

## GOVERNANCE

## Policy 200-R2

### Trustee Code of Ethics Breaches and Sanctions

Trustees shall conduct themselves in an ethical and prudent manner in compliance with Policy 200: Trustee Role, Responsibilities and Code of Ethics. The failure by trustees to conduct themselves in compliance with this policy may result in the Board instituting sanctions.

To assist the Board in self-governance, Trustees who wish to report an infraction under the Trustee Code of Ethics [the "Code"] may follow the procedure below.

A Trustee who believes that a fellow Trustee has violated the Code of Ethics is encouraged to seek resolution of the matter through the Informal Complaint process when possible, prior to commencing an official complaint under this policy.

#### Informal Complaint Process

It is recognized that a contravention of the Code may occur that is relatively minor, or committed inadvertently or due to an error of judgment made in good faith. In such instances the priority shall be to alert the offending Trustee to the violation and their obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Trustee should be investigated following the official complaint procedure. Both the offending and offended Trustee shall seek resolution in an informal, cooperative fashion marked by mutual respect, seeking to understand with an openness to growth and improvement. Discussions during the Informal Complaint process will not be referred to if the matter proceeds to an Official Complaint.

1. The Trustee who believes a violation has occurred will engage in an individual private conversation with the Trustee affected.
2. Failing resolution through the private conversation the parties will engage the Board Chairperson, or at the Chairperson's option the Chairperson and Vice Chairperson, to gain resolution. If the concern is with the Board Chairperson, the concern should be raised with the Vice Chairperson.
3. The Chairperson, or at the Chairperson's option the Chairperson and Vice Chairperson, will attempt to resolve the matter to the satisfaction of the Trustees involved.

It is recognized that for reasons, which may include the nature of the issue of concern or the manner in which it has come to a Trustee's attention, informal measures may not be appropriate.

If resolution through the Informal Complaint Process is not possible, the Official Complaint Process will be followed. Serious and/or recurring breaches of the Code by a Trustee should be addressed through the Official Complaint Process.

## **Official Complaint Process**

### **Filing of Complaint**

1. A Trustee who wishes to commence an official complaint under the Code shall file a letter of complaint with the Board Chairperson within ninety (90) days following the alleged event occurring or of knowledge of the same and indicate the nature of the complaint and the section or sections of the Code that are alleged to have been violated by the Trustee. If the subject of the official complaint is the Board Chairperson, the letter of complaint shall be filed with the Vice Chairperson. The Trustee who is alleged to have violated the Code and all other Trustees shall be forwarded a confidential copy of the letter of complaint as part of the confidential agenda materials for an in-camera meeting.
2. When a Trustee files a letter of complaint, and a copy of that letter of complaint is forwarded to all Trustees, the filing, notification, content and nature of the complaint shall be deemed to be strictly confidential, the public disclosure of which shall be deemed to be a violation of the Code. Public disclosure of the complaint and any resulting decision taken by the Board may be disclosed by the Board Chairperson or Vice Chairperson (as may be appropriate) only at the discretion of the Board, following the disposition of the complaint by the Board of Education at a Code hearing.
3. Procedural fairness and the rules of natural justice shall govern any proceedings under this Policy. The presiding Chairperson shall ensure fairness in dealing with the complaint by adhering to the following procedures. The procedures may be adapted by direction of the Board in order to address the circumstances of the complaint, provided that any deviation from this process is consistent with the principles of natural justice and procedural fairness. The Board may, in its discretion, call upon legal advisors to assist them at any time on issues arising from the administration and application of this Policy.
4. Unless specifically noted, all decisions of the Board under this policy shall be made by way of ordinary resolution.

### **Preliminary Board Meeting**

5. The Chairperson or Vice Chairperson (the "**presiding Chairperson**", when the Chairperson is the subject of the complaint), shall convene, as soon as is reasonable, an in-camera meeting of the Board to determine whether formal sanction proceedings should be initiated.
6. At this meeting, all relevant information available regarding the allegation will be placed before the Board, including the trustee(s) who is the subject of the complaint.
7. The presiding Chairperson shall outline the content of the complaint, and the trustee(s) involved (as complainant or respondent) shall be provided with an opportunity to address the Board regarding the complaint. The Board will then deliberate (in the absence of the respondent trustee(s)) and will determine whether there is sufficient evidence to conclude that a violation of the Code has or has not occurred, or whether additional information is required before a determination can be made.
8. In the event the Board concludes that further information is required, the meeting

shall be adjourned, and the Board will authorize an appropriate investigation. Depending on the circumstances, including the seriousness of the allegation and the nature and extent of the required information, the investigation may be conducted by a designated trustee, an executive officer of the Board of Education or an independent third party to conduct the investigation. The appointed investigator shall gather all relevant information and documents pertaining to the alleged misconduct for review and decision by the Board of Education. There will be no recommendations made or determination of credibility during the investigation process. Upon completion, the requested information shall be provided to trustees, including the respondent Trustee(s), and a date for the completion of the Preliminary Board Meeting shall be scheduled.

9. At the conclusion of the Preliminary Meeting, the Board shall consider all of the relevant circumstances and determine the appropriate next steps in the process which may include:
  - a. dismissing the complaint without further proceedings;
  - b. referring the matter back for informal resolution or to another more appropriate process;
  - c. referring the matter to a formal disciplinary proceeding.

