



P075, Board Member Code of Conduct: Re-affirmation

To: Governance and Policy Committee

Date: 24 April, 2019

Report No.: 04-19-3634

Strategic Directions

- Transform Student Learning
- Create a Culture for Student and Staff Well-Being
- Provide Equity of Access to Learning Opportunities for All Students
- Allocate Human and Financial Resources Strategically to Support Student Needs
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being

Recommendation

It is recommended that the Board Member Code of Conduct (P075), dated November 22, 2017, be confirmed without change, effective May 22, 2019, in accordance with Ontario Regulation 246/18.

Context

The TDSB's Board Member Code of Conduct (P075) was first adopted on September 21, 2005 and most recently revised on November 22, 2017.

Recent changes to *Ontario Regulation 246/18: Members of School Boards – Code of Conduct* require school boards to adopt or confirm a trustee code of conduct no later than 15 May, 2019. For school boards who have an existing trustee code of conduct, the legislation requires boards to review the code, and;

- a) determine if changes are required and make appropriate amendments,

OR

- b) if no changes are required, pass a resolution indicating that the code has been reviewed and confirmed as written.

In addition, every school board must review its trustee code of conduct by May 15th every fourth year thereafter. All trustee codes of conduct are required to be made available to the public. TDSB's Code of Conduct is posted on the Board's public website.

Referenced below is an excerpt from Ontario Regulation 246/18: Member of School Boards – Code of Conduct:

(3) A board shall review a code of conduct by complying with the following requirements:

- i. The board shall determine whether any changes are required to the code of conduct and,
- ii. if changes are required, make the required changes, or
- iii. if no changes are required, confirm the existing code of conduct

Staff, has consulted with the Integrity Commissioner and reviewed TDSB's Board Member Code of Conduct (P075). No further changes are being recommended at this time.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's directions, the Code of Conduct will be provided to the Board of Trustees at the May 22, 2019 Board Meeting for final approval.

Resource Implications

No additional resources will be required.

Communications Considerations

Subject to Board approval, the TDSB's Board Member Code of Conduct (P075) will be communicated to the Trustees and to staff through the System Leaders' Bulletin. The reaffirmed Board Member Code of Conduct will be posted on the TDSB's public website.

Board Policy and Procedure Reference(s)

- Governance Policy (P086)

Appendices

- Appendix A: Board Member Code of Conduct (P075) - current

From

Lori Barnes, Executive Officer, Governance and Board Services at
lori.barnes@tdsb.on.ca or at 416-397-3516

Toronto District School Board

Policy P075

Title:	BOARD MEMBER CODE OF CONDUCT
Adopted:	September 21, 2005
Effected:	September 21, 2005
Revised:	November 26, 2008; September 23, 2009; June 18, 2014; June 17, 2015; November 22, 2017
Reviewed:	November 2012; June 2013; May 24, 2014; November 22, 2017; [New Date]
Authorization:	Board of Trustees

1.0 RATIONALE

This Board Member Code of Conduct (“Code of Conduct”) supports both legislated requirements and Board-established by-laws, policies and procedures that set out the governance and accountability framework at the Toronto District School Board (TDSB). The *Education Act* gives school boards the authority to adopt codes of conduct that apply to board members. This Code of Conduct supports the Board’s commitment to meeting high standards of conduct by trustees and staff.

2.0 OBJECTIVE

To establish governing principles and standards for expected ethical behavior by members of the Board of Trustees.

3.0 DEFINITIONS

Board means the Toronto District School Board, which is also referred to as the TDSB.

Discrimination means discriminatory behavior as indicated by the TDSB Workplace Violence and Harassment Prevention policies and the Ontario Human Rights Code.

Harassment means harassing behavior as indicated by the TDSB Workplace Violence and Harassment Prevention policies and the Ontario Human Rights Code.

Integrity Commissioner means the Integrity Commissioner appointed by the Board of Trustees in accordance with the Toronto District School Board Bylaws.

Members of the Board (also referred to as trustees) means the Chair and all members of the Board of Trustees.

