above;

c. determination of an Integrity Commissioner that a Trustee has or has not breached the Code and any sanction(s) imposed; and

d. a determination by a panel upholding or overturning an Integrity Commissioner's determination including any variation of a sanction.

58. Where the alleged breach of the Board's Code or the determination regarding the breach involves any of the matters described in clauses 207(2) (a) to (e) of the Education Act, the board shall publish only such information as is appropriate.