

## Board Member (Trustee) Code of Conduct

### 1.0 **Purpose and Application**

- 1.1 The *Education Act* and the regulations thereunder mandate that school boards adopt a code of conduct that applies to Board members.
- 1.2 Transparency, accountability, and public confidence are fundamental components for the effective governance of school boards as public bodies responsible to their communities and to the Provincial government. The conduct of the members of the Board of Trustees must be of the highest standard to maintain the confidence of the public.
- 1.3 This Code of Conduct meets the Board's statutory obligations and supports the Board's commitment to meeting high standards of conduct by Trustees.
- 1.4 This Code of Conduct applies to all members of the Board of Trustees. It applies to members of the Board of Trustees from the date the Declaration is filed under section 209(1) of the *Education Act* and only while they hold the office. Conduct of a Trustee outside of this timeframe is not subject to sanction under this Code of Conduct.
- 1.5 The *Selection, Appointment and Jurisdiction of the Integrity Commissioner* together with the *Complaints Protocol* are attached at Appendix 1 and 2 respectively.

### 2.0 **Objective**

- 2.1 To establish governing principles and standards for accepted behavior by members of the Board of Trustees, including the Chair of the Board.

### 3.0 **Responsibility**

- 3.1 The Board of Trustees, the DDSB's Integrity Commissioner and the Director of Education.

### 4.0 **Application and Scope**

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

### 5.0 **Definitions**

*Board* means the Durham District School Board, also referred to as the DDSB, a statutory corporation under section 58.5 of the Education Act.

*Discrimination* means discriminatory behaviour as defined by the DDSB Workplace Violence and Harassment Prevention policies and the Ontario Human Rights Code.

*Harassment* means harassing behaviour as defined by the DDSB Workplace Violence and Harassment Prevention policies, the Occupational Health and Safety Act, Ontario, and as recognized in the Ontario Human Rights Code.

*Integrity Commissioner* means the Integrity Commissioner duly appointed by the Board of Trustees.

*Members* (also referred to as Trustees) are the members of the Board of Trustees of the DDSB.

*Official Business* means duties and responsibilities of Trustees as set out in the *Education Act* and further delineated in the Board's Consolidated Bylaws and Policies.

Unless specified otherwise, *staff* means any employee of the Durham District School Board.

*Trustee's office* or *office* means the authority and public duties attached to the position of being a Trustee.

## **6.0 Code of Conduct**

6.1 Transparency, accountability, and public confidence are fundamental components for the effective governance of school boards as public bodies responsible to their communities and to the Provincial government. The conduct of the members of the Board of Trustees must be of the highest standard to maintain the confidence of the public.

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

### **Integrity and Dignity of Office - Principles**

6.3 Trustees shall discharge their duties, as set out in the *Education Act*, loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.

6.4 Trustees, as leaders of the Board, must uphold the dignity of the office and conduct themselves in a professional manner at all times, and especially when attending Board events or while on Board property.

6.5 Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to any person, including Board staff or fellow Board members.

6.6 No Trustee shall engage in conduct during meetings of the Board or Committees of the Board, and at all other times, that would discredit or compromise the integrity of the Trustee, any other Trustee, or the Board.

6.7 A Trustee shall not advance allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, made in bad faith or vindictive in nature against another Trustee of the Board.

6.8 Trustees shall serve and be seen to serve in a constructive, respectful, conscientious and diligent manner.

6.9 Trustees shall be committed to performing their functions with integrity and shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real.

6.10 Trustees are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence.

- 6.11 Trustees shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the Bylaws and policies of the Board.
- 6.12 Trustees agree to the common understanding that individual Trustees will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual Trustee which is not available to every other individual. Allowable activities include those activities that are reasonably related to a Trustee's Office, taking into consideration the different interests and the diverse profiles of their wards/communities.
- 6.13 Trustees recognize that their Oath of Office binds them to the provisions of the *Municipal Conflict of Interest Act (MCIA)*.