Official Business means duties and responsibilities of trustees as prescribed by the *Education Act* and further explained in the Governance Policy (P086), and directly related to operations of the Toronto District School Board.

Staff members means employees of the Toronto District School Board.

Trustee Office means the authority and public duties attached to the position of being elected as a TDSB Trustee.

4.0 RESPONSIBILITY

The Board of Trustees, the TDSB's Integrity Commissioner and the Director of Education.

5.0 APPLICATION AND SCOPE

This Code of Conduct applies to all members of the Board of Trustees.

6.0 POLICY

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 Board of Trustees must be of the highest standard to maintain the confidence of the public.

This Board Member Code of Conduct ("Code of Conduct") represents the Board's commitment to meeting high standards of conduct.

- 6.1** The following principles are a guide to the interpretation and application of the Code of Conduct:
- (a) Members of the Board shall serve and be seen to serve their school communities in a constructive, respectful, conscientious and diligent manner;
 - (b) Members of the Board shall recognize the public trust in the expenditure of TDSB funds efficiently and in the best interests of students;
 - (c) Members of the Board should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
 - (d) Members of the Board are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and

- (e) Members of the Board shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the bylaws and policies adopted by the Board.
- (f) Members of the Board agree to the common understanding that individual trustees will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual Trustee which is not available to every other individual. Allowable activities include those activities that are reasonably related to a Trustee's office, taking into consideration the different interests and the diverse profiles of their wards/communities.
- (g) Members of the Board recognize that their Oath of Office binds them to the provisions of the *Municipal Conflict of Interest Act* (MCIA). The Integrity Commissioner has no authority to receive or investigate complaints regarding alleged contraventions of the MCIA.
- (h) This Code of Conduct operates as a supplement to the existing statutes governing the conduct of members of the Board in all their roles. The following primary provincial and federal legislation govern the conduct of members of the Board:
- *Criminal Code of Canada.*
 - *Education Act*
 - *Municipal Conflict of Interest Act*
 - *Municipal Elections Act, 1996*
 - *Municipal Freedom of Information and Protection of Privacy Act*
 - *Occupational Health and Safety Act*
 - *Ombudsman Act*
 - *Ontario Human Rights Code*
- (i) The Integrity Commissioner should be consulted for advice by members of the Board if the application of any section of this Code of Conduct is unclear.

6.2 Confidential Information

- (a) No member of the Board shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by the Board to do so. This is a continuous obligation that extends beyond the member's term of office.
- (b) Members of the Board should not access or attempt to gain access to confidential information in the custody of the Board unless it is necessary for the performance of their duties and not prohibited by Board policy.

- (c) Confidential information includes information in the possession of, or received in confidence by the TDSB, that the TDSB is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”), or other legislation, or received in confidence from other third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.
- (d) Under the TDSB Bylaws, a matter that has been discussed by the Board of Trustees in closed session in accordance with section 207(2) of the *Education Act* is confidential. No member of the Board shall disclose the content of any such matter, or the substance of deliberations, of the closed session meeting until the Board of Trustees discusses the information at a meeting that is open to the public or releases the information to the public.
- (e) Confidentiality may attach to information concerning:
- Litigation or any potential litigation affecting the Board;
 - 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 his or her parent or guardian;
 - The acquisition or disposal of the Board’s real property, including a school site;
 - Decisions in respect of negotiations with the staff members of the Board;
 - Information deemed to be “personal information” under the MFIPPA;
 - Information subject to solicitor-client privilege.
- (f) Individual members of the Board are only entitled to information in the possession of the TDSB that is relevant to matters before the Board or a committee of the Board. Otherwise, an individual Trustee enjoys the same level of access rights to information as any other member of the community.
- (g) If there is uncertainty about whether information is confidential, the member of the Board should check with the appropriate staff member, consult with the Director of Education or seek the advice of the Integrity Commissioner.

6.3 Gifts, Benefits and Hospitality

Members of the Board are expected to carry out their duties with impartiality and objectivity. Members must decline from accepting a gift, benefit or hospitality because of the risk that this will compromise the objectivity of the member of the Board or lead to an appearance of lack of objectivity, bias or influence on the part of the member. For these purposes, a gift, benefit or hospitality provided with the member’s knowledge to a member’s spouse, child, or parent, or to a member’s staff

that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member of the Board.

