



Information Flow Protocol – New Governance Procedure

To: Governance and Policy Committee

Date: 28 October, 2020

Report No.: 10-20-3968

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 approved.

Context

On September 28, 2020, the Governance and Policy Committee considered draft provisions for the new governance procedure - Information Flow Protocol.

Based on feedback received at the Governance and Policy Committee and in consultation with the Integrity Commissioner, staff prepared the revised draft Information Flow Protocol (Appendix A). The key revisions to the draft provisions of the Information Flow Protocol made since September 28, 2020 are highlighted in the Appendix B.

The draft Information Flow Protocol, as a governance procedure, is being considered for Committee's approval.

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 Board of Trustees on November 11, 2020 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: Comparison of September 30, 2020 and October 28, 2020 versions

From

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

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 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.

Member of the Board (also referred to as Trustee) means a member of the Board of Trustees.

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. Individually, members of the Board will have access to information that is not restricted under MFIPPA, and 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 members of the Board.
- 6.1.6. 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 Members of the Board

- 6.2.1. Members of the Board need access to appropriate information related to their wards and school communities. Trustees will be provided with information that is readily available .
- 6.2.2. Information is considered readily available where information is already in the possession of a TDSB staff member and the retrieval or compiling of the information will not require significant staff undertaking. Readily available information includes information that has already been communicated or disseminated.
- 6.2.3. For information that is readily available, members of the Board may request the information from the Director of Education or their designate (respective Superintendents of Education and/or Executive Superintendents/Officers responsible for the area). Requests:
 - Should be in writing;
 - Will be acknowledged; and
 - Will be responded to during regular business hours.
- 6.2.4. The 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.
- 6.2.5. Trustee who requested information will be provided with preliminary time estimate if retrieval or compiling of the requested information may require significant time and staff resources. Otherwise, the information will be provided immediately.
- 6.2.6. For information that is confidential or not readily available, a Board of Trustees' direction is required. Requests for such information may be submitted by a Trustee through a notice of motion or brought forward as emergency business to the Board of Trustees or its Committee (see Board Bylaws, section 5.15 – Motions, section 5.12.7 – Emergency Business).
- 6.2.7. 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.

- 6.2.8. 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.
- 6.2.9. Trustees are encouraged to contact Board Services 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.
- 6.2.10. 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. Members of the Board, 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.

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. Trustees are encouraged to communicate with Superintendents on school related issues of mutual concern. This may include school events, parent/guardian concerns, school related incidents including injuries requiring medical services as well as safe school concerns (e.g., lock down, hold and secure, bullying, significant acts of violence, hate or racism), bereavements and community concerns (e.g., busing, boundaries).
- 6.5.2. In the event of sensitive local issues which may have systemic implications, the school Superintendent, in consultation with the school principal, will keep both the local Trustee and school community informed.
- 6.5.3. Protection of privacy, legal obligations as well as the safety and well-being of students and community must be considered and balanced when sharing information.
- 6.5.4. 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.
- 6.5.5. Clear expectations will be outlined and regularly discussed and reinforced with the Superintendents of Education on information sharing and support to Trustees. To ensure a consistent and effective approach to accessing and sharing information, the Director of Education, through Associate Directors, will establish standard parameters for support provided to the Trustees by their respective Superintendents of Education
- 6.5.6.

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

Toronto District School Board

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~~Trustees and~~ should not access or attempt to gain access to confidential information.

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~~(see Board Bylaws, section 5.15 – Motions, section 5.12.7 – Emergency Business).~~

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6.2.7. ~~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.

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 - In compelling circumstances affecting the health or safety of an individual;
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