**Confidential Information**

- 6.14 Confidential Information includes,
- (a) Information in the custody and/or control of the DDSB that is subject to the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* or other legislation, including, but not limited to personal information of staff and students, third party corporate, commercial, scientific, or technical information, solicitor-client or litigation privileged information;
  - (b) Information in respect of litigation or potential litigation affecting the Board, and information that is subject to solicitor-client privilege;
  - (c) Information discussed during closed session pursuant to section 207 of the *Education Act*;
  - (d) Intimate, personal or financial information of a Trustee, staff member or prospective staff member, student, parent or guardian;
  - (e) The acquisition or disposal of the Board's real property, including a school site; and,
  - (f) Information in respect of negotiations with staff members.
- 6.15 No Trustee shall disclose or release, to anyone, by any means, any Confidential Information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by the Board to do so. This is a continuous obligation that extends beyond the Trustee's term of office.
- 6.16 No Trustee shall use Confidential Information for either personal gain or to the detriment of the Board.
- 6.17 Trustees should not access or attempt to gain access to Confidential Information in the custody of the Board unless it is necessary for the performance of their duties and not prohibited by Board policy. It is understood that any staff providing access to any such Confidential Information may share it with other Trustees, as may be appropriate in the circumstances.

- 6.18 Under the Board's Consolidated Bylaws, a matter that has been discussed by any committee of the Board, including a committee of the whole board, in closed session in accordance with section 207(2) or 207(2.1) of the *Education Act* is confidential. Trustees shall not disclose the content of any such matter, or the substance of deliberations, of the closed session unless and until, and only to the extent that, the Board of Trustees discusses the information at a meeting that is open to the public or releases the information to the public or the Board of Trustees otherwise gives prior authorization for the disclosure.
- 6.19 Members of the Board are only entitled to information in the possession of the DDSB that is relevant to matters before the Board of Trustees or a committee of the Board. Otherwise, members enjoy the same level of access rights to information as any other member of the community.
- 6.20 If there is uncertainty about whether information is confidential, a Trustee may seek guidance from the Board's General Counsel.

### **Upholding Decisions**

- 6.21 All Trustees of the Board 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. Trustees shall be mindful of this in all of their interactions with others and will not commit the Board, any Board Committee or staff to any particular course of action.
- 6.22 Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission, or the like, if permitted by the Consolidated Bylaws and Robert's Rules of Order, if applicable, may be brought forward by a Trustee.
- 6.23 A Trustee should be able to explain the rationale for a resolution passed by the Board. A Trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.
- 6.24 Each Trustee shall endeavor in good faith to comply with the Board's Consolidated Bylaws. The Board of Trustees as a whole, and not individual Trustees, implements and monitors compliance with Board policies. There are a few instances where policies and procedures apply to individual trustees (e.g. Trustee expense policy and procedure) and Trustees shall comply with all such policies and applicable procedures.
- 6.25 The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair of the Board or the Board of Trustees to do so. When individual Trustees express their opinions in public, through any medium including social media, they must make it clear that they are not speaking on behalf of the Board.

### **Gifts, Benefits and Hospitality**

- 6.26 Trustees are expected to carry out their duties with impartiality and objectivity. Trustees shall not accept a gift, benefit or hospitality in order to avoid the risk that this will compromise their objectivity or lead to an appearance of lack of objectivity, bias or influence.

- 6.27 For these purposes, a gift, benefit or hospitality provided with the Trustee's knowledge to a Trustee's spouse, child, or parent, or to a Trustee's staff that is connected directly or indirectly to the performance of the Trustee's duties is deemed to be a gift to that Trustee.
- 6.28 There are circumstances in which the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community event linked to the duties of an elected official and his/her role in representing the Board. The exceptions do not apply in the case of vendors of goods and services or those expecting to be vendors to the DDSB. The following is a list of recognized exceptions:
- (a) compensation authorized by law;
  - (b) gifts of a nominal value (e.g., gift card, hat, t-shirt, mug, not exceeding approximately \$100.00);
  - (c) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
  - (d) a political contribution otherwise reported by law, in the case of members running for office;
  - (e) services provided without compensation by persons volunteering their time;
  - (f) a suitable memento of a function honouring the member;
  - (g) food, lodging, transportation and entertainment provided by Provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity. For the purposes of this exception, "*official capacity*" refers to attendance in a ceremonial, presentational or representational role on behalf of the Board or where the DDSB has authorized the member to attend on behalf of the organization;
  - (h) food and beverages consumed at banquets, receptions or similar events, if:
    - (i) attendance serves a legitimate business purpose;
    - (ii) the person extending the invitation or a representative of the organization is in attendance; and
    - (iii) the value is reasonable and the invitations infrequent;
  - (i) communication to the offices of a member, including newspapers and periodicals; and,
  - (j) no Trustee shall accept a gift from any person or entity that has dealings with the Board if a reasonable person might conclude that the gift could influence the Trustee when performing his or her duties to the Board. Any gifts received shall be reported to the Chair of the Board.
- 6.29 An invitation to attend a function where the invitation is connected directly with the performance of a Member's duties of office (i.e. for which the Trustees has a ceremonial, presentational or representational official role) is not considered to be a gift. This type of attendance is considered to be fulfillment of official public duties.

