

AGENDA: 6:00 pm

1. Call to Order/Roll Call
2. Land Acknowledgement
3. Approval of the Agenda
4. Trustee Code of Conduct
5. Board of Trustee Self-Assessment (no copy)
6. Adjournment and Resolution Into Private Session as per the Education Act, Section 207.2
(b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee member, an employee or prospective employee of the board or a pupil or his or her parent or guardian

We acknowledge our presence on ancestral Anishinaabe and Haudenosaunee Confederacy land as determined by the Dish with One Spoon treaty.

The intent of this agreement is for all nations sharing this territory to do so responsibly, respectfully and sustainably in perpetuity.

We respect the longstanding relationships with the local Indigenous communities, the Mississaugas of the Credit First Nation and the Six Nations of the Grand River.



EXECUTIVE REPORT TO GOVERNANCE COMMITTEE

TO: GOVERNANCE COMMITTEE

FROM: Sheryl Robinson Petrazzini, Director of Education

DATE: September 12, 2023

PREPARED BY: Heather Miller, Officer of Trustee Services

RE: Review – Code of Conduct (Ontario Reg. 246/18)

Action X

Monitoring

Recommended Action:

That the Trustee Code of Conduct be affirmed.

Rationale/Benefits:

In accordance with [Ontario Regulation 246/18, Members of School Boards – Code of Conduct](#), School Boards are required to adopt and review a Code of Conduct that is applicable to the Board of Trustees. The Code of Conduct must be reviewed and adopted by May 15, 2023 and every fourth year thereafter.

The code of conduct is designed for trustees by trustees and demonstrates how trustees have determined to regulate themselves. Although Student trustees are not required by law to have a code of conduct, it is expected that in their capacity as recognized leaders contributing to the effective governance of a board, they abide by their board's code of conduct.

A code of conduct serves to define acceptable and respectful behaviours, clarify the rules of civil engagement, promote high standards of practice, and provide a framework for professional conduct and responsibilities. A code of conduct contributes to confidence in public education and respect for the integrity of trustees in the community.

The Ministry of Education conducted a consultation in the fall of 2021, seeking feedback related to the establishment of “minimum standards” for school board trustee codes of conduct. Unfortunately, no further information on the outcome of this consultation has been shared. If in the future, the Ministry does provide further information on the requirement for Trustee Codes of Conduct, it will be brought forward for consideration to a future Governance Committee meeting.

At this time, there are no proposed changes for consideration.

2.4 Code of Conduct

2.4.1 Principles

Maintaining the integrity and dignity of office

1. Trustees shall recognize that the expenditure of HWDSB funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students and other stakeholders.
2. Trustees, as elected officials of the Board of Trustees, must uphold the dignity of the office and conduct themselves in a professional manner, especially when attending Board of Trustees events, or while on Board of Trustees property and shall at all times act with decorum and be respectful of other Trustees, staff, students and the public.
3. Trustees shall ensure that their comments are issue-based and respectful of all concerned. The use of demeaning, disparaging or other such comments is unacceptable and is not allowed at any time within the context of conducting Board of Trustees' business. Failure to adhere to this provision could result in expulsion from the meeting, sanctions, or other measures as deemed appropriate by the Trustees to ensure the safety of the victim.
4. Trustees shall abide by an expulsion or exclusion from a meeting if deemed to be "guilty of improper conduct at a meeting" by the Chair or presiding officer. [*Education Act*, s. 207(3)]

Avoidance of exercising personal advantage

5. No Trustee shall accept a gift from any person or entity that has dealings with the Board of Trustees if the gift could influence the Trustee when performing his or her duties to the Board of Trustees. However, this does not, for example, preclude a Trustee from accepting a free ticket or admission to a charitable or professional development event, or traditional Indigenous gratuities. Also, this does not preclude an acceptance of reasonable hospitality or gifts in accordance with the Board's Trustee Expense Policy.
6. No Trustee shall use his or her office to obtain employment with the Board of Trustees for the Trustee or a family member.

Civil and respectful behaviour

7. No Trustee shall engage in conduct during meetings of the Board of Trustees or committees of the Board of Trustees, and at all other times that would discredit or compromise the integrity of the Board of Trustees.
8. When expressing individual views, Trustees shall respect the differing points of view of other Trustees, staff, students, and the public.
9. All Trustees have an obligation to provide Student Trustees with a safe environment to participate and learn.

Respect for confidentiality

10. Trustees shall keep confidential any information disclosed or discussed at a meeting of the Board of Trustees or committee of the Board of Trustees, or part of a meeting of the Board of Trustees or a committee of the Board of Trustees, that was closed to the public as outlined in the Education Act, and keep confidential the substance of deliberations of such meeting closed to the public, unless required to divulge such information by law or authorized by the Board of Trustees to do so.

