

108 Board of Education – Trustee Code of Conduct

Adopted October 16, 2018

Revised: October 22, 2024

Administrative Procedures

Trustees are expected to uphold ethical standards and exercise prudence in accordance with the Trustee Code of Conduct (the “Code”). Failure to adhere to the Code may result in the Board of Education (the “Board”) instituting sanctions, pursuant to this policy.

Trustees wishing to report an alleged infraction may follow the processes outlined below to facilitate self-governance. If a Trustee believes that a fellow Trustee has not met obligations under the Code, they are encouraged to seek appropriate remedial measures through the Informal Resolution Process before filing a complaint through the Official Complaint Process. It is recognized that the Informal Resolution Process may not be suitable in all cases. For example, serious and/or reoccurring infractions of the Code by a Trustee should be investigated through the Official Complaint Process.

As detailed herein, a “Designate” is assigned responsibilities and granted authority pursuant to these Administrative Procedures to oversee the conduct of the matter to a certain extent. The Designate shall be:

- the Board Chair, if they are not disqualified due to a conflict of interest;
- the Vice Chair if the Board Chair is disqualified, and the Vice Chair is not disqualified due to a conflict of interest;
- a designated alternate appointed by the Board if the Vice Chair is disqualified; and
- in all other circumstances, the Board shall appoint a neutral third party investigator to serve as the Designate.

For certainty, in no circumstances shall the Trustee alleging a breach of the Code or the Trustee alleged to have breached the Code be the Designate.

Definitions

“Code Hearing” is a formal process conducted by the Board to address alleged infractions of the Code. During a Code Hearing, a Respondent who is alleged to have acted contrary to the Code is provided an opportunity to present their case and respond to the allegations. The aim of the Code Hearing is to determine whether the Respondent engaged in conduct in breach of the Code (whether the alleged infraction occurred), and if determined that an infraction occurred, decide on appropriate and fair sanctions and/or remedies.

“Conflict of Interest” is defined in the Code and as may be determined by an individual for themselves or a majority of those Trustees present at a Code Hearing. A conflict of interest is ordinarily raised only in circumstances where a Trustee has a personal interest in the outcome. It would not typically be raised in circumstances where a Trustee has been a witness to conduct that is the subject matter of a complaint since it is expected that all Trustees will conduct

themselves in accordance with the Code and in the interests of the School District. If it is determined that a Trustee is in a conflict of interest, the Trustee shall not participate in deliberations or vote in respect of any resolution however the Trustee shall be present as required in order to maintain quorum of the Board.

“Reoccurring infraction” is a repetition of an infraction of the same nature by the same Trustee despite efforts to remediate the conduct of concern.

Two separate processes are available for addressing Complaints under the Code. The Informal Resolution Process is encouraged for relatively minor matters, while the Formal Complaint Process has been outlined for more serious matters. If resolution through the Informal Resolution Process is not achieved to the satisfaction of the Trustees involved, the Official Complaint Process may be initiated as needed.

Informal Resolution Process

An infraction against the Code may occur, which could be relatively minor, inadvertent, or the result of an error in judgment made in good faith. In such cases, the primary objective is to notify the Trustee against whom there is an allegation (the “Respondent”) about the infraction and their responsibilities under the Code in a timely manner. This may be achieved by an informal conversation between the Trustee alleging a breach of the Code (the “Complainant”) and the Respondent.

The purpose of this meeting is to draw attention to the alleged infraction, discuss it with the Respondent, and explore remedial measures to rectify the alleged infraction. In certain circumstances, and as described below, a Designate may assist in attempting to resolve the matter informally, including by engaging a third party (such as an experienced mediator).

When determining whether or how the complaint may be resolved informally, the Trustees involved in the Informal Resolution Process may consider culturally appropriate approaches, approaches which are appropriate to persons with disabilities, and/or transformative or restorative justice approaches. As described below, the Designate may engage a third party to assist with this process.

Pursuant to the Informal Resolution Process Trustees shall seek appropriate resolution in an informal, cooperative fashion marked by mutual respect, seeking to understand with an openness to growth, improvement, and enhanced relationships. The following process supports these ends:

1. The Complainant who believes a Trustee has acted in a manner contrary to the Code will engage in a private conversation with the Respondent who is believed to have engaged in the conduct of concern. If a Trustee is not reasonably able to engage in a private conversation, they may go to step two (2).
2. Failing resolution through a private conversation, the Complainant and Respondent will directly engage the appropriate Designate to assist in resolving the complaint. The Designate will attempt to resolve the matter to the satisfaction of the Trustees involved.