### **Conflict of Interest**

- 6.30 A Trustee shall not use his or her office to advance the Trustee's interests or the interests of any family member or person or organization with whom or with which the Trustee is related or associated.
- 6.31 No Trustee shall use his or her office to obtain employment with the Board for the Trustee or a family member.
- 6.32 Members of the Board shall comply with the *Municipal Conflict of Interest Act (MCIA)* and avoid conflicts of interest as defined by this Code of Conduct, and the Broader Public Sector (BPS) Directive and Code of Ethics.

### **Use of Board Property, Services and Other Resources**

- 6.33 No Trustee should use, or permit the use of Board resources, including but not limited to staff members, Board events, Board facilities, Board funds, Board information and Board infrastructure or other resources (e.g., Board-owned materials, websites, and social media platforms) for activities other than the business of the DDSB. No Trustee may obtain personal financial gain from the use or sale of Board-developed intellectual property (e.g., inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, or from the sale of Board provided mobile phones and all other technological equipment, since all such property remains exclusively that of the Board.

### **Election Campaign Work**

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

### **Improper Use of Influence**

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

6.37 For the purposes of the above provisions, “private advantage” and “improperly prejudice” does not include discussion of a matter at a Board or Committee meeting that:

- (i) is of general application;
- (ii) affects a Trustee, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (iii) concerns the remuneration or benefits of a Trustee.

#### **Conduct Regarding Current and Prospective Employment**

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

6.39 No Trustee shall use his or her office to obtain employment with the Board for the Trustee or a family member of the Trustee.

#### **Conduct at Board and Committee Meetings**

6.40 Trustees shall respect procedural rulings at Board and Committee meetings and respect the views and opinions expressed by staff members, delegates and other Trustees. Trustees shall conduct themselves with decorum at Board and Committee meetings and in accordance with the provisions of the Consolidated Bylaws.

#### **Conduct Respecting Staff Members**

6.41 Trustees shall carry out their duties as defined within section 218.1 of the *Education Act*.

6.42 Trustees shall respect their role and the distinct role and responsibility of staff in accordance with the provisions of the *Education Act*, the Board’s Consolidated Bylaws, and OPSBA’s Good Governance Guide, as amended from time to time.

6.43 In dealing with parent/guardian concerns or community concerns, Trustees shall not provide express or implicit direction or suggested outcomes to school administrators or educators.

#### **Discreditable Conduct**

6.44 All Trustees have a duty to treat members of the public, one another, and staff members respectfully and free from discrimination and harassment. This applies to all forms of written and oral communications, including via social media.

6.45 DDSB Workplace Harassment Prevention and Human Rights policies and the *Ontario Human Rights Code and the Occupational Health and Safety Act*, apply to the conduct of members which occurs in the course of, or is related to, the performance of official business and duties of Trustees, and to that extent are incorporated into and form part of this Code of Conduct. If an employee or a member of the public brings forward a harassment complaint against a Member of the Board to staff, it shall be immediately

forwarded to the Integrity Commissioner. If a complaint is filed with the Integrity Commissioner, after an initial assessment, the Integrity Commissioner may determine the appropriate next steps, including treating the matter as a Formal Complaint or referral of the complaint to an independent investigator. Upon receipt of the independent investigator's findings, the Integrity Commissioner shall report to the Board in the same manner as a report following an investigation into a Formal Complaint.

### **Failure to Adhere to the Board Policies and Procedures**

- 6.46 Trustees are required to observe the terms of all policies and procedures established by the Board that apply to members of the Board.

### **Reprisals and Obstruction**

- 6.47 Trustees must respect the integrity of this Code of Conduct and are obliged to cooperate with inquiries conducted in accordance with the Complaints Protocol and any other procedures set by the Board for addressing complaints of a breach of this Code of Conduct. Any reprisal or threat of reprisal against a complainant or anyone else for providing relevant information to the Integrity Commissioner is prohibited. It is a violation of this Code of Conduct to obstruct the Integrity Commissioner in carrying out the duties of that office.
- 6.48 Trustees shall be respectful of the role of the office of the Integrity Commissioner.