11. No Trustee shall use confidential information for either personal gain or to the detriment of the Board of Trustees.
12. Trustees shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a Trustee becomes aware of because of his or her position, except when required by law or authorized by the Board of Trustees to do so.

Upholding decisions

13. Trustees shall accept that authority rests with the Board of Trustees, and that a Trustee has no individual authority other than that delegated by the Board of Trustees.
14. Trustees shall uphold the implementation of any Board of Trustees resolution after it is passed by the Board of Trustees.
15. Trustees may respectfully state a personal position on a decision provided it does not in any way undermine the implementation of the decision.
16. Trustees shall comply with the Board of Trustees' policies and procedures.
17. The Chair of the Board of Trustees is the spokesperson to the public on behalf of the Board of Trustees, unless otherwise determined by the Board of Trustees. No other Trustee shall speak on behalf of the Board of Trustees unless expressly authorized by the Board of Trustees or Chair of the Board of Trustees to do so. When individual Trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the Board of Trustees.

2.4.2 Procedures

Identifying a Breach of the Code

1. A Trustee who has reasonable grounds to believe that a Trustee has breached the Board of Trustees' Code of Conduct may bring the alleged breach to the attention of the Board of Trustees. This is done through the Chair of the Board of Trustees.
2. Any allegation of a breach of the Code of Conduct shall be investigated following the Informal Complaint Procedure, or, the Formal Complaint Procedure, as the case may be.
3. Any allegations of a breach of the Code of Conduct by a Trustee shall be investigated following the Informal Complaint Procedure initially as it is recognized that from time to time a contravention of the Code may occur that is committed through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of the Board of Trustees, the first purpose of alerting a Trustee to a breach of the Code is to assist the Trustee in understanding their obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Trustee should be investigated following the Formal Complaint Procedure.
 - a. Should the Trustee who alleges the breach of the Code request a Formal Complaint Procedure due to the serious nature of the breach, the Chair and Vice-Chair should conduct a preliminary investigation to determine if a Formal Complaint Procedure should proceed.
 - b. If a Trustee who alleges the breach of the Code disagrees with the determination of the Chair or Vice-Chair on the determination of whether a Formal Complaint Procedure should proceed, that determination shall be reconsidered and made by an outside consultant.

Chair or Presiding Officer

4. The Code of Conduct applies equally to the Chair of the Board of Trustees. In the case of an allegation of a breach of the Code by the Chair, wherever a process requires action by the Chair, it shall be modified to read the Vice-Chair of the Board of Trustees.
5. Each year two Trustees shall be chosen by the Board of Trustees to play a part in the procedure when the circumstances warrant that one or both Trustees are needed in place of the Chair and/or Vice-Chair of the Board of Trustees to carry out any of the duties of the Trustee who is disqualified. The two Trustees will be designated and ranked as Code of Conduct Review, First Alternate, and Code of Conduct Review, Second Alternate, and, in that order, shall play a part in the procedure corresponding to the disqualified Trustee, if allowed.
6. Nothing in this procedure prevents the Chair or Presiding Officer of any meeting of the Board of Trustees or committee of the Board of Trustees from exercising their power pursuant to s. 207(3) of the Education Act to "expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting." For greater certainty, this may be done at the sole discretion of the Chair or Presiding Officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting. The rationale for this provision is that a Chair or Presiding Officer must have the ability to control a meeting. A Trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this Code.
7. The Chair of the Board of Trustees or presiding officer of any meeting of the Board of Trustees or committee of the Board of Trustees shall exercise their powers in a fair and impartial manner having due regard for the opinion or views of all Trustees and Student Trustees.

8. The Chair of the Board of Trustees or presiding officer shall follow the rules of order of the Board of Trustees and/or the adopted rules of order and meeting procedures contained in any policy or procedure of the Board of Trustees. A breach of a rule of order should be dealt with at the meeting in question by a Trustee rising to a point of order or appealing a ruling of the Chair in accordance with any applicable rule of order. Once such a motion is dealt with by the Board of Trustees of Trustees, all Trustees shall abide by that decision and no further action shall be undertaken pursuant to the enforcement of the Code of Conduct, except for persistent improper use of the applicable rules of order by the Chair or presiding officer.

Informal Complaint Procedure

9. A complaint shall follow the Informal Complaint Procedure, unless the Trustee who alleges the breach of the Code, at the time of making the complaint requests a Formal Complaint Procedure, in which case the decision-making procedure specified in provisions 12-15 shall be undertaken to determine which Complaint Procedure will be followed.
10. The Chair of the Board of Trustees, on their own initiative, or at the request of a Trustee who alleges breach of the Code has occurred, and has completed the appropriate form*, may meet informally with a Trustee who is alleged to have breached the Code, to discuss the breach. The purpose of the meeting is to bring the allegation of the breach to the attention of the Trustee and to discuss remedial measures to correct the offending behaviour. The Informal Complaint Procedure is conducted in private and should be documented.