3. At the Designate's discretion, and after obtaining written consent from the Complainant and the Respondent, the Designate may appoint a third party, such as an experienced mediator, to assist in resolving the complaint.
4. The Designate, and where applicable with the assistance of the third party, will assess the suitability of the complaint for resolution on an ongoing basis and may decline to proceed informally at any time.
5. The Complainant, or the Respondent, can decline to participate in an informal resolution at any time.

If the Complainant and the Respondent agree to and implement appropriate remedial measures, or agree that remedial measures are not necessary, then the alleged breach is considered resolved.

The remedial measures in the Informal Resolution Process are limited and may include only measures that do not require Board approval such as a warning, an apology, and/or the requirement of the Respondent to engage in the successful completion of professional development training that best addresses the behaviour or action in question.

Resolution pursuant to the Informal Resolution Process is not equivalent to an admission of a culpable breach of the Code on the part of the Respondent and shall not be included in the Respondent's disciplinary history unless this is part of the agreed upon resolution itself.

This Informal Resolution Process is to be conducted with respect for the privacy and confidentiality of all involved. A resolution pursuant to the Informal Resolution Process shall not be brought to the attention of the Board, beyond notifying a Designate for the purposes of carrying out the Informal Resolution Process or notifying the Board that the matter has been resolved.

Where the Board Chair and/or Vice Chair are disqualified from acting as the Designate, and the matter may not be resolved through private conversation, then the Complainant should file a letter of complaint pursuant to the Official Complaint Process to the Board and indicate that a Designate must be appointed pursuant to these Administrative Procedures. Once the Board appoints the Designate, then the Designate, at their discretion, may adjourn the Official Complaint Process and direct that the parties attempt to resolve the matter by way of the Informal Resolution Process, starting at Step 2, above.

Official Complaint Process

A Trustee who wishes to commence an official complaint under the Code (the "Complainant"), shall file a letter of complaint (the "Complaint") with the Designate as soon as practical in an expeditious, timely manner following the alleged infraction. If the Board Chair and Vice Chair are disqualified from acting as the Designate, then the Trustee may submit the Complaint confidentially to all members of the Board and indicate that a Designate must be appointed pursuant to these Administrative Procedures.

The Designate shall provide a confidential copy of the Complaint to all members of the Board within ten (10) days of receipt of the Complaint. The Designate may use their discretion to reasonably extend timelines.

The Respondent shall provide a written response to the allegations to all members of the Board within 10 days of receiving the Complaint, or such reasonably extended period of the time as the Designate deems appropriate in the circumstance.

When a Trustee files a Complaint, and a copy of the Complaint is forwarded to all Trustees, the filing, notification, content, and nature of the Complaint shall be deemed to be strictly confidential. Public disclosure of the Complaint and any resulting decision taken by the Board may be disclosed by the Board Chair or Designate only at the direction of the Board, following the disposition of the complaint by the Board at a Code Hearing held as part of a closed (In-Camera) meeting.

The Complainant and/or Respondent may, at their own expense, seek independent legal representation at their own expense. Any legal representation must maintain the confidentiality of all confidential Board matters.

The Designate shall convene, as soon as is reasonable, a closed (In-Camera) meeting of the Board to allow for a Code Hearing concerning the Complaint. As with any Board meeting, quorum must be established for the Code Hearing to proceed. For efficiency purposes and due to the potentially limited number of Trustees who are able to participate in a vote related to a Complaint, all Trustees will make best efforts to attend such meetings of the Board, even in circumstances where such individuals may be in a conflict of interest or may otherwise wish to abstain. Furthermore, a decision as to whether an individual will be permitted to attend a Code Hearing by telephone/video conference may be made in advance of the Code Hearing.

It is expected that the Code Hearing will be conducted within 90 calendar days of the deadline for receipt of the written response to the Complaint. If a longer period of time is required to complete the Code Hearing process, the reason for the extension shall be explained to the Board.

At the Code Hearing, the Designate shall indicate, at the commencement of the meeting, the nature of the issue at hand. The Designate must ensure that the Code Hearing complies with the Administrative Procedures and the rules of procedural fairness and natural justice required in such circumstances. Without limiting what appears below, the Designate shall ensure fairness in dealing with the Complaint by adhering to the following procedures, which may be adapted by direction of the Board in order to address the circumstances of the Complaint, provided that any deviation from this process is consistent with natural justice and procedural fairness:

- a) The Complaint shall be heard at a Code Hearing at a closed (In-Camera) Board meeting convened for that purpose.
- b) All preliminary matters, including whether the process for the Code Hearing should be amended or whether one (1) or more Trustees may have a conflict of interest in making a decision regarding the Complaint, shall be dealt with prior to any submissions about the Complaint.