### **Acting on Advice of Integrity Commissioner**

- 6.49 If a Trustee is uncertain about whether a proposed action or activity by that Trustee is prohibited by the Code of Conduct, the Trustee may directly seek the advice of the Integrity Commissioner prior to engaging in the proposed action or activity. This shall not constitute an inquiry or investigation by the Integrity Commissioner pursuant to the Complaint Protocol. The advice is not binding on the member nor on the Board, but must be considered by the Integrity Commissioner in any subsequent investigation involving the member and the same or related conduct. Any advice by the Integrity Commissioner to a Trustee under this provision shall be in writing or, if oral, confirmed in writing by the Integrity Commissioner. The fact that a member did not seek advice under this section shall not be considered by the Integrity Commissioner or the Board in any subsequent investigation or determination.
- 6.50 Nothing in this Code prevents the Chair or Presiding Officer of any meeting of the Board or Committee of the Board from exercising their power pursuant to s. 207(3) of the *Education Act* to expel or exclude from any meeting any person who has demonstrated improper conduct at the meeting.
- 6.51 The Chair of the Board or Presiding Officer of any meeting of the Board or Committee of the Board shall exercise their powers in a fair and impartial manner having due regard for every Trustee's opinion or views.
- 6.52 The Chair of the Board or Presiding Officer shall always attempt to follow the special rules of order of the Board and/or the adopted Rules of Order and meeting procedures under the Consolidated Bylaws.

## **7.0 Sanctions**

7.1 If the Integrity Commissioner determines that the Trustee has breached this Code of Conduct, the Integrity Commissioner shall report to the Board of Trustees reciting the findings of the Integrity Commissioner. The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may impose one or more sanctions as provided for in section 218.3 of the *Education Act*, as may be amended from time to time. The Board has no power to declare the Trustee's seat vacant.

## **8.0 Evaluation**

8.1 This Code of Conduct is to be reviewed and updated as required but at a minimum every four (4) years, on or before May 15 beginning in May, 2022.

### **Appendix:**

1-2

### **Document Links:**

<b>Effective Date</b>	<b>Legislative References</b>	<b>Approved by</b>
2012-06-18		
<b>Amended/Reviewed</b>		
2015-11-16		
2018-11-19		
2019-03-14		
2022-03-22		

## **Appendix 1 – Appointment, Selection and Jurisdiction of the Integrity Commissioner**

### **1.0 Appointment of the Integrity Commissioner**

- 1.1 The Board of Trustees shall appoint an Integrity Commissioner by 2/3 vote. The Integrity Commissioner may be an individual or a firm/corporation. In the latter case, an individual in that firm/corporation may be referenced as the Board's Integrity Commissioner, with the consent of the Board and the firm/corporation.
- 1.2 The term of the Integrity Commissioner shall be five (5) years. The term may be extended by the Board of Trustees by 2/3 vote.
- 1.3 The Integrity Commissioner may be terminated by the Board of Trustees by 2/3 vote.

### **2.0 Selection of the Integrity Commissioner**

- 2.1 The Integrity Commissioner shall be selected using the Board's hiring practices, overseen by a selection committee appointed by the Board and chaired by the Chair or designate. The selection committee shall make a recommendation to the Board.

### **3.0 Role of the Integrity Commissioner**

- 3.1 The Integrity Commissioner has the following responsibilities:
  - (a) fulfilling his or her responsibilities as set out in the Code of Conduct;
  - (b) providing general instruction to Trustees about the Code of Conduct and Complaint Protocol;
  - (c) providing general information to Trustees about their duties and obligations under the *Municipal Conflict of Interest Act*;
  - (d) reviewing and making inquiries related to complaints made about Trustees in relation to the Code of Conduct and the Complaint Protocol, pursuant to the Complaint Protocol;
  - (e) providing educational programs to Trustees on issues of ethics and integrity;
  - (f) maintaining custody and control of their complaint and inquiry files and, on completion of their term, transferring any open files related to ongoing matters to the incoming Integrity Commissioner or as the Board may direct; and
  - (g) providing such other duties respecting ethical and conduct matters as assigned by the Board.
- 3.2 The Integrity Commissioner does not have jurisdiction over complaints about Board staff.
- 3.3 The Integrity Commissioner shall act in an independent and objective manner.
- 3.4 The Integrity Commissioner is accountable to and reports to the Board of Trustees.
- 3.5 The Director of Education, for the sole purpose of an inquiry or investigation undertaken by the Integrity Commissioner pursuant to the Complaint Protocol, will provide information to the Integrity Commissioner and will facilitate access to all documents including, but not limited to books, accounts, financial records, electronic records and communications, files, papers, things or property in the possession or control of the DDSB that the Integrity Commissioner believes are necessary for an investigation of a complaint made in accordance with the Complaint Protocol, provided first that the Board's General Counsel

has vetted the proposed access to confirm that same will not breach the Board's legal obligations.