*The form will be available in the Director's Office.

11. The remedial measures may include, for example, a warning, an apology, and/or the requirement of the Trustee to engage in the successful completion of professional development training such as that offered by the Ontario Education Services Corporation's Professional Development Program for School Board Trustees. If the Chair of the Board of Trustees and the Trustee alleged to have breached this Code cannot agree on a remedy, then the Chair may initiate a Formal Complaint Procedure against the Trustee alleged to have breached the Code

Formal Complaint Procedure

Initiating a Formal Inquiry

12. A Formal Inquiry will be undertaken if the Chair and Vice-Chair, or the appointed outside consultant, agree with the Trustee who alleges breach of the Code that a serious breach has occurred. The Board of Trustees will collectively determine whether the Chair and Vice-Chair or an outside consultant should conduct the inquiry according to the qualifications required. If the Board of Trustees decides that an outside consultant should conduct the inquiry, the consultant will be appointed by the Director. In appointing a consultant, the Director will ensure that such an individual or body is qualified to undertake such engagement.
13. If the Chair and Vice-Chair have a declared conflict of interest regarding the complaint, an outside consultant appointed by the Director will conduct the inquiry.
14. If the Chair and Vice-Chair of the Board of Trustees or outside consultant, if engaged, are of the opinion that the complaint is out of time, frivolous, vexatious, or not made in good faith, or that there are no grounds or insufficient grounds for a formal inquiry, a Formal Inquiry shall not be conducted and a confidential report stating the reasons for not doing so shall be provided to all Trustees.

15. If an allegation of a breach of the Code of Conduct on its face is with respect to the non-compliance with a more specific Board of Trustees policy with a separate complaint procedure, the allegation shall be processed under that procedure.

Steps of a Formal Inquiry

16. If a Formal Inquiry of an allegation of a breach of the Code of Conduct is undertaken, it shall be done by a qualified professional consistent with the nature of the breach. Existing resources within the HWDSB may be utilized if such expertise exists, if not, external expertise should be brought in.
17. Regardless of who undertakes the Formal Inquiry the following steps shall be followed.
18. The Chair of the Board of Trustees shall provide to all Trustees a confidential copy of the complaint within ten (10) days of receiving it. The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the Board of Trustees for a decision as to whether or not the Trustee has breached the Code.
19. The *Statutory Powers Procedure Act* does not apply to anything done regarding the Enforcement of this Code of Conduct. No formal trial-type hearing will be conducted.
20. Procedural fairness and unbiased process shall govern the Formal Inquiry. The Formal Inquiry will be conducted in private.
21. The Formal Inquiry may involve Board of Trustees written and oral statements by any witnesses, the Trustee bringing the complaint and the Trustee who is alleged to have breached the Code of Conduct.
22. The Trustee who is alleged to have breached the Code of Conduct shall have an opportunity to respond to the allegations Board of Trustees in a private meeting with the person(s) undertaking the Formal Inquiry and in writing.
23. It is expected that the Formal Inquiry will be conducted within a reasonable period of time which will depend on the circumstances of the case. The Trustee who is alleged to have breached the Code of Conduct shall provide a written response to the allegations within ten (10) days of receiving the written allegation, or such extended period of the time as the investigators deem appropriate in the circumstance.
24. If the Trustee who is alleged to have breached the Code of Conduct refuses to participate in the Formal Inquiry, the Formal Inquiry will continue in their absence.
25. Once the Formal Inquiry is complete, the investigators shall provide a confidential draft copy of their report containing the findings of fact to the Trustee who is alleged to have breached the Code of Conduct and the Trustee who brought the complaint for their written comment to the investigator(s). The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. The two Trustees shall have ten (10) days (or such reasonable period of time as deemed appropriate by the investigator(s) from the receipt of the draft report to provide a written response. Written responses will be attached to the final report.
26. If the Chair and Vice-Chair of the Board of Trustees conduct the inquiry and cannot agree on the final finding of facts, the Formal Inquiry shall be reconsidered de novo by an outside consultant. The outside consultant will be appointed by the Director.

Suspension of Formal Inquiry

27. If the investigators, when conducting the Formal Inquiry, discover that the subject-matter of the Formal Inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another Act, the Formal Inquiry shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of Trustees.

Decision

28. Upon completion of the final report and as soon as practical, the Chair shall present the final report to the Board of Trustees so that the Board of Trustees may decide whether or not the Code of Conduct has been breached and whether to impose a sanction.