There are circumstances in which the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official and his/her role in representing the Board. For that reason, this section outlines the limited exceptions to the rule that members of the Board should not accept any gifts or benefits from persons connected directly or indirectly to their public office.

The following are recognized as exceptions, which do not apply in the case of vendors of goods and services, or those expecting to be vendors to the TDSB:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity. For the purposes of this exception, "*official capacity*" refers to attendance in a ceremonial, presentational or representational role on behalf of the Board or where the TDSB has authorized the member to attend on behalf of the organization;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - i. attendance serves a legitimate business purpose;
 - ii. the person extending the invitation or a representative of the organization is in attendance; and
 - iii. the value is reasonable and the invitations infrequent;
- (h) communication to the offices of a member, including newspapers and periodicals;

- (i) gifts of a nominal value (e.g., baseball cap, t-shirt, book etc.) valued at no more than \$25.00.

An invitation to attend a function where the invitation is connected directly with the performance of a Member's duties of office (i.e. for which the Trustees has a ceremonial, presentational or representational official role) is not considered by this Code of Conduct, to be a gift. This type of attendance is considered to be fulfillment of official public duties.

6.4 Use of Board Property, Services and Other Resources

No member of the Board should use, or permit the use of Board staff members, Board events, Board facilities, Board funds, Board information and Board infrastructure or other resources (e.g., Board-owned materials, websites, and social media platforms) for activities other than the business of the TDSB. No member of the Board may obtain personal financial gain from the use or sale of Board-developed intellectual property (e.g., inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Board.

6.5 Election Campaign Work

Election activity refers to campaigns for municipal, provincial and federal office or campaigns on a question on a ballot.

No member of the Board shall use the facilities, equipment, supplies, services or other resources of the Board (including newsletters, social media sites and websites linked through the Board's website, contact information including email addresses obtained as a result of the member's performance of his or her duties as a Trustee) for any election campaign or campaign-related activities. No member of the Board shall undertake campaign-related activities on Board property unless permitted by Board policy. No member of the Board shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Board.

6.6 Improper Use Of Influence

- (a) No member of the Board shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties. This includes using the influence of the office to obtain employment for a family member, or otherwise using one's status as a member of the Board to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within the Board in return for present actions or inaction. It includes refraining from

using one's status to improperly influence the decision of another person to improperly prejudice another person or persons.

- (b) For the purposes of this provision, "private advantage" and "improperly prejudice" does not include a matter:
 - i. that is of general application;
 - ii. that affects a member of the Board, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
 - iii. a committee or Board matter that concerns the remuneration or benefits of a member of the Board.

6.7 Conduct Regarding Current And Prospective Employment

No member of the Board shall allow any current employment or the prospect of his or her future employment by a person or entity to improperly or for personal gain affect the performance of his or her duties to the Board.

6.8 Conduct At Board And Committee Meetings

Members of the Board act in the service of the community. They have the opportunity to set an example for future leaders who may look to them for guidance and leadership. They are expected to respect the procedural rulings of the Chair. They are expected to refrain from verbally attacking or belittling those who complain or do not agree with them. It is vital that members of the Board conduct themselves with decorum at board and committee meetings and in accordance with the provisions of the TDSB's Bylaw concerning meeting procedures.

6.9 Conduct Respecting Staff Members

- (a) No member of the Board shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff members of the Board, and all members of the Board shall show respect for the professional capacities of staff members.
- (b) No members of the Board shall compel staff members to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. No member of the Board shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

- (c) Members of the Board shall carry out their duties as defined within section 218.1 of the *Education Act*. The Board of Trustees as a whole approves budget, policy, Committee processes, and other such matters. Staff members serve the Board of Trustees as a whole. Members of the Board shall be respectful of the role of staff members to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Board of Trustees. Board members will respect the distinct roles of staff in implementing policy in accordance with the provisions of the *Education Act* and the Board's Governance Policy (P086).

