

ACCOUNTABILITY AND TRANSPARENCY AT THE TDSB



Presentation to the Trustees of the Toronto District School Board

September 13, 2016

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Accountability

- ▶ The *Education Act*, R.S.O 2001:
 - ▶ Sets out duties of board members
 - ▶ Gives school boards authority to adopt codes of conduct that apply to board members
- ▶ TDSB Bylaw, August 26, 2015
 - ▶ Sets out Accountability Framework
 - ▶ Board Member Code of Conduct
 - ▶ Integrity Commissioner

Background

- ▶ Several high profile reports brought integrity into the public spotlight
- ▶ Wilson Report, January 2015
- ▶ Hall Advisory Panel Report, August 2015
 - ▶ Blurred lines of responsibility
 - ▶ Board Integrity Commissioner, Board Ombudsman, Board Human Rights Office, Board Secretary

The Province of Ontario responds

- ▶ Ms. Wilson's report paved the way for a review conducted by the panel led by Ms. Barbara Hall
- ▶ Liz Sandals, Minister of Education - appointed a seven member advisory panel to lead public consultations about how to improve the governance structure at the Toronto District School Board
- ▶ The panel confirmed that a "culture of fear" permeates the highest levels of bureaucracy

What does this mean for Trustees?

- ▶ All Trustees are subject to the accountability rules contained in the:
 - ▶ Board Member Code of Conduct
 - ▶ Complaint Protocol for the Board Member Code of Conduct
 - ▶ *Education Act, s.218.1*
 - ▶ TDSB Bylaws (including Respectful Workplace policies)
 - ▶ Human Rights Code

Ombudsman Ontario

- ▶ On January 1, 2016, the Ontario Ombudsman was invested with power to investigate:
 - ▶ Anyone with an unresolved concern about a school board - including parents and family members, school board staff and trustees, teachers or special interest groups - can contact the Ombudsman about a decision, recommendation, action or omission which affects any person in his or her personal capacity
 - ▶ The Ombudsman is an office of **last resort**. The Office has said that individuals should attempt to resolve complaints directly with the school board first through discussions with a teacher, vice-principal or principal. If that does not resolve the matter, with a school board superintendent or other board official
 - ▶ The jurisdiction of the Ombudsman was expanded to include the investigation of a matter within the jurisdiction of the: municipal Ombudsman, Integrity Commissioner and Auditor General and on his/her *own motion*

The Ontario Ombudsman

- ▶ Will not investigate:
 - ▶ Until the appeal process has been exhausted
 - ▶ For any matters under the jurisdiction of the Integrity Commissioner,
 - ▶ Until a complaint is filed but a decision is made to not investigate
 - ▶ An investigation has been completed
 - ▶ The time for filing a complaint has expired
 - ▶ Until the appeal process has been exhausted
- ▶ The Ontario Ombudsman may investigate and overrule a decision by the Integrity Commissioner

New Ombudsman jurisdiction: what does this mean for school boards?

- ▶ Limits to the investigation powers of the TDSB Integrity Commissioner
- ▶ Govern Yourselves Accordingly by:
 - ▶ Remembering that the Ombudsman is the process of last resort
 - ▶ Developing, implementing and communicating clearly, fair and transparent complaint processes
 - ▶ Establishing procedures that identify and address provisions in complaint processes that overlap with the Code of Conduct (i.e. Occupational Health and Safety)

TURNING THE PAGE: BUILDING TRUST

- CODE KEY PRINCIPLES
- Trustees shall:
 - Act with fairness toward all and not to any specialized interest group
 - Avoid any interest or activity which is or may be perceived to be in financial and personal conflict with officials duties
 - Responsibly oversee management of the public purse
 - Facilitate complete, understandable and timely access to information by the public

MOVING FORWARD: PROCEED WITH CAUTION

- ▶ Chair, Trustees and Staff – *acting internally*
- ▶ Gifts, Benefits and Hospitality – *acting externally*
 - ▶ Supporting the Community
 - ▶ Receiving support
- ▶ Access, Confidentiality and Privacy – IPC Order MO-3281

TRUSTEE BIAS

- ▶ It is a generally agreed principle of the law that a decision-maker should be free of bias and should be perceived to not be biased in making their decisions.
- ▶ However, the law recognizes that elected officials will have various decision-making roles
- ▶ *MCOI Act*: Where Trustee has a pecuniary interest in a matter before the Board
- ▶ “Pecuniary Interest” means:
 - A financial interest; or
 - Things that can be measured in terms of financial value

CODE OF CONDUCT COMPLIANCE and BEYOND

- Within the Integrity Commissioner's jurisdiction
 - Advice and Recommendations
 - Complaint Procedure
 - General communications to the boards on matters that intersect with Code rules
 - Expressly overrides MFIPPA
- Outside the Integrity Commissioner's jurisdiction to investigate
 - Municipal Conflict of Interest Act
 - *Municipal Elections Act* (Compliance Audits)
 - Complaints regarding TDSB Administration
 - Human Rights, Workplace Harassment, Whistleblowing complaints ***in matters between staff/Administration***

ETHICS: Doing the right thing when held to a higher standard

At his trial for fraud, breach of trust, and bribery, Senator Mike Duffy said under oath that he had listened to all the previous testimony and, “No one has taken the stand to say I didn’t follow the rules.” (Tor Star, April 3/16)



Wynne promises new fundraising rules after Toronto Star probe
Sweeping changes to political fundraising will be unveiled this fall, says Premier Kathleen Wynne (Tor Star, March 29/16).



Final Comments

- ▶ Code of Conduct Objective
 - ▶ Transparency, accountability and public confidence are fundamental components for the effective governance of school boards as public bodies responsible to their communities and to the provincial government. The conduct of the members of the TDSB must be of the highest standard to maintain the confidence of the public

Rule 1.1 TDSB Board Member Code of Conduct

Next steps

- ▶ Receive comments or questions from Trustees as a follow up to today's Code overview session
- ▶ A follow up Memorandum will go out to the Board with clarifications from today's session
- ▶ Outreach and Education to TDSB Administration to assist in clarification of roles and responsibilities of Trustees

Ethical decision-making checklist

- ▶ What are the Facts?
- ▶ What ethical values are involved?
- ▶ What are the competing rules to consider (TDSB policies, Provincial statutes)?
- ▶ Which option best reflects your responsibilities as a Board Trustee and best promotes public confidence in the TDSB?

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 - ▶ Complaints and Inquiries:
 - ▶ To the attention of:
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