## **Appendix 2 – Complaints Protocol – Integrity Commissioner**

### **1.0 RATIONALE**

The Board has established a Board Member Code of Conduct (“Code of Conduct or “Code”) to govern the conduct of Trustees and to provide transparency, accountability, and public confidence in its governance. This Complaints Protocol supports the implementation of the Code of Conduct, particularly as related to the complaints process, including the reporting, investigation and resolution of complaints.

### **2.0 OBJECTIVE**

To outline the processes for making, investigating, resolving and reporting on the outcomes of complaints made under the Code of Conduct.

### **3.0 DEFINITIONS**

Terms are as defined in the Code of Conduct.

### **4.0 COMPLAINT PROTOCOL**

This Complaint Protocol describes informal and formal ways for members of the public, staff members and members of the Board of Trustees to address complaints concerning the Code of Conduct and members of the Board. The Complaint Protocol provides a number of ways to resolve complaints in addition to the process described in section 218.3(2) of the *Education Act*. Nothing in this Code of Conduct impacts the ability of a member to elect to bring a complaint directly to the Board of Trustees under section 218.3 of the *Education Act*, rather than to the Integrity Commissioner.

The Complaint Protocol is intended to ensure that there is an opportunity to resolve complaints as fairly, expeditiously and meaningfully as possible.

#### **4.1 Informal Complaint Process**

Individuals (including staff members of the Board, members of the public, or members of the Board) may elect to pursue an informal process to address conduct prohibited by the Code of Conduct. With the consent of the complainant and the Trustee, the Integrity Commissioner may be a part of any informal process.

Individuals (including staff members of the Board, members of the public, or Trustees) who have identified or witnessed conduct by a Trustee that they believe is in contravention of the Code of Conduct may wish to consider addressing the conduct in an informal way including one or more of the following:

- (a) advise the Trustee that the conduct contravenes the Code of Conduct with an explanation as to why;
- (b) encourage the Trustee to stop the prohibited conduct;
- (c) keep a written record of the incident(s) including dates, times, locations, other persons present, and any other relevant information; advise the Integrity Commissioner about the concerns related to the Trustee and any response of the Trustee;
- (d) if applicable, confirm to the Trustee the satisfaction with the response of the Trustee; or, if applicable, advise the Trustee of the dissatisfaction with the response;
- (e) speak to the Chair of the Board to see if the matter can be resolved;
- (f) if the parties agree, the Integrity Commissioner can participate in resolving or attempting to resolve the issues; and
- (g) consider the need to pursue a formal complaint under this Complaint Protocol.

Delay in making a formal or informal complaint to the Integrity Commissioner and any prejudice to the Trustee against whom the complaint is made as a result of such delay, shall be considered by the Integrity Commissioner and may, at the discretion of the Integrity Commission, be a sufficient basis for not proceeding with an investigation. In no case, shall a complaint be investigated if it is not made within 1 year of the events at issue.

The informal complaint process is encouraged; however, it is not required prior to beginning the formal complaint process.

Anonymous complaints will not be considered by the Integrity Commissioner, but the Integrity Commissioner has the discretion to hide the identity of a complainant where the safety of the complainant is an issue or where the disclosure could have a material impact on the functioning of the Board and/or professional working relationships within the Board.

If an informal complaint is brought to the attention of the Integrity Commissioner during the pre-election period described in subsection 4.2(f), the Integrity Commissioner shall not participate in the informal process until after a new Board is deemed organized under section 6 of the *Municipal Elections Act*.

