

TORONTO CATHOLIC DISTRICT SCHOOL BOARD SPECIAL MEETING Public Session

AGENDA APRIL 28, 2021

Joseph Martino, Chair
Trustee Ward 1

Nancy Crawford, Vice Chair
Trustee Ward 12

Frank D'Amico
Trustee Ward 6

Markus de Domenico
Trustee Ward 2

Daniel Di Giorgio
Trustee Ward 10

Normal Di Pasquale
Trustee Ward 9

Keith Baybayon
Student Trustee

Michael Del Grande
Trustee Ward 7

Angela Kennedy
Trustee Ward 11

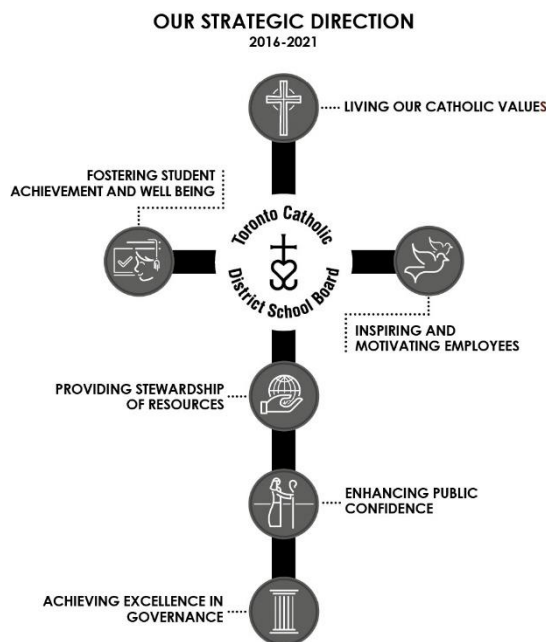
Ida Li Preti
Trustee Ward 3

Teresa Lubinski
Trustee Ward 4

Maria Rizzo
Trustee Ward 5

Garry Tanuan
Trustee Ward 8

Kathy Nguyen
Student Trustee



MISSION

*The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ.
We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.*

VISION

At Toronto Catholic we transform the world through witness, faith, innovation and action.

Recording Secretary: Sophia Harris, 416-222-8282 Ext. 2293

Assistant Recording Secretary: Skeeter Hinds-Barnett, 416-222-8282 Ext. 2298

Assistant Recording Secretary: Sarah Pellegrini, 416-222-8282 Ext. 2207

Dr. Brendan Browne
Director of Education

Joseph Martino
Chair of the Board

LAND ACKNOWLEDGEMENT

Out of our deep respect for Indigenous peoples in Canada, we acknowledge that all Toronto Catholic District School Board properties are situated upon traditional territories of the Anishinabek (a-ni-shna-bek), the Haudenosaunee (hoh-Dee-noh-Shoh-nee) Confederacy, and the Wendat peoples. We also acknowledge the land covered by Treaty 13 is held by the Mississaugas of the Credit First Nation and Toronto is subject to The Dish with One Spoon covenant. We also recognize the contributions and enduring presence of all First Nations, Métis, and Inuit peoples in Ontario and the rest of Canada.

La Reconnaissance du Territoire

Nous témoignons du plus grand respect pour les Peuples autochtones au Canada et nous avons à cœur de souligner que tous les immeubles du Toronto Catholic District School Board sont situés sur les terres traditionnelles de la Nation Anishinabek, de la Confédération de Haudenosaunee et des Wendats. Il est également important de noter que le territoire visé par le Traité 13 est celui des Mississaugas de la Première Nation Credit et que celui de Toronto est protégé par l'accord d'« un plat à une cuillère ». Nous tenons également à rappeler la présence pérenne et l'importance des contributions des Premières Nations, des Metis et des Inuits en Ontario, et dans tout le Canada.

OUR MISSION

The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ. We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.

OUR VISION

At Toronto Catholic we transform the world through witness, faith, innovation and action.



AGENDA SPECIAL MEETING OF THE TORONTO CATHOLIC DISTRICT SCHOOL BOARD PUBLIC SESSION

Joseph Martino, Chair

Nancy Crawford, Vice-Chair

Wednesday, April 28, 2021

7:00 P.M.

