



POLICY 1.41 – ADDRESSING BREACHES OF THE TRUSTEE CODE OF CONDUCT

Trustees are required to conduct themselves in an ethical and prudent manner in compliance with the Policy 1.40 Trustee Code of Conduct (the “Code”). The failure by Trustees to conduct themselves in compliance with the Code may result in the Board of Education’s instituting sanctions.

The Board believes that it is essential to have a clear, fair, and effective process for ensuring the adherence to and enforcement of the obligations established under the Code. Trustees also believe that Trustee discipline processes must not be used for frivolous, vexatious, or bad faith reasons, or as a response to legitimate disagreements that have been expressed in a manner consistent with this Code on matters relating to the Board’s business.

A Trustee who believes that a Trustee has violated the Code is encouraged to seek resolution of the matter through the Informal Complaint Process when possible, prior to commencing a formal complaint under the Code.

1. Conduct constituting breach of the Code of Ethics and Conduct

- 1.1. Allegations of breaches of the Code may arise in many diverse circumstances and it is not possible to exhaustively specify in advance what conduct constitutes a breach of this Code.
- 1.2. The Board recognizes that disciplinary proceedings concerning Trustees are serious matters not to be taken lightly, having regard to the democratically elected nature of the Trustee’s role and that such proceedings must not be utilized as a response to legitimate policy disagreements.
- 1.3. Notwithstanding the above, the following are provided as examples of conduct that could be subject to sanction or to proceedings:
 - 1.3.1. Where a Trustee violates the law, or advocates the violation of a law;
 - 1.3.2. Where a Trustee’s conduct is a violation of expected standards of parliamentary decorum, is uncivil, or is otherwise disruptive of the meetings of the Board;
 - 1.3.3. Where a Trustee breaches the confidences of the Board;
 - 1.3.4. Where a Trustee’s conduct gives rise to a breach of the Human Rights Code;
 - 1.3.5. Where a Trustee’s conduct is discriminatory or otherwise in breach of a policy of the Board;

Policy 1.41 Addressing Breaches of the Trustee Code of Conduct

- 1.3.6. Where a Trustee fails to disclose a conflict of interest or acts while in conflict of interest;
- 1.3.7. Where a Trustee harasses or otherwise engages in misconduct in relation to School district staff;
- 1.3.8. Where a Trustee engages in personal attacks on other Trustee's or staff members' integrity or conduct or otherwise defames them;
- 1.3.9. Where the Trustee's conduct exposes the Board to potential liability; or
- 1.3.10. Where the Trustee's conduct is otherwise a clear breach of the Trustee Code of Conduct.

1.4. Trustees must recognize that breaches can occur when using social media.

2. Informal Complaint Process

- 2.1. It is recognized that a contravention of the Code may occur that is relatively minor, or committed inadvertently or due to an error of judgment made in good faith. In such instances the priority shall be to alert the offending Trustee to the violation and their obligations under the Code. Only serious and/or reoccurring breaches of the Code should be investigated following the formal complaint procedure.
- 2.2. Any Trustee, the Superintendent or the Secretary-Treasurer who has reasonable grounds to believe that a Trustee has breached the Code, shall seek resolution in an informal, cooperative fashion marked by mutual respect with an openness to growth and improvement.
- 2.3. The party will engage in an individual private conversation with the Trustee affected.
- 2.4. Failing resolution through the private conversation the parties will engage the Board Chair, Vice-Chair or designate to gain resolution. If the concern is with the Board Chair, the concern should be raised with the Vice-Chair.
- 2.5. The Board Chair and at the Board Chair's option the Board Chair and Vice-Chair will attempt to resolve the matter to the satisfaction of the Trustees involved.
- 2.6. It is recognized that for reasons which may include the nature of the issue of concern or the way it has come to a Trustee's attention, informal measures may not be appropriate.
- 2.7. If resolution through the Informal Complaint Process is not possible, the Formal Complaint Process will be followed.
- 2.8. All serious and/or reoccurring breaches of the Code by a Trustee should be addressed following the Formal Complaint Process.

Policy 1.41 Addressing Breaches of the Trustee Code of Conduct

3. Formal Complaint Process

- 3.1. Any Trustee who has reasonable grounds to believe that another Trustee has breached this Code, the Superintendent or the Secretary-Treasurer may bring an alleged breach (“Complaint”) to the attention of the Board Chair or designate.
- 3.2. Where an allegation is made against the Board Chair, all other references to the Board Chair in this Policy shall be deemed to read “Vice-Chair.”
- 3.3. Absent exceptional circumstances, an allegation of a breach of the Code must be brought to the attention of the Board Chair within 30 days after the breach comes to the knowledge of the Complainant.
- 3.4. The Complaint shall be in writing, signed by the Complainant advancing it, and shall contain:
 - 3.4.1. the name of the Trustee who is alleged to have breached the Code;
 - 3.4.2. the alleged breach or breaches of the Code;
 - 3.4.3. information as to when the breach came to the Complainant's attention;
 - 3.4.4. the grounds for the belief by the Complainant that a breach of the Code has occurred; and
 - 3.4.5. the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.
- 3.5. A Complainant may withdraw the Complaint, but if, in the opinion of the Board Chair, the interests of the Board so require, the Board Chair may proceed with the consideration of the Complaint in accordance with this Policy, notwithstanding the withdrawal.

4. Notification of Trustees

- 4.1. A copy of the complaint will be forwarded to all Trustees, including the allegedly breaching Trustee, the Superintendent and Secretary-Treasurer, within seven (7) days of receiving it.
- 4.2. The filing, notification, content and nature of the complaint shall be deemed to be strictly confidential, the public disclosure of which shall be deemed to be a violation of the Code.
- 4.3. Public disclosure of the complaint and any resulting decision taken by the Board of Education may be disclosed by the Board Chair only at the direction of the Board of Education, following the disposition of the complaint by the Board of Education at a Code hearing.

