

By-Law: School Board Member (Trustee) Code Of Conduct

1.0 Purpose

- 1.1 This Board Member Code of Conduct (“Code of Conduct”) supports both legislated requirements and Board-established by-laws, policies and procedures that set out the governance and accountability framework at the Durham District School Board (DDSB). The *Education Act* gives school boards the authority to adopt codes of conduct that apply to board members. This Code of Conduct supports the Board’s commitment to meeting high standards of conduct by trustees.
- 1.2 A Trustee position is an elected position which carries with it the understanding that the electorate will decide at election time its support for the effectiveness of a Trustee. At the same time, it is important to recognize the public trust and responsibility the collective body carries and that this trust and responsibility is honoured through determining and enforcing norms of acceptable behaviour.
- 1.3 A code of conduct policy contributes to confidence in public education and respect for the integrity of Trustees in the community. It deals with acceptable and respectful behaviours.
- 1.4 Trustees will support the Vision and Values, and Strategic Priorities of the Durham District School Board.
- 1.5 Trustees responsibilities can be found in By-Law #11.
- 1.6 The Selection, Appointment and Jurisdiction of the Integrity Commissioner and the Complaints Procedure is set out in Appendix 1.
- 1.7 Trustees shall sign the Trustee Code of Conduct Acknowledgement and Undertaking, set out at Appendix 3, at the annual inaugural meeting of the Board.

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, which is also referred to as the DDSB.

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 and the Ontario Human Rights Code.

Integrity Commissioner means the Integrity Commissioner appointed by the Board of Trustees in accordance with the Durham District School Board Bylaws.

Members of the Board (also referred to as trustees) means the Chair and all members of the Board of Trustees.

Official Business means duties and responsibilities of Trustees as prescribed by the *Education Act* and further explained in the By-Law #11 Trustee Responsibilities, and directly related to operations of the Durham District School Board.

Staff members means employees of the Durham District School Board.

Trustees Office means the authority and public duties attached to the position of being elected as a DDSB 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 of the Board shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.

6.4 Trustees of the Board shall recognize that the expenditure of school board funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students.

6.5 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.

6.6 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.

- 6.7 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 Board;
- 6.8 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;
- 6.9 Trustees shall serve and be seen to serve their school communities in a constructive, respectful, conscientious and diligent manner;
- 6.10 Trustees shall recognize the public trust in the expenditure of DDSB funds efficiently and in the best interests of students;
- 6.11 Trustees shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- 6.12 Trustees are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence;
- 6.13 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 adopted by the Board;
- 6.14 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;
- 6.15 Trustees recognize that their Oath of Office binds them to the provisions of the *Municipal Conflict of Interest Act* (MCIA); and,
- 6.16 The following provincial and federal legislation also applies to Trustees:
 - (a) *Criminal Code of Canada.*
 - (b) *Education Act*
 - (c) *Municipal Conflict of Interest Act*
 - (d) *Municipal Elections Act, 1996*
 - (e) *Municipal Freedom of Information and Protection of Privacy Act*
 - (f) *Occupational Health and Safety Act*
 - (g) *Ombudsman Act*
 - (h) *Ontario Human Rights Code.*

Confidential Information

- 6.17 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 sessions of the Board 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) decisions in respect of negotiations with staff members.
- 6.18 No Trustee shall disclose or release by any means to any member of the public, 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.
- 6.19 No Trustee shall use confidential information for either personal gain or to the detriment of the Board.
- 6.20 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.
- 6.21 Under the DDSB Bylaws, a matter that has been discussed by the Board of Trustees in closed session in accordance with section 207(2) 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 meeting until the Board of Trustees discusses the information at a meeting that is open to the public or releases the information to the public.
- 6.22 Individual members of the Board are only entitled to information in the possession of the DDSB that is relevant to matters before the Board or a committee of the Board. Otherwise, an individual Trustee enjoys the same level of access rights to information as any other member of the community.

- 6.23 If there is uncertainty about whether information is confidential, the Trustee should check with the appropriate staff member, consult with the Director of Education or seek the advice of the Integrity Commissioner.