## 4.2

### Formal Complaint

#### *Requests for Inquiries*

- (a) A request for an inquiry into a complaint that a Trustee has contravened the Code of Conduct (the “Formal Complaint”) may be made to the Integrity Commissioner and if so, shall be made in writing on the prescribed form.
- (b) All written complaints shall be signed by an identifiable individual.
- (c) The Integrity Commissioner shall know the identity of the complainant but where the safety of the complainant is an issue, or the identity of the complainant could impact the functioning of the Board and/or professional working relationships, the Integrity Commissioner can maintain the anonymity of the complainant, provided that the Integrity Commissioner is satisfied that the failure to identify the complainant does not and will not have a material impact on the fairness of the process to the member(s) against whom the allegations are made. Further, where the identity of the complainant is not disclosed to the Board of Trustees, the Board of Trustees may consider the fairness of the process to the member(s) against whom the allegations are made in considering the alleged breach and any sanction.
- (d) A Formal Complaint shall set out reasonable and probable grounds for the allegation(s) that a Trustee has contravened the Code of Conduct. The complaint should include the name of the alleged violator, the provision allegedly contravened, the facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during regular business hours.
- (e) Where a complaint is brought forward by way of a Board decision under s. 218.3(a) of the *Education Act*, it may be referred to the Integrity Commissioner and, in that case, the Board shall direct whether the Integrity Commissioner is to treat the matter as a Formal Complaint or pursue informal inquiry and potential resolution. In any such matter where the Board has directed the Integrity Commissioner to pursue an informal inquiry and potential resolution, the Integrity Commissioner shall advise the Board in the event that the Integrity Commissioner has determined that the informal process is not likely to resolve the matter. Upon receipt of such advice, the Board may then direct that the Integrity Commissioner to treat the matter as if it were a Formal Complaint; otherwise, the Board shall make inquiries into the matter and shall, based on the results of the inquiries, determine whether the member has breached this Code of Conduct and, if so, it shall consider whether to sanction the member under section 218.3(3) of the *Education Act*.
- (f) In a municipal election year, a Code of Conduct complaint respecting a Trustee who is seeking re-election will not be

received by the Integrity Commissioner and any open complaint investigation shall be suspended during the period starting on Civic Monday and ending when a new Board is deemed organized under section 6 of the *Municipal Elections Act*.

#### **4.3 Classification of Complaints by the Integrity Commissioner**

- (a) An original written Formal Complaint shall be filed with the Integrity Commissioner for initial classification to determine if the matter is a complaint with respect to non-compliance with the Code of Conduct or whether it is covered by other legislation or other policies.
- (b) If the complaint is not a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation, the Integrity Commissioner shall advise the complainant in writing as follows:
  - i. if the complaint is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
  - ii. if the complaint is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with the complainant's own legal counsel;
  - iii. if the complaint is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Board's General Counsel;
  - iv. in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to consider, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- (c) The Integrity Commissioner shall undertake a threshold assessment of any Formal Complaint and shall determine whether the complaint is outside the timelines stipulated herein or is frivolous, vexatious, or not made in good faith, or whether there are no grounds or insufficient grounds for an investigation, in which case the Integrity Commissioner shall not initiate an investigation, or, where that becomes apparent in the course of an investigation the Integrity Commissioner shall terminate the investigation. The complainant and Trustee, as appropriate, shall be advised of the decision with a rationale. Where the complainant breaches the integrity of an investigation by sharing the details on social media, or in the public arena, the Integrity Commissioner may terminate the investigation.

In assessing whether a complaint is frivolous, vexatious, or not made in good faith, the Integrity Commissioner shall consider whether the complainant is advancing a concern, issue or complaint that is consistent with the purpose of the Code of Conduct and also whether the complaint is, in essence, in the nature of a private interest.

#### **4.4 Reports from the Integrity Commissioner: No Jurisdiction or Inquiry**

- (a) The Integrity Commissioner may report to the Board of Trustees that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify the complainant.
- (b) The Integrity Commissioner shall report annually to the Board of Trustees on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.
- (c) Other than in exceptional circumstances, the Integrity Commissioner will not report to the Board of Trustees on any complaint described in subsections 4.3(b) and (c) except as part of an annual report.