- c) The sequence of the Code Hearing shall be in keeping with the following which is intended to provide a fair opportunity for both parties to be heard and to respond as appropriate. Neither party is obligated to make submissions or to respond to questions.
- i. The Complainant shall provide a presentation which may be written or oral or both. The Complainant may opt to rely on the Complaint in place of this presentation;
 - ii. The Respondent shall provide a presentation in response to the Complaint which may be written or oral or both;
 - iii. The Complainant shall then be given an opportunity to reply to any new matters raised in the Respondent's presentation;
 - iv. The Respondent shall then be provided a further opportunity to respond to any new matters raised in the Complainant's presentation and subsequent remarks;
 - v. The remaining Trustees of the Board shall be given the opportunity to ask clarifying questions of both parties at any time during the proceedings;
 - vi. The Complainant shall be given the opportunity to make final comments; and
 - vii. The Respondent shall be given the opportunity to make final comments.
- d) Following the presentation of the Complainant and the Respondent, the Complainant and the Respondent and all persons (the "Parties") other than the remaining Trustees who do not have a conflict of interest shall be required to leave the room, and the remaining Trustees (the "Voting Trustees"), shall deliberate in private, without assistance from staff. The Board may, however, in its discretion, call upon legal advisors to assist them on points of law or upon staff in respect of any points of information or to provide administrative direction or for assistance in the drafting of a resolution. The purpose of the deliberations is to firstly, determine whether there has been a breach of the Code, and if so, what sanctions are appropriate in the circumstances.
- e) If the Voting Trustees require further information or clarification, the Parties shall be reconvened, and the requests made in the presence of the Parties. If the information is not readily available, the Designate may request a recess or, if necessary, an adjournment of the Code Hearing to a later date.
- f) An investigation by a qualified external third party may be included in the process if requested and supported by a majority of the Voting Trustees at any time during a Code Hearing or during deliberations to assist with making factual determinations and determining the applicability of the Code. Any investigation will be conducted in accordance with the rules of procedural fairness and natural justice required in the circumstances and a report of the same will be made to the Board upon the Code Hearing reconvening. The Board may, in its discretion, call upon legal advisors to assist the Board in the event an investigation is requested. The Designate shall select and provide instructions to the investigator on behalf of the Voting Trustees. Normally, an investigation process will include interviews with relevant

witnesses and parties. The Complainant and the Respondent will have an opportunity to participate in the investigation and the Respondent will have the opportunity to respond to the allegations.

- g) In circumstances where the Board may wish to consider a relevant investigation conducted by the Board or the School District or another party into the same or related matter that is at issue in the Complaint, the Voting Trustees may do so in place of or in addition to an investigation.
- h) If an investigation report is considered in deliberations, the Complainant and the Respondent will be provided with an opportunity to review any related report and to make submissions regarding the same during a reconvened Code Hearing and prior to any determination being made about the outcome of the Complaint.
- i) The Voting Trustees in deliberation shall draft a resolution(s) indicating whether the Complaint is substantiated and what action, if any, may be taken regarding the Complaint and any party, pursuant to the Sanctions described herein. If the Voting Trustees determine that the Respondent did not breach the Code, then the resolution should contain such a statement and the Board may not impose any sanctions.
- j) The Designate shall reconvene the parties and any other Trustees to the Code Hearing once the Voting Trustees have drafted a resolution.
- k) The Designate shall call for a resolution(s) to be placed before the Board and a vote will be conducted. The resolution(s) will include a determination whether a breach of the Code was determined and the appropriate Sanctions. Only the Voting Trustees shall be able to vote on any resolution(s). In the event that any of the Voting Trustees requests that the vote occur by secret ballot, the vote will proceed by secret ballot for all Voting Trustees with the exception of any Voting Trustees who participate by telephone/video conference. Any Voting Trustees who are permitted to participate by telephone/video conference are deemed to waive the right to a secret ballot upon participating by telephone/video conference.
- l) A resolution requires the support of a majority of Voting Trustees in order to pass.
- m) The Parties may be present during the voting on a resolution but shall not participate in the deliberations and shall not be required to answer any questions at that meeting.
- n) The Designate shall, following final deliberations and voting declare the closed (in-camera) Board meeting concluded.
- o) All documentation that is related to the Code Hearing shall be returned to the Secretary Treasurer immediately upon adjournment or conclusion of the Code Hearing and shall be retained in accordance with legal requirements. This includes all notes taken by the Voting Trustees other than the parties in relation to the submissions or deliberations.
- p) Other than as may be required or permitted under these Administrative Procedures, in the case of an adjournment for any reason, no discussion by Trustees whatsoever of the matters heard at the Code Hearing may take place until the meeting is reconvened by the Designate.

