

Adopted: (new) M23-0092 May 3, 2023

Revised:

Next Review Date: March 2027

1. POLICY

This procedure is made pursuant to the [Trustee Code of Conduct Policy](#) (the Code), which outlines the manner in which Trustees promote public trust and confidence in the Board of Trustees (the Board). Trustees are expected to carry out their duties and responsibilities in a professional and impartial manner. Trustees shall uphold the letter and spirit of this Trustee Code of Conduct.

Trustees have clearly defined duties and powers which are outlined in Sections 169 through 171 of the Education Act. Trustees are elected to represent students, parents and stakeholders. This relationship with the electorate is governed by the Municipal Elections Act and the Education Act.

This document outlines the procedures to investigate and enforce alleged breaches of the Trustee Code of Conduct.

2. APPLICATION

This Code of Conduct Policy and the Trustee Code of Conduct Governance Procedure apply to all Trustees of the Board.

3. DEFINITIONS

The definitions appended to the [Policy and Procedure Framework Policy](#) will be used.

CODE OF CONDUCT PROCEDURE REQUIREMENTS

4. INDIVIDUAL TRUSTEE REVIEW AND ATTESTATION

- 4.1. Trustees shall individually review the [Trustee Code of Conduct Policy](#), Trustee Code of Conduct Governance Procedure, and [Board Governance By-law](#) prior to taking the Oath of Office.
- 4.2. Trustees must sign the acknowledgement and undertaking appended to the Trustee Code of Conduct Policy and file it with the Director. This should be

completed before the inaugural meeting of the Board.

5. BOARD REVIEW

- 5.1. The Board may review and adopt a revised Code of Conduct every four years, starting May 15, 2019, in accordance with [O. Reg 264/18 - Members of School Boards: Code of Conduct](#).

ENFORCEMENT PROCEDURES

6. IDENTIFYING A BREACH OF THE CODE

- 6.1. A Trustee who has reasonable grounds to believe another Trustee has breached the Code will bring the alleged breach (in writing) to the attention of the Chair who will act as a mediator between the complainant and the named Trustee in an effort to resolve the allegation using the Informal Procedure. Formal Procedure is required, the Chair will bring the alleged breach to the attention of the Vice-Chair and the named Trustee.
- 6.2. The Code applies equally to the Chair and Vice-Chair. In the case of an allegation of a breach of the Code by the Chair, or if the complainant is the Chair, wherever a process requires action by the Chair, it shall be modified to read the Vice-Chair, alternate, or committee of the Board.
- 6.3. Any allegation of a breach of the Code requiring an inquiry must be brought to the attention of the Committee of the Whole in Private Session no later than six weeks after the breach comes to the attention of the Chair. Notwithstanding the foregoing, in no circumstance shall an inquiry into a breach of the Code be undertaken after the expiration of six months from the time the contravention is alleged to have occurred.
- 6.4. Any allegation of a breach of the Code of Conduct shall be investigated following the *Informal or Formal Complaint Procedures* below, as the case may be. It is expected that whenever possible, allegations of a breach of the Code by a Trustee shall be investigated following the Informal Complaint Procedure. 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 recurring breaches of the Code by a Trustee should be investigated following the Formal Complaint Procedure.

7. CHAIR/PRESIDING OFFICER

- 7.1. The Chair or Presiding Officer of any meeting of the Board or committee of the Board shall exercise their powers in a fair and impartial manner having due regard for every Trustee's opinion or view.
- 7.2. Each year alternate Trustees shall be chosen by the Board to be used when the circumstances warrant that alternate Trustees are needed in place of the Chair and/or Vice-Chair to carry out any of the duties required under the Code and Enforcement. In no circumstance shall the Trustee who brought the complaint of a breach of the Code be involved in conducting any Formal or Informal inquiry into the complaint.
- 7.3. Nothing in the 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. A Trustee who does not abide by a reasonable exclusion from a meeting is deemed to have breached this Code.
- 7.4. The Chair or Presiding Officer shall follow the special rules of order of the Board and/or the adopted Rules of Order and meeting procedures contained in any Policy or By-law of the Board. 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, all Trustees shall abide by that decision and no further action shall be undertaken pursuant to the Enforcement of the Code, except for

persistent improper use of the applicable rules of order by the Chair or Presiding Officer.