Upholding Decisions

- 6.24 All Trustees of the Board shall accept that authority rests with the Board, and that a Trustee has no individual authority other than that delegated by the Board.
- 6.25 Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A proper motion for reconsideration or rescission, if permitted by the Board's Rules of Order, can be brought by a Trustee.
- 6.26 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.
- 6.27 Each Trustee shall comply with Board policies, procedures, By-Laws, and Rules of Order.
- 6.28 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 Board 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.

Gifts, Benefits and Hospitality

- 6.29 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 on the part of the Trustee.
- 6.30 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 of the Board.
- 6.31 There are circumstances in which the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events 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) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;

- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) 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;
- (g) 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;
- (h) communication to the offices of a member, including newspapers and periodicals; and,
 - (i) 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.

6.32 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 by this Code of Conduct, to be a gift. This type of attendance is considered to be fulfillment of official public duties.

Conflict of Interest

6.33 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.

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

Use of Board Property, Services and Other Resources

- 6.35 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, since all such property remains exclusively that of the Board.

Election Campaign Work

- 6.36 Election activity refers to campaigns for municipal, provincial and federal office or campaigns on a question on a ballot.
- 6.37 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

- 6.38 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.
- 6.39 For the purposes of this provision, "private advantage" and "improperly prejudice" does not include a matter:
- (i) that is of general application;
 - (ii) that 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) a committee or Board matter that concerns the remuneration or benefits of a Trustee.

Conduct Regarding Current And Prospective Employment

- 6.40 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.
- 6.41 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

- 6.42 Trustees act in the service of the community. They have the opportunity to set an example for future leaders who may look to them for guidance and leadership. They are expected to respect the procedural rulings of the Chair and behave respectfully in respect of the information, views and opinions expressed by staff members, delegates and other Trustees. It is vital that members of the Board conduct themselves with decorum at Board and Committee meetings and in accordance with the provisions of the DDSB's Bylaw concerning meeting procedures.

Conduct Respecting Staff Members

- 6.43 Trustees shall carry out their duties as defined within section 218.1 of the *Education Act*. The Board of Trustees as a whole approves budget, policy, Committee processes, and other such matters. Staff members serve the Board of Trustees as a whole.
- 6.44 Trustees shall be respectful of the role of staff members to provide advice based on political neutrality and objectivity and without undue influence from any individual Trustee or faction of the Board of Trustees.
- 6.45 Trustees will respect the distinct roles of staff in implementing policy in accordance with the provisions of the *Education Act*, the Board's Governance By-Law #11, and OPSBA Good Governance.
- 6.46 Trustees shall not provide direction to staff. Trustees work with the Chair and Director of Education. The Director of Education is responsible for communicating directives and expectations to staff.
- 6.47 Trustees shall respect the professionalism, reputations, duties and expertise of staff members.
- 6.48 By way of example and for greater certainty, Trustees shall not falsely or maliciously injure the professional or other reputation of staff members; compel staff members to engage in partisan political activities or subject staff to threats or other maltreatment for refusing to engage in such activities; or use or attempt to use their authority or influence to intimidate, threaten, coerce, command or influence staff members or interfere with staff members' duties, including to disclose improper activities.

Discreditable Conduct

- 6.49 All Trustees have a duty to treat members of the public, one another, and staff members respectfully and without abuse, bullying or intimidation, and to ensure that the work environment at the Board is free from discrimination and harassment. This provision applies to all forms of written and oral communications, including via social media.
- 6.50 Harassing or discriminatory behavior, as indicated in the DDSB Workplace Harassment Prevention and Human Rights policies and the *Ontario Human Rights Code*, which occurs in the course of, or is related to, the performance of official business and duties of Trustees, is subject to 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 the DDSB Human Rights Office, 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 referral of the complaint to an independent investigator. Upon receipt of the independent investigator's findings, the Integrity Commissioner shall make a final recommendation in respect of compliance with the Code of Conduct.

Failure To Adhere To The Board Policies And Procedures

- 6.51 Trustees are required to observe the terms of all policies and procedures established by the Board that apply to members of the Board.
- 6.52 Trustees shall comply with the provisions of the Employee and Trustee Expenses Policy and Regulation #4135 and corresponding procedures, as amended from time to time.