- q) Only those members present for all submissions made in a Code Hearing will be permitted to deliberate or vote in respect of any resolution of a Complaint.
- r) If the Respondent or Complainant do not attend a Code of Hearing where appropriate notice has been provided, the matter will be adjourned in the first instance. If the Complainant indicates they will not attend a Code of Hearing or does not attend for the second Code Hearing where appropriate notice has been provided, the Complaint will be deemed to be withdrawn. If the Respondent indicates they will not attend a Code Hearing or does not attend for the second Code Hearing where appropriate notice has been provided, the Code Hearing will proceed in the absence of the Respondent. If the Respondent or any individual refuses to participate in the investigation, the investigation will continue in their absence. The Respondent will also be deemed to waive further participation in the Code Hearing.
- s) Any staff support that is necessary or requested under this process is administrative only.
- t) The Designate may suspend the Code Hearing or any investigation underway for the purpose of attempting to resolve the Complaint informally, either at the Designate's own determination, or at the request of a party to the Complaint.
- u) If the investigator, when conducting the investigation, discovers that the subject-matter of the investigation 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 investigation shall be suspended and the investigator shall seek further direction from the Designate. This suspension and the reasons for it shall be reported to the Board.

Refusal to Conduct Code Hearing

If the Designate is of the opinion that the Complaint was not submitted as soon as practical in an expeditious, timely manner, or not made in good faith, or that there are no grounds or insufficient grounds to justify a Code Hearing, they shall prepare a confidential report to all the Trustees stating their rationale as to why the matter should not proceed. The Designate shall provide a copy of this report to the Board prior to or at the start of the Code Hearing, and the Voting Trustees shall draft and vote on a resolution to determine whether the Complaint should be dismissed on this basis. Neither the Complainant nor the Respondent shall vote on the resolution. If the opinion is adopted by the Board a formal Code Hearing shall not be conducted.

Sanctions

Sanctions for a violation of the Code should be imposed in a remedial and restorative manner and should be proportionate to and reflect the seriousness of the infraction and any reoccurring infraction(s). A sanction would arise from a resolution passed by a majority of Voting Trustees in a Code Hearing.

Sanctions may not be imposed if the Board determines that there was no breach of the Code.

Examples of sanctions include the following:

1. Having the Respondent write a letter of apology;
2. Having the Respondent participate in a restorative process;
3. Having the Respondent participate in specific training, coaching or counselling as directed by the Board. This may be in consultation with the Complainant and take into consideration what the Complainant deems would be beneficial;
4. Having the Board Chair (or Designate) write a letter of censure marked "personal and confidential" to the Respondent;
5. Passing a motion of censure;
6. Removing the Respondent from one (1), some or all Board committees or other discretionary appointments of the Board.

The Board may, in its discretion and by resolution, make public any outcomes(s) of the Official Complaint Process if it is considered reasonable and appropriate to indicate publicly its disposition of the Complaint.

The Board has no power to declare the Respondent's seat vacant.

A Respondent who is removed from part of a meeting of the Board, Board committees or discretionary appointments of the Board is not entitled to receive any materials that are not available to members of the public.

The sanctions against a Respondent shall be deemed to be authorization for the Respondent to be absent from the meeting, and therefore, not in violation of the *School Act* regarding absences from meetings.

Review Process

Upon determining a violation of the Code by a Respondent, the Board will:

- Provide the Respondent with a written notification outlining the outcome of the Complaint, the rationale behind the decision, and any sanctions applied by the Board;
- Advise the Respondent of their right to submit a written appeal concerning the outcome or sanctions to the Board, specifying a deadline for submission that is no less than fourteen (14) days from the receipt of the notification, in writing; and
- Review any appeal submitted by the Respondent and decide to either uphold, overturn, or modify the outcome or sanction within 14 days of receiving the appeal.

The Board's decision to uphold, overturn, or modify an outcome or sanction will be formalized through a resolution by the Voting Trustees as part of a closed (In-Camera) meeting.

A decision to modify a prior resolution of the Board requires a two-thirds majority vote of the Voting Trustees.

Public disclosure of the Complaint and any resulting direction of the Board may be disclosed by the Board Chair or Designate only at the direction of the Board.

The outcomes of these votes, along with the rationale for the decision will be documented in the meeting minutes. The Board will notify the Respondent in writing of the decision to uphold or overturn the resolution, including the reasons behind the decision, and of any decision to uphold, modify, or rescind a sanction. The Board's decision is final and binding.

Only the Voting Trustees who participated in the original deliberations of the Complaint shall be permitted to vote on an appeal. The Respondent may attend the deliberations but is not permitted to participate or respond to queries during the meeting.

If deemed suitable, the initial sanction may be suspended while the Board considers the appeal.

Should the Board overturn the prior resolution, any associated sanctions will be nullified.

If the Board upholds the prior resolution, it will, within the subsequent fourteen (14) days, either reaffirm, adjust, or rescind the sanctions.

Any adjustments or cancellations of sanctions will take effect retroactively, dating back to when the initial finding was made to the extent possible.