8. INFORMAL COMPLAINT PROCEDURE

- 8.1. The Informal Complaint Procedure is conducted in private.
- 8.2. The Chair shall meet informally with the named Trustee. The purpose of the meeting is to bring the allegation to their attention and discuss potential remedial measures.
- 8.3. Remedial measures may include a warning, an apology, and the requirement of the Trustee to engage in the successful completion of professional development training (e.g. such as that offered by the Ontario Education Services Corporation Professional Development Program for School Board Trustees). If the Chair and the named Trustee cannot agree on a remedy, then a formal complaint may be brought against the named Trustee.

9. FORMAL COMPLAINT PROCEDURE

- 9.1. A Trustee who has reasonable grounds to believe another Trustee has breached the Code will bring the alleged breach to the attention of the Chair by providing a written and signed complaint setting out the following:
 - 9.1.1. the name of the Trustee who is alleged to have breached the Code;
 - 9.1.2. the nature of the alleged breach and the grounds for the complaint;
 - 9.1.3. when the alleged breach came to the Trustee's attention; and
 - 9.1.4. the names and contact information of any witnesses to the alleged breach, or any other persons who have relevant information regarding the alleged breach.
- 9.2. The Chair will undertake a formal inquiry unless the complainant subsequently withdraws the complaint or agrees that the complaint may be dealt with in accordance with the Informal Complaint Procedure.

- 9.3. In a municipal election year, a complaint regarding a Trustee who is seeking re-election shall not be brought during the period commencing two months prior to election day, and ending after the first Board meeting of the new term. If the Trustee accused of a breach is not re-elected, no inquiry into the alleged breach shall be undertaken. The expiration period (see 6.3) for bringing a complaint shall be extended as necessary.
- 9.4. The Chair shall provide to all Trustees a confidential copy of the complaint within 10 days of receiving it. 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.

10. REFUSAL TO CONDUCT FORMAL INQUIRY

- 10.1. If the Chair and Vice-Chair are of the opinion that the complaint is out of time, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for a formal inquiry, a formal inquiry shall not be conducted and a confidential report stating the reasons for not doing so shall be provided to all Trustees.
- 10.2. If the Chair and Vice-Chair cannot agree on the above, then a full formal inquiry shall be conducted.
- 10.3. If an allegation of a breach of the Code on its face is with respect to the non-compliance with a more specific Board Policy with a separate complaint procedure, the allegation shall be processed under that procedure.

11. STEPS OF FORMAL INQUIRY

- 11.1. If a formal inquiry of an allegation of a breach of the Code is undertaken, it shall be done by the Chair and Vice-Chair, if appropriate, or any two of the Chair, Vice-Chair and the alternate Trustees, or an outside consultant chosen by the Board.
- 11.2. Regardless of who undertakes the formal inquiry, the following steps shall be followed:

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- 11.2.1. The [Statutory Powers Procedure Act](#) does not apply to anything done regarding the Enforcement of the Code. No formal trial-type hearing will be conducted.
- 11.2.2. Procedural fairness and the rules of natural justice shall govern the formal inquiry. The formal inquiry will be conducted in private.
- 11.2.3. The formal inquiry may involve both written and oral statements by any witnesses, the Trustee bringing the complaint and the named Trustee.
- 11.2.4. The named Trustee shall have an opportunity to respond to the allegations both in a private meeting with the person(s) undertaking the formal inquiry and in writing.
- 11.2.5. It is expected that the formal inquiry will be conducted within a reasonable period of time which will depend on the circumstances of the case. The named Trustee shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of time as the investigators deem appropriate in the circumstance.
- 11.2.6. If the named Trustee refuses to participate in the formal inquiry, the formal inquiry will continue in their absence.
- 11.2.7. If the Chair and Vice-Chair when conducting the formal inquiry cannot agree on the final finding of facts, it shall be referred to an outside investigator to complete the formal inquiry.
- 11.2.8. Once the formal inquiry is complete, the investigator shall provide a confidential draft copy of their report containing the findings of fact to the named Trustee and the Trustee who brought the complaint, for their written comment to the investigator. The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. The two Trustees shall have 10 days (or such reasonable period of time as deemed appropriate by the investigator) from the receipt of the draft report to provide a written response.
- 11.2.9. The final report shall outline the finding of facts and a recommendation

or opinion as to whether the Code has been breached.