Reprisals And Obstruction

- 6.53 Trustees should 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 the carrying out of her or his responsibilities, for example, by destroying documents or erasing electronic communications.
- 6.54 Trustees of the Board have a duty to respond to and comply with all requests of the Integrity Commissioner and failure to do so is a violation of this Code of Conduct.

Acting On Advice Of Integrity Commissioner

- 6.55 If there is uncertainty about whether an action or activity refers to conduct prohibited by the Code of Conduct, a Trustee may directly seek the advice of the Integrity Commissioner. This shall not constitute an inquiry or investigation by the Integrity Commissioner pursuant to the Complaint Protocol. Where a member of the Board has received written advice from the Integrity Commissioner on a particular matter, the advice is binding on the Board in any subsequent consideration of the conduct of the Trustee in the same matter as long as

the Trustee disclosed all relevant facts to the Integrity Commissioner before the advice was provided.

- 6.56 The Integrity Commissioner will work with the Chair and Director when providing advice to Trustees.

7.0 Chair/Presiding Officer

- 7.1 The Code of Conduct applies equally to the Chair of the Board. 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.

- 7.2 Each year two alternate Trustees shall be chosen by the Board to be used when the circumstance warrant that one or both Trustees are needed in place of the Chair and/or Vice Chair of the Board to carry out any of the duties required under this Code of Conduct. The two alternate Trustees will be selected annually at the inaugural meeting of the Board in December.

- 7.3 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. For greater certainty, this may be done at the 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.

- 7.4 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.

- 7.5 The Chair of the Board or Presiding Officer shall follow the special rules of order of the Board and/or the adopted Rules of Order and meeting procedures contained in any Policy or By-Law of the Board. 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, 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.

8.0 Sanctions

- 8.1 If the Board determines that the Trustee has breached the Board's Code of Conduct, the Board 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 or a meeting of a committee of the Board.

(c) Barring the member from sitting on one or more committees of the Board, for the period of time specified by the Board.

8.2 The Board 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. The Board has no power to declare the Trustee's seat vacant.

8.3 A Trustee who is barred from attending all or part of a meeting of the Board or a meeting of a committee of the Board 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.

8.4 The imposition of a sanction barring a Trustee from attending all or part of a meeting of the Board 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.

9.0 Specific Directives

9.1 The Board of Trustees has authority to issue operational procedures to implement this policy.

10.0 Evaluation

10.1 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, 2019.

11.0 Appendices

N/A

12.0 Reference Documents

Policies:

- Trustee Expenses Policy & Regulation #4135
- Workplace Harassment Policy & Regulation #4245

By-laws

- Trustee Responsibilities Principles of Policy Governance By-Law #11)
- DDSB Bylaws

Procedures:

- Workplace Violence Management Procedure #4146

Legislation:

- *Criminal Code of Canada*
- *Education Act*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Occupational Health and Safety Act*

- *Ombudsman Act*
- *Ontario Human Rights Code*

Appendix:

1-3

Document Links:

Effective Date

2012-06-18

Amended/Reviewed

2015-11-16

2018-11-19

Legislative References

Approved by

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.
- 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 removed or terminated for cause by 2/3 vote.
- 1.4 The Integrity Commissioner may resign from his or her position with 90 days written notice to the Board of Trustees.

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. providing advice to Trustees about the application of the Code of Conduct, Board policies and procedures, Complaint Protocol
 - b. providing general information to Trustees about their duties and obligations under the Municipal Conflict of Interest Act;
 - c. 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;
 - d. providing educational programs to Trustees on issues of ethics and integrity;
 - e. maintaining custody and control of their complaint and inquiry files and, on completion of their term, transfer any open files related to ongoing matters to the incoming Integrity Commissioner; and
 - f. 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 carry out his/her duties independently.
- 3.4 The Integrity Commissioner is accountable to and reports to the Board of Trustees.