#### **4.5 Formal Complaint Inquiries by the Integrity Commissioner**

- (a) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Integrity Commissioner shall proceed with an investigation as follows:
  - i. provide the complaint and supporting material to the Trustee whose conduct is in question with a request that a written response to the allegation be provided within ten days; and
  - ii. Provide a copy of the response to the complainant with a request for a written reply within ten days.
- (b) If necessary, after reviewing the written materials, delivered under subsection 4.5 (a) the Integrity Commissioner may speak to anyone he or she deems relevant to the complaint, access and examine any of the information, documents or electronic materials and may enter any Board work location relevant to the complaint for the purposes of investigation and/or settlement, provided that the Board's General Counsel has pre-approved the release of any information, documents or materials to the Integrity Commission in accord with the Board's legal obligations.
- (c) The inquiry will be conducted in private and will remain confidential, save and except as may be disclosed in any report by the Integrity Commissioner to the Board of Trustees or as necessary for the conduct of the investigation.
- (d) The Formal Inquiry may involve both written and/or oral statements by any witnesses, persons with relevant information to the complaint, the complainant or the Trustee alleged to have breached the Code.
- (e) The Statutory Powers Procedure Act does not apply.

- (f) Subject to the provisions of 4.5(g), at any time following receipt and review of a Formal Complaint or at any time during the Formal Inquiry, where the Integrity Commissioner believes there is an opportunity to successfully resolve the matter without a formal investigation, and both the complainant and the Trustee alleged to have breached the Code agree, an informal resolution may be pursued. If this process leads to a result that is satisfactory to the Complainant and the Trustee alleged to have breached the Code, then the complaint shall be deemed withdrawn.
- (g) Section 4.5(f) shall not be engaged unless the parties consent and unless the Integrity Commissioner is of the view that it is unlikely, on a balance of probabilities, that there would be a finding of a breach of the Code of Conduct.
- (h) A Formal Complaint may be withdrawn by the Complainant at any time prior to the Board making a determination on the alleged breach(es) under section 218.3 of the *Education Act*.

#### **4.6 Reports to the Board of Trustees**

- (a) The Integrity Commissioner shall report to the complainant and the Trustee generally no later than 90 days after the receipt of the Formal Complaint unless the Integrity Commissioner determines that a longer period of time is required to complete the final report and the reason is explained in the final report. The Board of Trustees and the complainant shall be advised of the need for the extension of time with an expected date of delivery of the report.
- (b) The Integrity Commissioner may make interim reports to the Board of Trustees where necessary and to report on any instances of interference, obstruction or retaliation encountered during an investigation.
- (c) Where a Formal Complaint is sustained in whole or in part, the Integrity Commissioner shall report to the Board of Trustees outlining the findings of the investigation. The report shall make recommendations as to sanction with reference to section 218.3 of the *Education Act* together with any relevant decisions of other Boards that the Integrity Commissioner believes may be of assistance to the Board in considering sanction.
- (d) A report following an investigation into of a Formal Complaint will be delivered to the Board of Trustees for consideration in accordance with the provisions of sections 218.3 and 207 of the *Education Act*. Where the Integrity Commissioner's investigation into a Formal Complaint concludes that there has been no breach of the Code of Conduct, the Integrity Commissioner's investigative report shall not be delivered to the Board of Trustees, but a summary of the investigation shall be provided to the Board of Trustees.
- (e) Where the Integrity Commissioner determines that a contravention of Code of Conduct occurred although the Trustee

took all reasonable measures to prevent it, or that a contravention occurred through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report.

- (f) The Integrity Commissioner shall give a copy of the report to the complainant and the Trustee whose conduct is concerned.
- (g) The Integrity Commissioner shall bring the report before the next available meeting of the Board of Trustees.
- (h) The Board of Trustees shall consider and make a decision in response to the Integrity Commissioner's report in a timely manner, and shall comply with the provisions of section 218.3 of the *Education Act* in considering and making a determination as to whether a breach has occurred and, if so, any sanction.
- (i) The Board of Trustees shall consider the report of the Integrity Commissioner and the Board of Trustees shall make its own assessment and determination of whether there has been a breach of the Code of Conduct and, if so, may accept, reject or amend the Integrity Commissioner's recommendation, if any, as to sanction.
- (j) The Integrity Commissioner may attend at the meeting at which the Board of Trustees will be considering the final report to answer questions of members of the Board of Trustees.
- (k) Where a matter is being handled by the Integrity Commissioner, individual Trustees shall not undertake their own investigation of any matter, including questioning a complainant, the Trustee who is alleged to have breached the Code or any witnesses or persons participating in any investigation.

