



## Information Flow Protocol – New Governance Procedure

**To:** Governance and Policy Committee

**Date:** 30 September, 2020

**Report No.:** 09-20-3937

### 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 Information Flow Protocol, as presented in this report, be received for information.

### Context

On June 2, 2020, the Governance and Policy Committee considered draft provisions for the new governance procedure - Information Flow Protocol. The Committee provided comments on the draft provisions and directed staff to work with the Integrity Commissioner and include her recommendations, prior to returning to the Committee for further consideration. Staff undertook to prepare a scan of comparable policies and procedures of school boards and public organizations and to provide it at the subsequent Committee meeting.

The Committee's recommendations were approved by the Board of Trustees on June 17, 2020.

Based on feedback received at the Governance and Policy Committee on June 2, 2020 and in consultation with the Integrity Commissioner, staff prepared the draft Information Flow Protocol (Appendix A) and the scan of selected school boards and organizations (Appendix B). The key revisions to the draft provisions of the Information Flow Protocol made since June 2, 2020 are highlighted in the Appendix C.

The draft Information Flow Protocol is provided for Committee's information.

## **Action Plan and Associated Timeline**

Subject to the Governance and Policy Committee's directions, the draft Information Flow Protocol will be prepared by staff and provided to the Committee for consideration.

## **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: Information Flow Protocol
- Appendix B: Scan of Selected School Boards and Organizations
- Appendix C: Comparison of June 2 and September 30, 2020 versions

## **From**

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# Toronto District School Board

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Governance Procedure [number]

Title: **INFORMATION FLOW PROTOCOL**

Adopted: [insert date]

Effectuated: [insert date]

Revised: N/A

Reviewed: N/A

Authorization: Board of Trustees

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## 1. RATIONALE

The Information Flow Protocol (the “Protocol”) is a governance procedure developed in accordance with the resolution of the Board of Trustees on June 17, 2020 and pursuant to the TDSB Integrity Commissioner’s recommendations with regard to Trustee access to information under the custody or control of the TDSB.

The Protocol is aligned with and supports implementation of the TDSB’s Governance Policy (P086) and the Board Member Code of Conduct (P075).

## 2. 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.

### 3. DEFINITIONS

*Board* is the Toronto District School Board, which is also referred to as “TDSB”.

*Confidential Information* refers to 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.

Confidential information includes matters considered by the Board of Trustees in closed session in accordance with sections 207(2) and 207 (2.1) of the Education Act, which include:

- 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; and/or
- An ongoing investigation under the Ombudsman Act respecting the TDSB.

*Freedom of Information (FOI) Request* is a request under MFIPPA for access to information that is in the custody or control of the Board.

*Personal Information* is recorded information about an identifiable individual. As defined by the MFIPPA this may include, but is not limited to:

- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- Any identifying number, symbol or other particular assigned to the individual;
- The address, telephone number, fingerprints or blood type of the individual
- The personal opinions or views of the individual except if they relate to another individual;
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- The views or opinions of another individual about the individual; and

- The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

#### **4. RESPONSIBILITY**

The Director of Education holds primary responsibility for the implementation of this Protocol.

Within the Director's Office, the responsibility for the coordination and day-to-day management of the Protocol is assigned to the Associate Director, School Operations and Service Excellence.

#### **5. APPLICATION AND SCOPE**

This Protocol applies to TDSB Trustees and staff, including employees involved in managing and responding to requests for information.

The Protocol does not replace or circumvent the Board's Parent Concern Protocol (PR505) for Trustees' interactions with Superintendents of Education and relevant central staff as part of addressing parents' concerns related to school matters.

#### **6. PROCEDURES**

##### **6.1. General Principles**

- 6.1.1. 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 MFIPPA and other applicable legislation and policies.
- 6.1.2. 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.
- 6.1.3. 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 and which would support Trustees' participation in an informed way in upcoming Committee and Board meetings.
- 6.1.4. Individual Trustees will have access to information that is not restricted under MFIPPA. Individual Trustees should not access or attempt to gain access to confidential information.
- 6.1.5. 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.

6.1.1. The types of information that is routinely requested, including aggregate numbers, information about processes, key statistical indicators, etc., will be identified and proactively disclosed and posted on the Board's website in accordance with the TDSB Open Data Policy (P091).

## **6.2. Information Requests by Individual Trustees**

6.2.1. Individual Trustees need access to appropriate information about their communities. They can have information that is readily available and has already been communicated.

