



Draft Provisions for Information Flow Protocol – New Governance Procedure

To: Governance and Policy Committee

Date: 2 June, 2020

Report No.: 06-20-3894

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 provisions (Appendix A) for the development of the Information Flow Protocol, as presented in this report, be approved.

Context

On June 19, 2019, the TDSB Integrity Commissioner presented to the Board of Trustees the 2018 Annual Report. In the report, the Integrity Commissioner noted a need for clear communication about Trustee access to information under the custody or control of the TDSB.

The Integrity Commissioner recommended that the Board identify which records may be provided to the public and individual Trustees outside of the Freedom of Information process or through an approved access protocol.

On January 27, 2020, Trustees participated in information session - Information Flow for Effective Governance. The Trustees, the Director of Education and the Executive staff discussed legislative framework related to an effective information flow as well as the best practices.

In response to the Integrity Commissioner's recommendation, staff prepared draft provisions for the development of the Information Flow Protocol (Appendix A).

The objective of the Information Flow Protocol is to establish a clear, transparent, fair and efficient process for accessing and requesting information by Trustees.

The draft provisions are aligned with the legislative requirements, including the *Education Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, and are consistent with

best practices of other school boards and municipalities on information flow between elected officials and staff. The provisions are also aligned with the TDSB's Governance Policy (P086), Board Member Code of Conduct (P075), and the Parent Concern Protocol (PR505).

The draft is reflective of suggestions and comments provided by the Trustees and Executive staff during the information session on January 27, 2020.

Action Plan and Associated Timeline

Subject to the Committee's directions and input, the staff will prepare, in consultation with the TDSB Integrity Commissioner, the draft Information Flow Protocol, consistent with the TDSB's standard governance procedure template. The draft Protocol will be presented at a subsequent Governance and Policy Committee meeting for consideration and then provided to the Board of Trustees for final approval.

Resource Implications

No additional resources will be required for implementation of the Protocol.

Communications Considerations

The Protocol will be communicated to the system through the System Leaders' Bulletin, shared with Trustees through Director's Weekly Update, and posted on the TDSB's public website. In addition, the Trustee orientation package will be updated to incorporate the Protocol.

Board Policy and Procedure Reference(s)

- Board Member Code of Conduct (P075)
- Governance Policy (P086)
- Open Data Policy (P091)
- Parent Concern Protocol (PR505)

Appendices

- Appendix A: Draft Provisions for Information Flow Protocol

From

Manon Gardner, Associate Director, School Operations and Service Excellence at 416-394-2041 or manon.gardner@tdsb.on.ca

DRAFT PROVISIONS - INFORMATION FLOW PROTOCOL

1. Objective

To ensure that the Board of Trustees has access to information and support that allows the Board to fulfil their role to:

- govern in a manner that is responsive to all school communities;
- act in the interests of all learners in the district;
- advocate actively for students, their learning and their well-being in the Board's work with the community, the municipality and the province;
- promote confidence in publicly funded education through its communications about the goals and achievements of the Board.

To establish a clear, transparent, fair and efficient process for accessing and requesting information and effective mechanisms for responding to information requests from the Board of Trustees and individual Trustees in accordance with the *Municipal Freedom and Information and Protection of Privacy Act* and other applicable legislation and policies.

2. General Principles

The flow of information between the Board of Trustees, the Director of Education and TDSB staff will uphold the principles of transparency, accountability, fairness, impartiality and effectiveness and will operate in accordance with the *Municipal Freedom and Information and Protection of Privacy Act* and other applicable legislation and policies.

As a collective, the Board of Trustees – the TDSB's governing body – has authority to direct the Director of Education with regard to access to information, including confidential information, under the custody or control of the TDSB.

Individually, Trustees have access to information in the custody or control of the TDSB that is relevant to matters before the Board of Trustees or its Committees. Individual Trustees should not access or attempt to gain access to confidential information.

The Director of Education is responsible for establishing and implementing effective processes for responding to information requests from the Board of Trustees and individual Trustees.

3. Information Requests by Individual Trustees

Individual Trustees need access to appropriate information about their communities. They can also receive information that is readily available or has already been communicated.

For information that is confidential or not readily available, a Board motion is required.

Requests for such information may be submitted by a Trustee through a notice of motion to the Board of Trustees or its Committee (see Board Bylaws, section 5.15 – Motions).

If a Trustee requires a significant amount of additional information related to a Board of Trustees or Committee meeting agenda item, before a decision can be made, the Trustee may move that consideration of the matter be postponed and that the Director of Education provide additional information at a subsequent meeting.