29. Trustees shall consider only the findings in the final report when voting on the decision and sanction. No Trustee shall undertake their own investigation of the matter.

30. If the Board of Trustees, based on the outcome of the investigations, determines that there has been no breach of the Code of Conduct or that a contravention occurred, although the Trustee took all reasonable measures to prevent it, or that a contravention occurred that was committed through inadvertence, or an error of judgment made in good faith, no sanction shall be imposed.

31. The determination of a breach of the Code of Conduct and the imposition of a sanction with respect to a complaint investigated in accordance with the Formal Complaint Procedure must be done by resolution of the Board of Trustees based on the recommendations, outcome and facts established by the investigation at a meeting of the Board of Trustees, and the vote on the resolution shall be open to the public. The resolutions shall be recorded in the minutes of the meeting. The reasons for the decision shall be recorded in the minutes of the meeting.

32. Despite s. 207 (1) of the *Education Act*, the part of the meeting of the Board of Trustees during which a breach or alleged breach of the Board of Trustees' Code of Conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207(2) (a) to (e) being:

- a. the security of the property of the Board of Trustees;
- b. the disclosure of intimate, personal or financial information in respect of a member of the Board of Trustees or committee, an employee or prospective employee of the Board of Trustees or a pupil or his or her parent or guardian;
- c. the acquisition or disposal of a school site;
- d. decisions in respect of negotiations with employees of the Board of Trustees; or
- e. litigation affecting the Board of Trustees.

33. The Trustee who is alleged to have breached the Code of Conduct shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction. The Trustee who brought the complaint to the attention of the Board of Trustees may vote on those resolutions.

34. The Trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but shall not participate in the deliberations and shall not be required to answer any questions at that meeting.

35. The Trustee who is alleged to have breached the Code of Conduct shall not in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except as permitted below after these decisions have been made.

Sanctions

36. If the Board of Trustees, based on investigation of a Formal Complaint, determines that the Trustee has breached the Board of Trustees' Code of Conduct, the Board of Trustees may impose one or more of the following sanctions:
- a. Censure of the Trustee.
 - b. Barring the Trustee from attending all or part of a meeting of the Board of Trustees or a meeting of a committee of the Board of Trustees.
 - c. Barring the member from sitting on one or more committees of the Board of Trustees, for the period of time specified by the Board of Trustees.
 - d. Suspending the member from for a period of time specified by the Board of Trustees.
37. The Board of Trustees shall not impose a sanction which is more onerous than the above but may impose one that is less onerous such as a warning or a requirement that the Trustee successfully complete specified professional development courses at the expense of the Board of Trustees. The Board of Trustees has no power to declare the Trustee's seat vacant.
38. A Trustee who is barred from attending all or part of a meeting of the Board of Trustees or a meeting of a committee of the Board of Trustees is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to members of the public.
39. The imposition of a sanction barring a Trustee from attending all or part of a meeting of the Board of Trustees shall be deemed to be authorization for the Trustee to be absent from the meeting and therefore, not in violation of the *Education Act* regarding absences from meetings.

Reconsideration

40. If the investigation of a Formal Inquiry determines that a Trustee has breached the Board of Trustees' Code of Conduct the Board of Trustees shall,
- a. Give the Trustee written notice of the determination, the reasons for the decision and any sanction imposed by the Board of Trustees;
 - b. the notice shall inform the Trustee that he or she may make written submissions to the Board of Trustees in respect of the determination or sanction by the date specified in the notice that is at least fourteen (14) days after the notice is received by the Trustee; and
 - c. consider any submissions made by the Trustee and shall confirm or revoke the determination and confirm, vary, or revoke a sanction, if applicable, within forty-five (45) days after the submissions are received.
41. If the Board of Trustees revokes a determination, any sanction imposed by the Board of Trustees is revoked and, within fourteen (14) days, the Chair shall give the Trustee written notice of the determination.

42. If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made.
43. The Board of Trustees decisions to confirm or revoke a determination or confirm, vary, or revoke a sanction shall be done by resolution at a meeting of the Board of Trustees and the vote on the resolution shall be open to the public. The resolutions shall be recorded in the minutes of the meeting together with the reasons for confirming or revoking a determination. The Board of Trustees shall provide to the Trustee alleged to have breached the Code of Conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary or revoke a sanction. The Trustee alleged to have breached the Code of Conduct shall not vote on those resolutions. [*Education Act, s. 218.3(12)*] The Trustee who brought the complaint may vote.
44. The Trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but may not participate in the deliberations and shall not be required to answer any questions at that meeting.
45. If appropriate, the original sanction may be stayed pending the reconsideration by the Board of Trustees of the determination or sanction.