6.2.2. Information is considered readily available where information is already in the possession of a TDSB staff member and the retrieval of the information will not require more than two hours for one staff member to complete. Open Data Policy (P091) will be implemented to identify records and information that is frequently requested by Trustees and to ensure proactive and routine disclosure of such information.

6.2.3. For information that is readily available and has already been communicated, individual Trustees may request the information directly from the Director of Education or their designate. Requests:

- Should be in writing
- Will be acknowledged
- Will be responded to during regular business hours

6.2.4. For information that is confidential or not readily available, a Board of Trustees direction is required.

6.2.5. 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).

6.2.6. In addition, Trustees will be provided with a schedule of upcoming reports, including regular annual reports as well as ad hoc reports that will be produced during a school year. The schedule will include targeted Board/Committee meeting dates.

6.2.7. 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 or designate provide additional information at a subsequent meeting.

6.2.8. 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.

6.2.9. 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.

### **6.3. Freedom of Information (FOI) Request**

- 6.3.1. Individual Trustees, like any member of the public, may use the TDSB's FOI Request process to access information in the custody or control of the TDSB.
- 6.3.2. Information requests submitted by FOI Request are processed in accordance with the Freedom of Information and Protection of Privacy Policy (P094) and the MFIPPA.
- 6.3.3. Trustees may contact the Board's FOI and Privacy Office which can advise on the FOI Request process and timelines, which are also available on the TDSB website.

### **6.4. Sharing Information**

- 6.4.1. 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.
- 6.4.2. 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.
- 6.4.3. 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.
- 6.4.4. 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).

### **6.5. Working With Superintendents of Education**

- 6.5.1. Superintendents of Education will provide timely information and support to their local Trustee about local school-related matters and concerns. Clear expectations will be outlined and regularly discussed and reinforced with the Superintendents of Education on information sharing and support to Trustees.
- 6.5.2. When a local matter has system-wide implications, the respective Superintendents of Education will work with their Executive Superintendent to inform all Trustees as soon as practicable. 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.

### **6.6. Protection of Privacy and Confidentiality**

- 6.6.1. 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.
- 6.6.2. Under MFIPPA, some of the circumstances in which government institutions are permitted to disclose personal information include:
- Where the individual has consented to the disclosure;
  - For the purpose for which the personal information was obtained or compiled or for a consistent purpose;
  - Where the disclosure is necessary and proper in the discharge of the institution's functions;
  - For the purpose of complying with another act;
  - For law enforcement purposes;
  - In compelling circumstances affecting the health or safety of an individual;
  - In compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
  - To the Information and Privacy Commissioner; and
  - To the Government of Canada in order to facilitate the auditing of shared cost programs.
- 6.6.3. 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.
- 6.6.4. Meeting materials from previous open (public) meetings are available on the TDSB website:  
<https://www.tdsb.on.ca/Leadership/Boardroom/Agenda-Minutes> and can be accessed by Trustees directly or obtained through a request to Board Services staff.
- For Trustees convenience, the following search engine can be used to search for required reports, agendas and minutes of the Board:  
<https://www.tdsb.on.ca/Leadership/Boardroom/Search-Agenda-Minutes>.
- 6.6.5. Closed (private) meeting materials from a previous meeting may be provided to individual Trustees by request to Board Services staff. "Library copies" will be shared for viewing.

6.6.6. 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.

6.6.7. 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

### **6.7. Training**

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

## **7. EVALUATION**

This Protocol will be reviewed as required, but at a minimum every four (4) years after the effective date.

## **8. APPENDICES**

N/A

## **9. REFERENCE DOCUMENTS**

Legislation:

- *Education Act*
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*

Policies and Procedures:

- Equity Policy (P037)
- Board Member Code of Conduct (P075)
- Freedom of Information and Protection of Privacy Policy (P094)
- Governance Policy (P086)
- Open Data Policy (P091)
- Parent Concern Protocol (PR505)

Other Documents:

- Board Bylaws, December 1, 2018
- Integrity Commissioner Annual Report for 2018, presented to the Board of Trustees on June 19, 2019

**Scan of Selected School Boards and  
Other Public Organizations:  
Information Flow Protocol**

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**Summary:**

The results of the scan indicate that several school boards and the majority of municipalities in Ontario have established rules governing access to information and information flow between elected officials and staff. While the scan focused on Ontario's public organizations, somewhat similar findings were observed in school boards and municipalities in some other Canadian provinces.