## **Formal Disciplinary Meeting**

10. Formal disciplinary meetings shall take place at an in-camera Board of Education meeting (the **"meeting"**) convened for that purpose. The Trustee facing discipline shall be provided with at least 72 hours notice of the meeting, and will be provided with full details of the alleged breach(es), and a copy of any documents that will be considered at the meeting.
11. All preliminary matters, including whether adaption to the process for the meeting should be amended or whether one (1) or more Trustees may have a personal interest in making a decision regarding the complaint, shall be dealt with prior to discussion about the complaint during the meeting. A Trustee is deemed to have a personal interest if it could lead a reasonably well-informed outsider to think that their judgment could be influenced by that interest or their personal interest would lead to a "reasonable apprehension of bias". Personal interest would not typically be raised in circumstances where a Trustee has been a witness to conduct that is the subject matter of a complaint since it is expected that all Trustees will conduct themselves in accordance with the Code and in the interests of the School District. If it is determined that a Trustee has a personal interest in making a decision regarding the complaint, the Trustee shall not participate in deliberations or vote in respect of any resolution, however the Trustee shall be present if required to maintain quorum of the Board
12. The process followed at the disciplinary meeting shall be in keeping with the following, which is intended to provide a fair opportunity for both parties to be heard and to respond as appropriate. Neither party is obligated to make submissions or to respond to questions.
  - i. The complaining Trustee shall provide a presentation which may be written or oral or both. The complaining Trustee may opt to rely on the written complaint in place of this presentation;
  - ii. The respondent Trustee shall provide a presentation which may be written or oral or both;

- iii. The complaining Trustee shall then be given an opportunity to reply to the respondent Trustee's presentation;
  - iv. The respondent Trustee shall then be provided a further opportunity to respond to the complaining Trustee's presentation and subsequent remarks;
  - v. The remaining Trustees shall be given the opportunity to ask questions to both parties;
  - vi. The complaining Trustee shall be given the opportunity to make final comments; and
  - vii. The respondent Trustee shall be given the opportunity to make final comments.
13. Following the presentation of the respective positions of the parties, the parties and all persons other than the remaining Trustees who do not have a conflict (the "**Voting Trustees**") and the Secretary Treasurer or delegate, shall be required to leave the room, and the Voting Trustees shall deliberate in private, without assistance from staff. The Board will determine what, if any, sanctions should be imposed on the offending trustee(s).
14. The presiding Chairperson shall call for a resolution(s) to be placed before the Board and a vote will be conducted. Only the Voting Trustees shall be able to vote on any resolution(s).
15. The presiding Chairperson shall declare the in-camera Board meeting adjourned.
16. All documentation that is related to the Code of Ethics hearing shall be returned to the Secretary Treasurer or designate immediately upon adjournment or conclusion of the Code of Ethics hearing and shall be retained in accordance with legal requirements. This includes all notes taken by Voting Trustees in relation to the submissions or deliberations.
17. In the case of an adjournment for any reasons, no discussion by Trustees whatsoever of the matters heard at the hearing may take place until the meeting is reconvened. Only those members present for all submissions made in a Code of Ethics hearing will be permitted to deliberate or vote in respect of any resolution of a complaint.
18. If a party to a complaint does not attend a Code of Ethics hearing where appropriate notice has been provided, the matter will be adjourned in the first instance. If a complaining Trustee indicates they will not attend a Code of Ethics hearing or does not attend for the second Code of Ethics hearing where appropriate notice has been provided, the complaint will be deemed to be withdrawn. If a respondent Trustee indicates they will not attend a Code of Ethics hearing or does not attend for the second Code of Ethics hearing where appropriate notice has been provided, the Code of Ethics hearing will proceed in the absence of the respondent Trustee and the respondent Trustee will be deemed to have waived participation in the hearing.
19. Any staff support that is necessary or requested under this policy shall be administrative in nature.

## **Sanctions**

Sanctions for a violation of the Code should be imposed in a remedial and restorative manner, and should reflect the seriousness of the breach.

For example, sanctions may include:

1. Having the offending Trustee write a letter of apology;
2. Having the offending Trustee participate in a restorative justice process;
3. Having the offending Trustee participate in specific training, coaching or counselling as directed by the Board;
4. Having the presiding Chairperson write a letter of censure marked "personal and confidential" to the offending Trustee, on the approval of at least a majority of the Voting Trustees at the in-camera meeting of the Board;
5. Having a motion of censure passed by at least a majority of the Voting Trustees at the in-camera meeting of the Board;
6. Having a motion to remove the offending Trustee from one (1), some or all Board committees or other appointments of the Board passed by at least a majority of the Voting Trustees at the closed (in-camera) meeting of the Board.
7. Where a trustee refuses or repeatedly fails to respect the confidentiality of in-camera meetings, the Board may, on the approval of at least a majority of the Voting Trustees, remove the trustee from some or all closed meetings and access to confidential materials for a defined period, and/or until such conditions as the Board deems appropriate are met.

The Board may, in its discretion and by resolution of the Voting Trustees, make public any outcomes(s) of the Official Complaint Process if this is consistent with applicable law, and is considered reasonable and appropriate.

## **Appeals Process**

The decisions of the Board made under this Policy are final. Trustees who have been sanctioned or have had other measures imposed upon them by the Board of Education under this Policy have the right to seek judicial review of the Board's decision, at their own expense.