



March 27, 2024

Honourable Stephen Lecce  
Minister of Education  
Mowat Block, 900 Bay Street  
Toronto, ON M7A 1L2

**Re: Bill 98 Regulatory and Policy Reforms to Support the Better Schools and Student Outcomes Act, 2023 - School Board Trustee Code of Conduct and Integrity Commissioner Process and Trustee Code of Conduct Sanctions – Maximum Reduction of Honoraria**

Dear Minister Lecce,

At the March 6, 2024 Board meeting of the Halton District School Board (HDSB), the following motion was passed unanimously:

*Be it resolved that the Chair write a response to the Minister of Education regarding the proposed Bill 98 Regulatory and Policy Reforms to Support the Better Schools and Student Outcomes Act, 2023 - School Board Trustee Code of Conduct and Integrity Commissioner Process, and Regulatory Amendments to O. Reg 463/97 Electronic Meetings and Meeting Attendance, with copies sent to all Ontario MPPs and School Board Associations, as well as OSTA/AECO.*

**School Board Trustee Code of Conduct and Integrity Commissioner Process and Trustee Code of Conduct Sanctions – Maximum Reduction of Honoraria**

Our Board appreciates the time and consideration given by the Ministry of Education regarding the Trustee Code of Conduct, the use of Integrity Commissioners and the potential reduction of honoraria that might result if the Trustee is determined to have breached the Code of Conduct.

In essence, we believe these reforms should apply to all elected officials that serve in Ontario, not just School Board Trustees. The principals ought to be the same regardless of whether the position is School Board Trustee, City/Town/Regional Councillor, Mayor, Regional Chair or MPP. To isolate School Board Trustees is akin to setting a higher bar for one set of elected officials, while the same standard should apply to all.

**We recommend these reforms be applied to all elected officials serving in Ontario (with the exception of MPs).**

Street Address: J.W. Singleton Education Centre • 2050 Guelph Line, Burlington, Ontario L7P 5A8

Mailing Address: J.W. Singleton Education Centre • P.O. Box 5005, Stn. LCD 1, Burlington, Ontario L7R 3Z2

**Phone: 905-335-3663 | 1-877-618-3456 Fax: 905-335-9802**

[www.hdsb.ca](http://www.hdsb.ca)

We have compiled a list of recommendations regarding the changes proposed regarding School Board Trustee Code of Conduct and Integrity Commissioner Process and Trustee Code of Conduct Sanctions – Maximum Reduction of Honoraria in the table appended to this letter.

Sincerely,

*Amy Collard*  
*Chair of the Halton District School Board*  
*Burlington, Ward 5 HDSB Trustee*

<b>Item</b>	<b>Amendment Section / Preamble</b>	<b>HDSB Comments</b>	<b>HDSB Recommendations</b>
IC Roster	Section 218.3(4) of the Education Act, once proclaimed, will enable the Minister to create a roster of ICs, following consultation with the trustees' associations.	We appreciate that "Trustees' associations would be provided an opportunity to review the ministry's proposed list of candidates and provide comments for the Minister's consideration, prior to the Minister finalizing the roster" and would request further clarity on what weight, if any, the comments by Trustees' Associations will be given, also the way in which this consultation will take place. Will Trustees' Associations have the ability to reject a candidate that the Ministry is proposing be added to the roster?	<b>Trustees' Associations should be integrated into the process prior to the "reviewing the roster stage" to also contribute to establishing the criteria for the executive search firm and to review all submissions.</b>
IC Qualifications	Provisions in section 218.3.3 of the Education Act, to be proclaimed, provides that the Lieutenant Governor in Council may make regulations prescribing the qualifications of ICs.	<p>The criteria for determining the roster of eligible ICs should be strengthened beyond "Knowledge of Ontario's publicly funded education sector" to include prior experience working with clients in the publicly funded education sector (i.e., schools, boards, and provincial associations).</p> <p>Additionally we would like more clarity provided on how the criterion of "Experience managing sensitive inquiries and ability to demonstrate impartiality and neutrality, similar to that of an adjudicator, judge, or other independent officer in public service" would be measured. There needs to be a minimum standard to ensure all ICs have comparable and relevant experience.</p>	<p><b>The criteria for determining the roster of eligible ICs should be expanded to include "prior experience working with clients in the publicly funded education sector".</b></p> <p><b>A minimum standard should be established to ensure all ICs have comparable and relevant experience and skills.</b></p>