5. Decision Not to Proceed on Complaint

Policy 1.41 Addressing Breaches of the Trustee Code of Conduct

- 5.1. If the Board Chair is 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 to proceed, the Board Chair shall prepare a confidential report to all Trustees stating their opinion and its rationale. The Trustees, excluding the Trustee who is alleged to have breached the Code, shall determine by resolution whether, notwithstanding the Board Chair's opinion, to continue proceedings with respect to the Complaint.

6. Investigation

- 6.1. The Board Chair may direct the appointment of an independent investigator to investigate the circumstances of the alleged breach and report to the Board. It is recognized that not all allegations of breach require the appointment of an independent investigator, but that allegations of a breach of this Code may be adequately addressed through the processes outlined below. If an independent investigator is appointed, the independent investigator shall determine their own investigative procedure within the scope of terms of reference established by the Board Chair with the assistance of counsel. The Trustee who is the subject of the Complaint (the "Respondent Trustee") shall be provided a fair opportunity to respond to the Complaint to the independent investigator.
- 6.2. The independent investigator shall prepare a report that will be provided to the Board and the Respondent Trustee.

7. Processes may be amended

- 7.1. If, in the opinion of the Board, the circumstances of a particular Complaint so require, the Board may amend these processes, but in no case shall the Respondent Trustee be denied procedural fairness.

8. Inquiry Procedure

- 8.1. All meetings in respect of Trustee discipline will be conducted in an *in-camera* meeting.
- 8.2. The Secretary-Treasurer is responsible to facilitate the Board's process and make any administrative arrangements for the Board's consideration of a Complaint against a Trustee.
- 8.3. The Complainant and the allegedly breaching Trustee may make representations to the Board in respect of the Complaint.
- 8.4. A Complaint may be considered on the basis of written representations, oral representations or a combination of both, as determined by the Board. Where an independent investigation has occurred, the investigator's report shall be placed before the Board. The Secretary-Treasurer will make arrangements to

Policy 1.41 Addressing Breaches of the Trustee Code of Conduct

- provide relevant documents to the Board and the Trustee who has allegedly breached the Code.
- 8.5. The Trustee may be represented by counsel or another representative, at their own expense, unless the Board determines otherwise, provided that counsel or representative agrees to maintain the confidentiality of the proceedings. The Board may have counsel to assist the Board with matters of procedure, law, and in respect of its deliberations.
 - 8.6. Witnesses will not be called and cross examination will not be permitted at any meeting concerning a Complaint. The Complainant and allegedly breaching Trustee may be asked questions of clarification by the other Trustees in respect of their written and oral representations.
 - 8.7. The Board will endeavor to address any Complaint within 90 days of receipt by the Board Chair. Consideration of a Complaint may, if in the opinion of the Board circumstances so require, be deferred if the matter is subject to investigation by the police or to proceedings under any applicable legislation.
9. Trustee Deliberations and Decision
- 9.1. Following receipt of submissions by the Respondent Trustee, the Complainant and the other information before the Board in accordance with this Policy, the Trustees, excluding the Respondent Trustee, and, if the alleged misconduct is directed at another Trustee, excluding that other Trustee, shall deliberate in an *in-camera* session.
 - 9.2. Trustees will reach a decision with respect to whether a breach of the Code of Conduct occurred, what that breach was, and what, if any, sanction will be imposed.
10. Sanctions
- 10.1. If the Board determines that there has been no breach of the Code of Conduct or that although a contravention occurred, the Trustee took all reasonable measures to prevent it, or that the contravention was trivial or committed through inadvertence or an error of judgment made in good faith, no sanction shall be imposed.
 - 10.2. Where a sanction is to be imposed, Trustees will determine, by resolution, the appropriate level. Sanctions for a violation of the Code should be imposed in a remedial and restorative manner and should reflect the seriousness of the breach.
 - 10.3. Sanctions may include:
 - 10.3.1. having the offending Trustee write a letter of apology;

Policy 1.41 Addressing Breaches of the Trustee Code of Conduct

- 10.3.2. having the offending Trustee participate in a restorative justice process;
 - 10.3.3. having the offending Trustee participate in specific training, coaching or counselling as directed by the Board of Education;
 - 10.3.4. having the Board Chair write a letter of censure marked “personal and confidential” to the offending Trustee;
 - 10.3.5. having a motion to remove the offending Trustee from one, some or all Board of Education committees or other appointments of the Board of Education, for a period of time, barring the Trustee from sitting on one or more committees of the Board.
 - 10.3.6. any other sanction the Trustees consider appropriate in the circumstances.
- 10.4. A Trustee who is barred from attending all or part of a meeting or meetings of the Board or a meeting or meetings of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting that are not available to members of the public.
11. Publication of Decision
- 11.1. The Board may, in its discretion and by resolution of the Voting Trustees, determine to publish any sanctions respecting a Trustee, including disclosing the substance of the Complaint, the Board’s decision and any sanction imposed.
 - 11.2. Personal privacy of any affected third party will be protected in accordance with the Freedom of Information and Protection of Privacy Act.
12. Powers of Presiding Officer Preserved
- 12.1. Nothing in this Policy prevents the Board from exercising its power pursuant to s. 70 of the *School Act* to expel or exclude from any meeting any Trustee person who has been guilty of improper conduct at the meeting without the necessity of a complaint or conducting an investigation or other inquiry before an expulsion or exclusion from a meeting.
13. Appeal of Decision
- 13.1. Trustees who have been sanctioned or have had other measures imposed upon them by the Board of Education under this Policy can appeal those decisions through the legal system, at their own expense.