- 3.5 The Integrity Commissioner does not have jurisdiction to investigate or make inquiries in respect of complaints that are related to the Criminal Code, the Municipal Conflict of Interest Act, the Municipal Elections Act, or the Municipal Freedom of Information and Protection of Privacy Act.
- 3.6 The Director of Education, for the sole purpose of an inquiry or investigation undertaken by the Integrity Commissioner pursuant to the Complaint Protocol, provide information to the Integrity Commissioner, and facilitate access to all documents including, but not limited to books, accounts, financial records, electronic records and communications, files, papers, things or property belonging to or used by the Board of Trustees that the Commissioner believes are necessary for an investigation of a complaint made in accordance with the Complaint Protocol.

Appendix 2 – Complaints Protocol – Integrity Commissioner

1.0 RATIONALE

The Board has established a Board Member Code of Conduct (“Code of Conduct”) to govern the conduct of Trustees and to provide transparency, accountability, and public confidence in its governance. This Protocol supports the implementation of the Board Member 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

Board refers to the Durham District School Board, which is also referred to as the DDSB.

Discrimination means discriminatory behavior as defined by the DDSB Workplace Violence and Harassment Prevention policy and the *Ontario Human Rights Code*. [NTD add in other policies/procedures at the board addressing this]

Harassment means harassing behavior as indicated by the DDSB Workplace Violence and Harassment Prevention policies and the *Ontario Human Rights Code*.

Inquiry includes an investigation.

Integrity Commissioner means the Integrity Commissioner appointed by the Board of Trustees in accordance with the DDSB Bylaws.

Members of the Board (also referred to as Trustees) means Trustees of the Board of Trustees.

Official Business means duties and responsibilities of trustees as prescribed by the Education Act and By-Law #11, Trustee Responsibilities, and directly related to operations of the Durham District School Board.

Staff members means staff members of the Durham District School Board.

4.0 RESPONSIBILITY

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

5.0 APPLICATION AND SCOPE

This procedure applies to all members of the Board.

6.0 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* which permits a member to bring an alleged breach directly to the attention of the Board of Trustees.

The Integrity Commissioner may provide advice to members of the Board, information to staff members, and members of the public as well as options for resolving complaints as described in this Complaint Protocol. All of these processes are intended to ensure that there is an opportunity to resolve complaints as fairly, expeditiously and meaningfully as possible.

6.1 Informal Complaint Process

Individuals (including staff members of the Board, members of the public, or members of the Board) are encouraged to use informal means first to address conduct prohibited by the Code of Conduct. With the consent of the complaining individual 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 address the prohibited conduct as follows:

- (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 incidents including dates, times, locations, other persons present, and any other relevant information; tell someone else (for example, the Integrity

Commissioner, a senior staff member or an officer of the organization) 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) if the parties agree, the Integrity Commissioner can participate in resolving or attempting to resolve the issues relating to the ; and
- (f) consider the need to pursue a formal complaint as described in section 6.2.

An informal complaint must be made within six (6) months of the alleged violation or no action will be taken on the complaint.

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.

If an informal complaint is brought to the attention of the Integrity Commissioner during the pre-election period described in subsection 6.2(e), 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*.

6.2 Formal Complaint and Request for Inquiry Process

Requests for Inquiries

- (a) A request for an inquiry into a complaint that a Trustee has contravened the Code of Conduct (the “complaint”) may be made to the Integrity Commissioner and if so, shall be made in writing on the prescribed form (sworn affidavit).
- (b) All written complaints shall be signed by an identifiable individual.
- (c) A written complaint shall set out reasonable and probable grounds for the allegation that the 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.

- (d) Where a complaint is brought forward by way of a Board decision under s. 218.3(a) of the *Education Act*, 6.2 (a) will not apply.
- (e) 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*.
- (f) A formal complaint must be made within six (6) months of the alleged violation or no action will be taken on the complaint.

6.3 Classification of Complaints by the Integrity Commissioner

- (a) The original written complaint shall be filed with the Integrity Commissioner for initial classification to determine if the matter is a complaint with respect to noncompliance with the Code of Conduct and not 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 or a complaint procedure under another Board policy, 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 appropriate Board department;
 - iv. if the complaint is with respect to non-compliance with a specific Board policy with a separate complaint procedure, the complainant shall be advised to pursue the complaint under that procedure; and

- v. 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) If the Integrity Commissioner is of the opinion that the formal complaint and request for an inquiry is frivolous, vexatious, or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, 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. No report shall be presented to the Board of Trustees except as provided for in section 6.4(a).