In Ontario, access to information and protection of personal information at both school boards and municipalities are governed by the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). The powers and responsibilities of elected official at school boards and legal relationship between their governing bodies (Boards of Trustees) and staff are outlined by the *Education Act*. The *Municipal Act* is the corresponding governing legislation for city councils and staff at municipalities.

The TDSB, as other Ontario school boards, is governed by the *Education Act* and MFIPPA. The Board adopted the Freedom of Information and Protection of Privacy Policy (P094), Board Member Code of Conduct (P075) as well as Governance Policy (P086) which impact the flow of certain information between administration and elected officials. In response to a Board decision, the TDSB is also in the process of developing a Communications Policy.

The scan centred on the rules governing information flow between staff and elected officials in seventeen (17) school boards and municipalities. The majority of the reviewed organizations adopted such rules through applicable provisions in their board/council bylaws or policies. Only a few organizations (e.g., Toronto Catholic DSB, Town of Oakville, City of Guelph) had standalone information flow protocols or procedures.

Common themes were noted in the policies, procedures and bylaws of reviewed organizations, which are summarized below.

**1. Guiding Principles including Board/Council-Staff Relations**

Across all organizational policies/procedures, the flow of information between staff and members of board/council reflected the principles of transparency, accountability and when required, confidentiality. Most organizations (i.e., City of Brampton, Town of Oakville) stressed the importance of a healthy respectful workplace and working partnership between staff and elected officials to produce

the best results and outcomes for the organization and communities served. In other examples (e.g., City of Brampton, City of Burlington, Toronto Catholic DSB, Town of Amherstburg, Town of Oakville), open lines of communication as well as timely and responsive communication were cited as being essential, along with formal communication channels to raise and manage operational issues.

The TDSB in its Board Member Code of Conduct (P075) and Governance Policy (P086) has similar guiding principles based on good governance. In addition, there is emphasis on the importance of Trustees and staff working together in the public interest and in a manner that respects respective roles. The TDSB's forthcoming Communications Policy and Information Flow Protocol will propose provisions on access to timely information, responsiveness and the managing overall expectations.

## 2. Roles and Responsibilities

All organizations included in this scan recognized the importance of, and difference between, the political/representative role and the administrative/operational management role necessary for the provision of efficient, responsible and accountable governance. Although one organization (i.e., Town of Bancroft) was explicit in mentioning that elected officials do not have an administrative managerial role in the day-to-day business of the organization, the need for mutual trust and respect between both parties was a common theme in order for the effective execution of respective duties and functions (e.g., City of Burlington, City of Brampton, City of Kingston, Council of Directors of Education, OPSBA).

Nearly all organizations included a list of core responsibilities based on key roles including the organizational head (either Director or CAO), board chair or mayor, individual members, and the collective governing body. In one school board (i.e., York Region DSB), this section appears to be based on OPSBA's Guide on Good Governance and provincial legislation. For example, it was noted that only the Board of Trustees as a whole has the authority to make decisions or take action. In order to support the collective governing body's work, Board members rely on the director of education and senior staff for expertise and advice to help them reach informed decisions.

Within the TDSB, the Governance Policy (P086) distinguishes the roles and responsibilities of elected officials and staff based on the *Education Act* as well as OPSBA's Guide on Good Governance. To be sure, the Director of Education and other staff are responsible for the day-to-day management and administration of all schools and departments and the implementation of the policies approved by the Board of Trustees. Meanwhile, the Board of Trustees' role is to govern and provide strategic direction. It should be noted, though, that Trustees carry a dual responsibility as a representative of their ward and as a member of the board. While all staff report to the Board of Trustees through the Director of Education, decision-making rests only with the collective Board of Trustees.

### 3. Information Flow to the Board of Trustees and Various Communication Channels

Within school boards, the Director of Education is responsible for maintaining effective and consistent channels of communication with all stakeholders including the Board and its members (e.g., York Region DSB, Toronto Catholic DSB). As demonstrated in one organization's protocol (i.e., City of Guelph), the most significant flow of information to an elected body from staff/administration is related to the legislative process (e.g., committee/board or council meetings) through active files and reports being presented for consideration.

Though, in principle, members of council/board have the same rights of access to information as members of the community (e.g., City of Brampton, City of Burlington, TCDSB), elected members are often provided with information such as open committee/council meeting agendas and minutes in advance to ensure they can make informed decisions and adequately respond to members of the public and/or media (e.g., City of Guelph, Town of Bancroft). For some organizations (e.g., Town of Amherstburg, Town of Oakville), emphasis is put on keeping the council or board apprised of any known issues that may impact their decision-making process in a timely manner. In recognizing the importance of a two-way communication process, the same applies in the case of individual members where staff is expected to apprise them of known issues in advance regarding events, meetings and actions that may impact constituents in their respective wards.