#### **4.7 Payment of Costs**

- (a) Subject to subsection 4.7(e), a member of the Board who is a respondent to a formal complaint under this procedure shall be reimbursed by the Board for actual and reasonable legal and related expenses up to a maximum of \$5,000.
- (b) Subject to subsection 4.7(e), in the case of an application under the *Judicial Review Procedure Act* for judicial review of actions taken on a complaint against a member of the Board by the Integrity Commissioner,
  - i. where a member of the Board made the judicial review application, the member is eligible for reimbursement of legal costs, including additional legal costs in a successful application, that are not recovered by any costs awarded by the court, up to a maximum of \$20,000.
  - ii. a member of the Board is entitled to reimbursement of the

legal costs of intervention in a judicial review application where the member's interests are at stake, up to a maximum of \$20,000.

- (c) Subject to subsection 4.7(e), the Board of Trustees may consider the reimbursement of costs above the limit in subsections 4.7(b)(i) and (ii) on a case-by-case basis.
- (d) The Board may consider an advance payment to a Trustee for legal expenses prior to completion of an investigation for a maximum amount of \$5,000. While the Trustee must return to the Board all unused funds upon completion of an investigation, the Trustee will not be required to reimburse the spent funds if, upon completion of the investigation, either subsection 4.8(e)i or ii, apply. Otherwise, all advanced funds must be returned to the Board immediately upon conclusion of the investigation.
- (e) Costs shall only be reimbursed under this section to the member of the Board:
  - i. if the Integrity Commissioner concludes that there has been no contravention of the Code of Conduct by the member or that the member is not blameworthy, and the Integrity Commissioner's conclusion is not overturned on judicial review; or
  - ii. if the member is successful, in whole or in part, on any judicial review application either as an applicant or intervenor.
- (f) Any request for costs under subsection 4.7 shall be made in writing to the General Counsel who shall report to the Board of Trustees.

#### **4.8 Confidentiality and Formal Complaints**

A Formal Complaint will be processed as follows:

- (a) The Integrity Commissioner and every person acting under the Integrity Commissioner's instructions shall preserve confidentiality with respect to all Code of Conduct matters except as required by law or in accordance with the provisions of the Code of Conduct and the *Education Act*. The following persons involved in any aspect of a Code of Conduct complaint, including any investigation, shall preserve confidentiality:
  - i. the complainant;
  - ii. individual Trustees;
  - iii. witnesses;
  - iv. the Integrity Commissioner, and

v. staff.

Except that the Integrity Commissioner may disclose relevant information in a public report but only to the extent that the Integrity Commissioner deems it appropriate to do so and provided same has been pre-approved by the Board's General Counsel as being in accord with the Board's legal obligations.

- (b) All reports from the Integrity Commissioner to the Board of Trustees will be made available to the public. The report may be redacted appropriately to reflect the requirements of section 207(2) of the *Education Act*.
- (c) Any references by the Integrity Commissioner in an annual or other periodic report shall not disclose confidential information that could identify the Trustee concerned, except where the Trustee's name has been disclosed in the public sphere, or the Integrity Commissioner deems it necessary to identify the person concerned.
- (d) The Integrity Commissioner, in a report to the Board of Trustees on whether a member of the Board has violated the Code of Conduct, shall only disclose such matters as in the Integrity Commissioner's opinion are appropriate for the purposes of the report.

## **5.0 EVALUATION**

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

## **7.0 APPENDICES**

Appendix A: Complaint Form

Durham District School Board  
Code of Conduct - Formal Complaint Form

COMPLAINT OF

I, \_\_\_\_\_ (full name), of the  
(City, Town, etc.) \_\_\_\_\_ (municipality of  
residence) in the Province of Ontario.

STATE THE FOLLOWING:

1. I have personal knowledge of the facts as outlined in this affidavit, because

\_\_\_\_\_  
\_\_\_\_\_  
(insert reasons e.g., I work for . . . I attended a meeting at which . . . etc.)

2. I have reasonable and probable grounds to believe that:

\_\_\_\_\_ (specify name of Trustee) a member of the  
Durham District School Board, has contravened Section (s) \_\_\_\_\_  
\_\_\_\_\_ (specify section(s) of  
the Trustee Code of Conduct. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please use the attached Schedule A form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this form.)

\*Where a complainant chooses to litigate this matter in the court of public opinion and/or social media platforms, the Integrity Commissioner reserves the right to dismiss this complaint.

Please see the attached Schedule "A"

DATED THIS        DAY OF        , 20        at the City/Town of  
In the Province of Ontario.

\_\_\_\_\_  
(Signature of person making the complaint)

Page \_\_\_\_ of \_\_\_\_