12. SUSPENSION OF FORMAL INQUIRY

- 12.1. If the investigator, when conducting the formal inquiry, 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 inquiry shall be suspended until the police investigation, charge, or matter under another Act has been completed. This shall be reported to the rest of the Trustees.

13. DECISION

- 13.1. The final report shall be delivered to the Board, and a decision by the Board as to whether or not the Code has been breached (and the sanction, if any for the breach) shall be made as soon as practical after receipt of the final report.
- 13.2. No Trustee shall undertake their own investigation of the matter. Trustees shall consider only the findings in the final report when voting on the decision (and sanction, if any).
- 13.3. No sanction shall be imposed if:
- 13.3.1. the Board determines there has been no breach of the Code;
 - 13.3.2. a contravention occurred, even though the Trustee took all reasonable measures to prevent it; or
 - 13.3.3. a contravention occurred that was trivial, or committed through inadvertence, or an error of judgment made in good faith.
- 13.4. The named Trustee shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction. The Trustee who brought the complaint to the attention of the Board also shall not vote on those resolutions.
- 13.5. The determination of a breach of the Code, and the imposition of a sanction, must be done by resolution of the Board at a public Board meeting. The resolutions and the rationale for the decisions shall be

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recorded in the minutes of the meeting. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees present and voting.

- 13.6. Despite s.207 (1) of the Education Act, the part of the meeting of the Board during which an alleged breach of the Board's Code is considered may be closed to the public when the alleged breach involves any of the matters described in clauses 207(2) (a) to (e) being:
 - 13.6.1. The security of the property of the board;
 - 13.6.2. 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 their parent or guardian;
 - 13.6.3. The acquisition or disposal of a school site;
 - 13.6.4. Decisions in respect of negotiations with employees of the board; or
 - 13.6.5. Litigation affecting the board.
- 13.7. The named Trustee may be present during the deliberations regarding the above but shall not participate in the deliberations, and shall not answer any questions at that meeting.
- 13.8. The named Trustee shall not in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except as permitted below after these decisions have been made.

14. SANCTIONS

- 14.1. If the Board determines the Trustee has breached the Code, it may impose one or more of the following sanctions:
 - 14.1.1. Censure of the Trustee.
 - 14.1.2. Barring the Trustee from attending all or part of a meeting of the Board or a meeting of a committee of the Board.
 - 14.1.3. Barring the member from sitting on one or more committees of the Board, for the period of time specified by the Board.

- 14.1.4. A Trustee 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 members of the public.
- 14.1.5. The imposition of a sanction barring a Trustee from attending all or part of a meeting of the Board 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.
- 14.2. The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous; such as a warning or a requirement that the Trustee successfully complete specified professional development courses at the expense of the Board. The Board has no power to declare the Trustee's seat vacant.
- 14.3. The Board shall give the Trustee written notice of the determination, the reasons for the decision and any sanction imposed by the Board of Trustees.
 - 14.3.1. The notice shall inform the Trustee that they may make a written submission to appeal the determination or sanction by the date specified in the notice (at least 14 days after the notice is received by the Trustee).

15. RECONSIDERATION

- 15.1. The Board shall consider any submissions made by the Trustee and shall confirm or revoke the determination or sanction within 14 days after the submissions are received.
- 15.2. If appropriate, the original sanction may be stayed pending the reconsideration by the Board of the determination or sanction.
- 15.3. If the Board revokes a determination, any sanction imposed by the Board is revoked.
- 15.4. If the Board confirms a determination, the Board shall, within the 14 days above, confirm, vary or revoke the sanction.

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- 15.5. 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.
- 15.6. Board decisions to confirm or revoke a determination or confirm, vary or revoke a sanction must be done by resolution of the Board at a public Board meeting. Both resolutions shall be decided by a vote of at least 2/3 of the Trustees present and voting.
- 15.7. The named Trustee shall not vote on those resolutions. The Trustee who brought the complaint to the attention of the Board also shall not vote on those resolutions.
- 15.8. The resolutions shall be recorded in the minutes of the meeting together with the reasons for confirming or revoking a determination.
- 15.9. The Board shall provide to the named Trustee 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.
- 15.10. The named Trustee may be present during the deliberations regarding the above but shall not participate in the deliberations and shall not be required to answer any questions at that meeting.