6.10 Discreditable Conduct

- (a) All members of the Board have a duty to treat members of the public, one another, and staff members respectfully and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. This provision applies to all forms of written and oral communications, including via social media.
- (b) Harassing or discriminatory behavior, as indicated in the TDSB Workplace Harassment Prevention and Human Rights policies and the *Ontario Human Rights Code*, which occurs in the course of, or is related to, the performance of official business and duties of Board Members, is subject to this Code of Conduct. If an employee or a member of the public brings forward a harassment complaint against a Member of the Board to the TDSB Human Rights Office, it shall be immediately forwarded to the Integrity Commissioner. If a complaint is filed with the Integrity Commissioner, after an initial assessment, they shall consult with the TDSB Human Rights Office and then determine the appropriate next steps, including referral of the complaint to an independent investigator. Upon receipt of the independent investigator's findings, the Integrity Commissioner shall make a final determination on Board Member Code of Conduct compliance.

6.11 Failure To Adhere To The Board Policies And Procedures

- (a) A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by the Board. More generally, members of the Board are required to observe the terms of all policies and procedures established by the Board that apply to members of the Board.
- (b) Members shall comply with the provisions of the Employee and Trustee Expenses Policy (P016) and corresponding procedures as amended from time to time.

6.12 Reprisals And Obstruction

- (a) Members of the Board should respect the integrity of this Code of Conduct and are obliged to cooperate with inquiries conducted in accordance with the procedures set by the Board for addressing complaints of a breach of this Code of

Conduct. Any reprisal or threat of reprisal against a complainant or anyone else for providing relevant information to the Integrity Commissioner is prohibited. The TDSB's Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066) applies. It is a violation of this Code of Conduct to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, for example, by destroying documents or erasing electronic communications.

- (b) Members of the Board have a duty to respond to and comply with all requests of the Integrity Commissioner and failure to do so is a violation of this Code of Conduct.

6.13 Acting On Advice Of Integrity Commissioner

- (a) If there is uncertainty about whether an action or activity refers to conduct prohibited by the Code of Conduct, the member of the Board may directly seek the advice of the Integrity Commissioner. Only following an investigation by the Integrity Commissioner can a determination of violation of the Code of Conduct be made.
- (b) Where a member of the Board has received written advice from the Integrity Commissioner on a particular matter, the advice is binding on the Board in any subsequent consideration of the conduct of the member in the same matter as long as the member of the Board disclosed all relevant facts to the Integrity Commissioner at the time the advice was provided.

6.14 Compliance With The Code Of Conduct

The *Education Act* authorizes the Board of Trustees to impose one or more of three sanctions on a member of the Board following an inquiry into whether the member has breached this code of conduct.

- i. Censuring the member of the Board;
- ii. Barring the member of the Board from attending all or part of a meeting of the Board of Trustees or a meeting of the committee of the Board of Trustees;
- iii. Barring the member of the Board from sitting on one or more committees of the Board of Trustees, for the period of time specified by the Board of Trustees;

Where the Board of Trustees has appointed an Integrity Commissioner, she/he following an investigation, may recommend to the Board the following remedial actions:

Any remedial actions that the Integrity Commissioner deems appropriate and necessary, for example, directing the member to return a gift, reimburse a donor

for the value of any gift or benefit already consumed, or to remit the value of any gift or benefit already consumed to the TDSB.

7.0 SPECIFIC DIRECTIVES

The Board of Trustees has authority to issue operational procedures to implement this policy.

8.0 EVALUATION

This Code of Conduct is to be reviewed and updated as required but at a minimum every four (4) years.

9.0 APPENDICES

N/A

10.0 REFERENCE DOCUMENTS

Policies:

- Employee and Trustee Expenses (P016)
- Governance Policy (P086)
- Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066)
- TDSB Bylaws
- Workplace Harassment (P034)
- Workplace Violence Prevention (P072)

Procedures:

- Code of On-line Conduct (PR571)
- Trustee Expenditure Guidelines (PR582(b))

Legislation:

- *Criminal Code of Canada*
- *Education Act*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Occupational Health and Safety Act*
- *Ombudsman Act*

- *Ontario Human Rights Code*