However, despite an administration's best efforts, the board/council or individual members will often times require additional or new information from staff. Although these requests are handled differently across all organizations included in this scan, there are both formal and informal processes in place and they sometimes depend on the situation at hand. When the board/council or individual member, for example, has questions of clarification regarding existing or upcoming reports, several organizations (e.g., City of Burlington, City of Brampton, Edmonton Public School Board, Town of Bancroft) authorize the respective department head to respond to the report in question. At other organizations, such as the Toronto Catholic DSB, the information is provided through the Director's Office.

A theme consistent across all organizations is that the board/council can direct staff to provide the requested information by way of formal resolution at a meeting.

Members of the board/council may also exercise this right during committee and board/council meetings by way of a member motion.

The TDSB is consistent with the practices outlined above and provides information to Board and its members both informally and through more formal channels such as the committee/board structure, in accordance with the Board Bylaws or the freedom of information process as outlined in the Freedom of Information and Protection of Privacy Policy (P094).

#### 4. Requests from Individual Members

Most policies/protocols (e.g., City of Kingston, Town of Bancroft, Toronto Catholic DSB) also include rules concerning information requests from individual members.

One school board (i.e., Toronto Catholic DSB), for example, indicates that information requests by an individual Trustee should be directed to the Director of Education. Information will be provided to an individual Trustee when it is in accordance with regulations and is (i) reasonably necessary under the exercise of an individual Trustee's duties and responsibilities in order for the Board of Trustees to exercise its powers and duties; (ii) readily available; and (iii) not sensitive. Information will not be released routinely if it is not readily available. Information is "readily available" when it is already in the possession of a person employed by the organization, and the retrieval of the information will not require more than three hours for one staff member to complete.

In another example (i.e., Town of Oakville), information requests are handled based on whether they are classified as routine and non-routine matters. A "routine matter," which is similar to information that is "readily available" as identified above, refers to a communication by an elected member with a member of staff which:

- In the ordinary course of business constitutes a type of communication that would typically occur between a member of the public and staff;
- Constitutes a request for information that is routinely produced by the member of staff in the course of their duties; or
- Constitutes a request for a service that is routinely done by staff in the course of their duties and which requires no expenditure of unbudgeted resources.

By comparison, a "non-routine matter" refers to a communication, request for information or service that is not typically undertaken in the ordinary course of business, and/or for which there is no routine policy, procedure or guideline to guide members and staff. At this organization (i.e., Town of Oakville), members of council may direct these types of questions and concerns which may exceed two hours of staff time to process, to management staff (the respective department's director).

In recognizing that an individual member may not be granted the information they request, most organizations (e.g., TCDSB, Town of Amherstburg, Town of Oakville) include an appeal/resolution process to review the request. While in these cases either the Director of Education or CAO handles the concerns/complaints related to the flow of information given that they maintain responsibility for initiating appropriate processes and remedies to address such issues, one organization (i.e., Town of Bancroft) takes a similar approach but requires that the Mayor be contacted. The Mayor will then bring the matter to the attention of the staff member's manager or the CAO.

Ultimately, when information is released to an individual member, nearly all organizations included in the scan (e.g., City of Brampton, City of Burlington, Edmonton Public School Board, Toronto Catholic DSB, Town of Bancroft) require

that the information be shared with all members of the governing body, unless it relates to a local matter and has no organizational-wide impact.

In addition, any member of the public, including council/board and staff members are able to make freedom of information requests under MFIPPA for requested information.

Trustee access to information under the custody and control of the TDSB has been discussed in the Integrity Commissioner's 2018 annual report. In response to the recommendations of the report, this process will be documented in the TDSB's Information Flow Protocol and considered by the Board of Trustees for approval.

## **5. Information that is Restricted, Confidential or Sensitive**

The rights of access to information and obligations to protect the confidentiality of information including personal information are set out in the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*. While it is recognized that under MFIPPA, city councils/boards of trustees are referred to as the "heads" of the organization for the purpose of the Act, city councils/boards of trustees as a collective body under internal administrative processes usually do not get full access to information that is protected under MFIPPA (e.g., City of Hamilton, City of Toronto, Town of Bancroft, Town of Oakville, Toronto Catholic DSB, York Region DSB). As an example, several municipalities (e.g., City of Burlington, City of Hamilton, Town of Oakville) when discussing personal or confidential information (even if requested by resolution) will typically provide their council with an oral update in closed/private session or will distribute "library copies", with certain information redacted if necessary. Most organizations stipulate in their codes of conduct that elected officials who have access to records containing personal or other confidential information have a responsibility to protect this information while it is in their possession.