Trustees are encouraged to contact Board Services staff who will advise on the Board's Bylaws requirements and timelines, and provide support with drafting corresponding notices of motion. Trustees may also engage their respective Superintendents of Education or Executive Superintendents if they require assistance.

Once the request is authorized by the Board of Trustees, the information will be prepared by staff in accordance with the Board of Trustees' resolution and presented as a staff report to the Board of Trustees.

4. Sharing Information

Information that is readily available and provided to an individual Trustee will be shared with all Trustees if the requested information is systemic in nature. This may include, for example, key messages and questions and answers related to issues that could impact multiple wards, or ward-specific breakdowns of data.

Information about school programs, consultations, corporate news, announcements, media releases, newsworthy articles, and statements by the Chair of the Board and Director of Education will be shared with Trustees by the Director of Education and designates electronically through emails, Trustees' Weekly, TDSB Update and TDSB Connects.

The Government, Public and Community Relations department, as the Director's designate, will share information with Trustees including school incidents reports, crisis communications information, daily media information and letters for parents and students.

Non-confidential information provided to the Board of Trustees will be publicly available and may be posted on the TDSB's website in accordance with the Board's Open Data Policy (P091).

5. Working with Superintendents of Education

Superintendents of Education will provide timely information and support to their local Trustee about local school-related matters and concerns.

When a local matter has system-wide implications, the respective Superintendents of Education will work with their Executive Superintendent and the Government, Public, and Community Relations Department to inform all Trustees. Protection of privacy, legal obligations as well as the safety and well-being of students and community will be considered and balanced when sharing information.

6. Protection of Privacy and Confidentiality

In accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), no personal information can be provided to an individual Trustee, subject to restrictions and exemptions under MFIPPA and other applicable legislation and policies. Such information can be provided to all Trustees as part of the Board/Committee meeting materials only.

The confidential documents may be provided as library copies on yellow paper to all Trustees physically present at the meeting. For virtual Board/Committee meetings, Trustees will be provided with secure electronic copies of confidential documents.

Closed (private) meeting materials from a previous meeting may be provided to individual Trustees by request to Board Services staff.

In accordance with the Board Member Code of Conduct (P075), it is the responsibility of individual Trustees to ensure that confidential materials provided to them for Board of Trustees or Committee meetings are kept secure at all times and disposed of appropriately.

Upon becoming aware of a potential breach of confidentiality or unauthorized disclosure of personal information, Trustees should immediately notify the Chair of the Board and the Director of Education or designate.

7. Training

Trustees will be provided with an orientation on the Information Flow Protocol as part of the overall orientation for newly elected or appointed Trustees.

All employees involved in managing and processing information requests will receive training on the Protocol as part of their orientation program.

In accordance with the TDSB's Equity Policy (P037), and as part of the TDSB's commitment to equity and anti-discrimination, all Trustees will be provided with equity and anti-oppression training.

Written Notice of Motion for Consideration (Trustee Brown, on behalf of Trustee Kandavel and Trustee Wong)

From: Denise Joseph-Dowers, Manager, Board Services, Governance and Board Services

In accordance with Board Bylaw 5.15.2, notice of the following motion was provided at the regular meeting of the Governance and Policy Committee on April 29, 2020 and is therefore submitted for consideration at this time.

5.15.2 A notice of motion will be introduced by a member who is present as an advance notification of a matter to be considered at a subsequent Board or Committee meeting. A notice of motion will not be debated at the meeting at which it is introduced...

5.15.2 (c) A notice of motion submitted prior to, or at a committee meeting, will be considered at a subsequent committee meeting...

Information Access Protocol

Whereas on June 20, 2018, in her Annual Report, the Board’s Integrity Commissioner, stated:

There should be an expectation and understanding on the part of Board staff that all information that does not fall within an exemption provisions of MFIPPA or confidentiality requirements of the Board, shall be disclosed to Trustees upon request or in accordance with an approved process.

and;

Whereas, on June 19, 2019, in her Annual Report, the Board’s Integrity Commissioner, stated:

I noted, for example, that there was a need for clear communication about Trustee access to information under the custody and control of the TDSB. I recommended that the Board identify which records may be provided to the public and individual Trustees outside of the freedom of information process or through an approved access protocol.

Therefore, be it resolved:

- (a) That the Director work with the Integrity Commissioner to craft a protocol, in compliance with the Ontario *Education Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, that clearly outlines how Trustees can access information, pursuant to their role;
- (b) That the protocol at Part (a) be presented to the next meeting of the Governance and Policy Committee.

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