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Notice and Referral of Complaint	<p>Once proclaimed, the code of conduct complaint process in the Education Act will provide that a member of a board may give notice of a code of conduct complaint:</p> <ul style="list-style-type: none"> <li>• the Director of Education, if the notice relates to the conduct of the Board Chair or Vice-Chair.</li> <li>• in all other situations, the Board Chair.</li> <li>• Regulations may prescribe that individuals other than the Director of Education or Board Chair receive the notice.</li> </ul> <p>The person receiving the notice of an alleged breach would be required to refer the matter to an IC appointed by the board if the matter were not resolved within 10 days of receiving notice, or within the time prescribed by regulation.</p>	<p>With respect to the use of an Integrity Commissioner (IC), we support the increased Notice Period (from 10 days to 20 business days) prior to referring the matter to an IC. We would like to see the use of school days instead of business days since each school board may have different school year calendars. This timeframe is reasonable, and provides sufficient opportunity for the complaint to be resolved by the Board of Trustees.</p> <p>We agree with limiting the role of Directors of Education to being “copied for their information on all notices and subsequent procedural steps”.</p>	<p><b>The Notice Period should be stated as 20 school days.</b></p>
Investigation Process	<p>Provisions in section 218.3.3 (g) of the Education Act, once proclaimed, will create a framework for ICs to investigate and decide code of conduct</p>	<p>Currently the process is for the Chair/Vice Chair to conduct an informal investigation. It is not clear that the Chair/Vice-Chair will continue to conduct informal investigations once ICs are introduced?</p>	<p><b>The Chair/Vice-Chair will conduct an informal investigation within 20 school days of receiving the complaint.</b></p>



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		<p>investigate and <b>make recommendations to the Board of Trustees on code of conduct complaints[...]</b> The IC will also <b>recommend</b> sanctions following the investigation if it has been determined that the member breached the board's code of conduct. <b>In all cases the decisions regarding code of conduct complaints and sanctions, if any, shall be made by the Board of Trustees."</b></p>	
		<p>Under the new framework, the IC will be required to define the scope of the investigation, collect information and evidence, and review and analyze the information and evidence. The IC should also be required to confirm receipt of a complaint to the Board, which includes an expected timeline and scope for the investigation. After the process, the IC should also be required to produce a final PRIVATE report to the Board on the outcome.</p>	<p><b>IC should confirm receipt of a complaint to the Board, including expected timeline and scope of the investigation.</b></p> <p><b>IC should produce a final PRIVATE report to the Board on the outcome.</b></p>
Appeal Process	Provisions in section 218.3.3(h-i) the Education Act, to be proclaimed, provide for regulations governing appeal hearings and prescribing rules and procedures that shall apply to the hearings.	<p>The Proposal states: "Decisions of the panel, including interim decisions, will be made in writing and communicated to the parties and the Deputy Minister.</p> <ul style="list-style-type: none"> <li>- " Who are "the parties"? The parties should include the named Trustee, the Trustee who submitted the complaint, the Chair</li> </ul>	<p><b>Parties should include the named Trustee, the Trustee bringing the complaint, the Chair and Vice-Chair of the Board, the Board of Trustees, and the Director of Education.</b></p>

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	<p>The board or the member who appeals the Integrity Commissioner's determination shall give written notice of the appeal to the other party and the Deputy Minister no later than 14 days after receiving written notice of the Integrity Commissioner's determination, or within such other time-period as may be prescribed by regulation. The Deputy Minister will appoint a panel of three Integrity Commissioners to hear the appeal.</p>	<p>and Vice-Chair of the Board, the Board of Trustees, and the Director of Education.</p> <ul style="list-style-type: none"> <li>- It is important for all Trustees to be aware of the decision and sanctions (if any) to ensure full transparency.</li> </ul>	
IC Fees	<p>Provisions in section 218.3.3(d) of the Education Act, to be proclaimed, provide authority for regulations prescribing fees to be paid to Integrity Commissioners, or the manner of calculating such fees, and the requirement for school boards to pay these fees.</p>	<p>There must be a cap or some form of provincial regulation regarding the application of fees. Standardized fees across the province are essential.</p> <p>As this is a provincially mandated process, the IC's fees need to be fully funded by the Province.</p> <p>We also seek clarification on the term of an IC appointment. Are they held on retainer for a specific period of time, or only hired if there is a complaint regarding a breach of the code of conduct submitted to them</p>	<p><b>Standardized IC fees (with caps) should be established</b></p> <p><b>IC's fees should be fully funded by the Province.</b></p> <p><b>The term of an IC's appointment should be clarified.</b></p>

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	<p>It is proposed that the maximum amount by which a trustee's honoraria may be reduced as a sanction for breaching a school board's trustee code of conduct be 25% of a trustee's combined base and enrolment amount for the year of the term of office in which the breach occurred.</p>	<p>Trustees are the lowest remunerated elected officials in all of Ontario. It is already difficult to attract suitable candidates to run for the office of Trustee in many areas of the province. The financial barrier to take on this important role is untenable for many who might otherwise be interested in engaging in this meaningful work. Does this level of punitive action exist at all levels of government with Ontario?</p> <p>There is no recommended limit to non-monetary sanctions mentioned in any part of this proposal.</p> <ul style="list-style-type: none"> <li>- There needs to be guidelines for the application of sanctions.</li> <li>- Progressive discipline is used in our schools. Could this not also be applied to code of conduct sanctions?</li> </ul>	<p><b>Financial consequences for being found in breach of the code of conduct should be stricken from the possible sanctions.</b></p> <p><b>Guidelines - including a progressive discipline approach - should be created regarding the application of sanctions.</b></p>