While individual members are provided access to board/city information, personal or confidential information is generally not provided through routine disclosure in most organizations. In one organization (i.e., City of Toronto), requests for information not available or where the information may relate to private individuals or other third party interests are usually directed through the city's formal freedom of information process.

At the Toronto Catholic District School Board, information is not provided to individual members if it is considered sensitive. Information is considered "sensitive" when it is required or permitted by law to be kept confidential; it is person-identified, by name, position or otherwise; its possession could be prejudicial to the interest of the Board; or it is tentative, incomplete or misleading by reason that the subject matter is in the conceptual or developmental stage. At the TDSB, several documents including the Board Bylaws, the Board Member Code of Conduct (P075) and Freedom of Information and Protection of Privacy Policy (P094) govern member responsibilities and the information types which

generally cannot be released to members of the public including the Board and its members under MFIPPA. Greater clarity will be provided with the TDSB's proposed Information Flow Protocol and forthcoming Communications Policy.

**Organizations Reviewed (17):** City of Brampton, City of Burlington, City of Dawson Creek, B.C., City of Elk Grove, California, City of Guelph, City of Hamilton, City of Kingston, City of Toronto, Council of Ontario Directors of Education (CODE), Edmonton Public School Board, OPSBA, Toronto District School Board, Toronto Catholic District School Board, Town of Amherstburg, Town of Bancroft, Town of Oakville, York Region DSB.

# Toronto District School Board

Governance Procedure [number]

Title: **INFORMATION FLOW PROTOCOL**

Adopted: [insert date]  
Effectuated: [insert date]  
Revised: N/A  
Reviewed: N/A  
Authorization: Board of Trustees

## 1. RATIONALE

The Information Flow Protocol (the “Protocol”) is a governance procedure developed in accordance with the resolution of the Board of Trustees on June 17, 2020 and pursuant to the TDSB Integrity Commissioner’s recommendations with regard to Trustee access to information under the custody or control of the TDSB.

The Protocol is aligned with and supports implementation of the TDSB’s Governance Policy (P086) and the Board Member Code of Conduct (P075).

## 2. OBJECTIVE

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

- ~~govern~~Govern in a manner that is responsive to all school communities;
- ~~act~~Act in the interests of all learners in the district;
- ~~advocate~~Advocate actively for students, their learning and their well-being in the Board’s work with the community, the municipality and the province;
- ~~promote~~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.

### 1.3. DEFINITIONS

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- The acquisition or disposal of the Board’s real property, including a school site;
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- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- Any identifying number, symbol or other particular assigned to the individual;
- The address, telephone number, fingerprints or blood type of the individual
- The personal opinions or views of the individual except if they relate to another individual;
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that

correspondence that would reveal the contents of the original correspondence;

- The views or opinions of another individual about the individual; and
- The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

## **2.4. RESPONSIBILITY**

The Director of Education holds primary responsibility for the implementation of this Protocol.

Within the Director's Office, the responsibility for the coordination and day-to-day management of the Protocol is assigned to the Associate Director, School Operations and Service Excellence.

## **3.5. APPLICATION AND SCOPE**

This Protocol applies to TDSB Trustees and staff, including employees involved in managing and responding to requests for information.

The Protocol does not replace or circumvent the Board's Parent Concern Protocol (PR505) for Trustees' interactions with Superintendents of Education and relevant central staff as part of addressing parents' concerns related to school matters.

## **4.6. PROCEDURES**

### **5.0-6.1. General Principles**

5.1-1-6.1.1. 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/MFIPPA](#) and other applicable legislation and policies.

6.1.2. 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.

~~5.1.2. 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, and which would support Trustees' participation in an informed way in upcoming Committee and Board meetings.

6.1.3. Individual Trustees will have access to information that is not restricted under MFIPPA. Individual Trustees should not access or attempt to gain access to confidential information.

~~5.1.3.~~ 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.

6.1.1. The types of information that is routinely requested, including aggregate numbers, information about processes, key statistical indicators, etc., will be identified and proactively disclosed and posted on the Board's website in accordance with the TDSB Open Data Policy (P091).