6.4 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.
- (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 subsection 6.3 except as part of an annual or other periodic report.

6.5 Formal Complaint Inquiries by the Integrity Commissioner

- (a) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Commissioner shall proceed with an investigation as follows;
 - i. Serve the complaint and supporting material upon 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 provided upon the complainant with a request for a written reply within ten days.

- (b) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone 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.
- (c) The inquiry will be conducted in private.
- (d) The Statutory Powers Procedure Act does not apply.

6.6 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 Complaint Form/Affidavit of the complaint. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report to the Board and will advise the parties of the anticipated date that the report will be available.
- (b) The Integrity Commissioner shall not issue a final report to the Board in which there is a finding of a violation of the Code of Conduct on the part of any member of the Board unless the member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction, that the Integrity Commissioner may take into consideration in the final report submitted to the Board.
- (c) The Integrity Commissioner may make interim reports to the Board of Trustees where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
- (d) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to the Board of Trustees outlining the findings, the terms of any settlement, or recommended corrective action or sanction.
- (e) Report of a formal complaint investigation by the Integrity Commissioner will be considered by the Board of Trustees in a public meeting, subject to the following exceptions:

In accordance with section 207(2) of the *Education Act*, a report of a formal complaint investigation may be considered in a meeting closed to the public when the subject matter under consideration involves:

- the security of the property of the board;
 - the disclosure of 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 a school site;
 - decisions in respect of negotiations with employees of the board; or
 - litigation or any potential litigation affecting the Board.
- (f) Where the complaint is dismissed, the Integrity Commissioner shall not report to the Board of Trustees other than in an annual or periodic report or in exceptional circumstances.
- (g) Any recommended corrective action must be permitted in law, by-law or policy and shall be designed to ensure that the inappropriate conduct does not continue.
- (h) Where the Integrity Commissioner determines that a contravention of the Code of Conduct occurred although the Trustee took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
- (i) The Integrity Commissioner shall give a copy of the report to the complainant and the Trustee whose conduct is concerned.
- (j) The Integrity Commissioner shall bring the report before the next available meeting of the Board of Trustees.

6.7 Duty of the Board of Trustees

- (a) The Board of Trustees shall consider and make a decision in response to the Integrity Commissioner's report within 60 days after the day the report is considered at a Public Board Meeting.
- (b) In responding to a report from the Integrity Commissioner, the Board of Trustees may accept, reject or amend the Integrity Commissioner's recommendation to impose a sanction or it may refer the recommendation back to the Integrity Commissioner.

6.8 Payment of Costs

- (a) Subject to subsection 6.8(e), a member of the Board who is a respondent to a complaint under this procedure shall be reimbursed for actual and reasonable legal and related expenses up to a maximum of \$5,000.
- (b) 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 covered by the costs awarded by the court, up to a maximum of \$20,000.
 - ii. a member of the Board may apply for 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) The Board may consider the reimbursement of costs above the limit in subsections 6.8(b)i. and 6.8(b)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 6.8(e)i or 6.8(e)ii below applies. 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. where the Board of Trustees receives the Integrity Commissioner's report on a violation and determines that it should not take any action.

- (f) Any award of costs under subsection 6.8(e) shall be contingent on a report to the Board of Trustees from the General Counsel

6.9 Confidentiality and Formal Complaints

A formal complaint will be processed as follows:

- (a) The Integrity Commissioner and every person acting under her or his instructions shall preserve confidentiality with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of the Code of Conduct and this related procedure concerning reporting to the Board of Trustees.
- (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).
- (c) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a 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 necessary for the purposes of the report.

7.0 EVALUATION

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

8.0 APPENDICES

Appendix A: Complaint Form (Form 708A)

Legislative Acts and Regulations:

- *Judicial Review Procedure Act*
- *Municipal Elections Act*
- *Ontario Human Rights Code*

Appendix 3: ACKNOWLEDGEMENT AND UNDERTAKING

I confirm that I have read, understand and agree to abide by the Board's Code of Conduct and that I understand the Complaints Protocol for complaints made to the Integrity Commissioner.

DATE: _____

SIGNATURE: _____

Please Print Name: _____