#### **6.0-6.2. Information Requests by Individual Trustees**

~~6.1.1-6.2.1.~~ Individual Trustees need access to appropriate information about their communities. They can ~~also receive~~have information that is readily available ~~or~~and has already been communicated.

6.2.2. Information is considered readily available where information is already in the possession of a TDSB staff member and the retrieval of the information will not require more than two hours for one staff member to complete. Open Data Policy (P091) will be implemented to identify records and information that is frequently requested by Trustees and to ensure proactive and routine disclosure of such information.

6.2.3. For information that is readily available and has already been communicated, individual Trustees may request the information directly from the Director of Education or their designate. Requests:

- Should be in writing
- Will be acknowledged
- Will be responded to during regular business hours

6.2.4. For information that is confidential or not readily available, a Board ~~motion~~of Trustees direction is required.

~~6.1.2-6.2.5.~~ 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).

6.2.6. In addition, Trustees will be provided with a schedule of upcoming reports, including regular annual reports as well as ad hoc reports that will be produced during a school year. The schedule will include targeted Board/Committee meeting dates.

6.2.7. 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 [or designate](#) provide additional information at a subsequent meeting.

6.2.8. 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.

~~6.1.3.~~6.2.9. 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.

### **6.3. Freedom of Information (FOI) Request**

6.3.1. Individual Trustees, like any member of the public, may use the TDSB's FOI Request process to access information in the custody or control of the TDSB.

6.3.2. Information requests submitted by FOI Request are processed in accordance with the Freedom of Information and Protection of Privacy Policy (P094) and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

6.3.3. Trustees may contact the Board's FOI and Privacy Office which can advise on the FOI Request process and timelines, which are also available on the TDSB website.

### **7.0-6.4. Sharing Information**

~~7.1.1.~~6.4.1. 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.

~~7.1.2.~~6.4.2. 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.

6.4.3. 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.

7.1.3-6.4.4. 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).

#### **8-0-6.5. Working ~~with~~With Superintendents of Education**

6.5.1. Superintendents of Education will provide timely information and support to their local Trustee about local school-related matters and concerns. Clear expectations will be outlined and regularly discussed and reinforced with the Superintendents of Education on information sharing and support to Trustees.

6.5.2. 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 as soon as practicable. 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.

#### **9-0-6.6. Protection of Privacy and Confidentiality**

9.1.1-6.6.1. 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.

6.6.2. Under MFIPPA, some of the circumstances in which government institutions are permitted to disclose personal information include:

- Where the individual has consented to the disclosure;
- For the purpose for which the personal information was obtained or compiled or for a consistent purpose;
- Where the disclosure is necessary and proper in the discharge of the institution's functions;
- For the purpose of complying with another act;
- For law enforcement purposes;
- In compelling circumstances affecting the health or safety of an individual;

- In compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- To the Information and Privacy Commissioner; and
- To the Government of Canada in order to facilitate the auditing of shared cost programs.

6.6.3. 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.

6.6.4. Meeting materials from previous open (public) meetings are available on the TDSB website: <https://www.tdsb.on.ca/Leadership/Boardroom/Agenda-Minutes> and can be accessed by Trustees directly or obtained through a request to Board Services staff.

For Trustees convenience, the following search engine can be used to search for required reports, agendas and minutes of the Board: <https://www.tdsb.on.ca/Leadership/Boardroom/Search-Agenda-Minutes>.

6.6.5. Closed (private) meeting materials from a previous meeting may be provided to individual Trustees by request to Board Services staff. “Library copies” will be shared for viewing.

6.6.6. 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.

9.1.2.6.6.7. 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.

#### **10-0-6.7. Training**

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

## **7. EVALUATION**

This Protocol will be reviewed as required, but at a minimum every four (4) years after the effective date.

## 8. APPENDICES

N/A

## 9. REFERENCE DOCUMENTS

### Legislation:

- *Education Act*
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*

### Policies and Procedures:

- Equity Policy (P037), and as part of the TDSB's commitment to equity)
- Board Member Code of Conduct (P075)
- Freedom of Information and anti-discrimination, all Protection of Privacy Policy (P094)
- Governance Policy (P086)
- Open Data Policy (P091)
- Parent Concern Protocol (PR505)

### Other Documents:

- Board Bylaws, December 1, 2018
- Integrity Commissioner Annual Report for 2018, presented to the Board of Trustees will be provided with equity and anti-oppression training on June 19, 2019

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