Pages

1. Call to Order
2. Memorials and Opening Prayer
3. Land Acknowledgement
4. Singing of O Canada A Capella
5. Roll Call and Apologies
6. Approval of the Agenda
7. Reports from Private Session
8. Notices of Motions
9. Declarations of Interest
10. Approval and Signing of Minutes of the Previous Meeting - NIL
11. Presentations
12. Delegations
13. Consideration of Motions for which previous notice has been given

14. Unfinished Business from Previous Meetings

15. Matters referred/deferred from Committees/Board

From the March 25, 2021 Regular Board Meeting

**15.a. From the Governance and Policy Committee: Revision of the
Trustee Code of Conduct Policy (T.04) (Held by Trustee Di Giorgio)**

1 - 62

16. Reports For Information

17. Reports of Officials Requiring Action of the Board of Trustees

**17.a. Capital Priorities Criteria 2021-2022 (All Wards) (Refer April 28,
2021 Addendum)**

18. Reports from External Committees / Organizations

19. Listing of Communications

19.a. Integrity Commissioner's Disposition Report

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20. Inquiries and Miscellaneous

21. Updating of Pending Items List

22. Closing Prayer

23. Adjournment



REPORT TO

REGULAR BOARD

FROM THE GOVERNANCE AND POLICY COMMITTEE REVISION OF THE TRUSTEE CODE OF CONDUCT POLICY T.04

*For we are His workmanship, created in Christ Jesus for good work, which God prepared beforehand that we should walk in them. **Ephesians 2:10***

Created, Draft

February 9, 2021

First Tabling

February 18, 2021

Review

[Click here to enter a date.](#)

Paul Matthews, General Legal Counsel

RECOMMENDATION REPORT

Vision:

At Toronto Catholic we transform the world through witness, faith, innovation and action.

Mission:

The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ.

We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.



Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

S. Camacho
Acting Associate Director
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

This report recommends updating the current Policy on Trustee Code of Conduct Policy T.04 to conform to current practice and policies.

The cumulative staff time required to prepare this report was 20 hours

B. PURPOSE

This Recommendation Report is on the Order Paper of the Regular Board Meeting as it recommends policy revision based on input from the Governance and Policy Committee.

C. BACKGROUND

1. This draft of the proposed Trustee Code of Conduct Policy includes revisions adopted by the Committee on January 12, 2021, and February 2, 2021. Attached at Appendix A is the revised draft policy.
2. The proposed draft protocol is attached at Appendix B.
3. Changes to this policy reflect current practice and alignment with related policies.

D. EVIDENCE

This proposed policy is a complete revision of the existing policy and is submitted by the Integrity Commissioner in consultation with the Director of Education, General Legal Counsel and the Governance and Policy Committee.

E. METRICS AND ACCOUNTABILITY

1. Recommendations in this report will be monitored by the Director, with the support of Legal Services.
2. Further reports will be brought to the Board in accordance with the policy review schedule.

F. IMPLEMENTATION

The updated policy as approved will be posted on the TCDSB policy register.

G. COMMITTEE RECOMMENDATION

The Governance and Policy Committee recommends that the revised Trustee Code of Conduct Policy T.04 provided in Report Appendix A, and the accompanying TCDSB Code of Conduct Complaint Protocol provided in Report Appendix B, be adopted.



POLICY SECTION: TRUSTEES

SUB-SECTION:

POLICY NAME: TRUSTEE CODE OF CONDUCT

POLICY NO: T.04

Date Approved:	Date of Next Review:	Dates of Amendments:
<p>Cross References:</p> <p>Education Act, R.S.O. 1990, c. E.2</p> <p>Municipal Act, 2001, S.O. 2001, c. 25</p> <p>Municipal Conflict of Interest Act, R.S.O. 1990, c. M50 (MCIA)</p> <p>Municipal Elections Act, 1996, SO 1996, c. 32</p> <p>Municipal Freedom of Information and Protection of Privacy Act, R.S.O 1990, C. M.56 (MFIPPA)</p> <p>Criminal Code of Canada R.S.S., 1985, c. C-46</p> <p>Human Rights Code, R.S.O. 1990, c. H. 19</p> <p><i>Harassment and Discrimination Policy H.M.14</i></p> <p><i>Fair Practice in Hiring and Promotion Policy H.M.40</i></p> <p><i>Trustee Services and Expenditures Policy T.17</i></p> <p><i>Trustee Honorarium T.05</i></p> <p><i>Code of Conduct S.S.09</i></p>		
Appendix A – Trustee Code of Conduct Protocol		

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POLICY SECTION: TRUSTEES

SUB-SECTION:

POLICY NAME: TRUSTEE CODE OF CONDUCT

POLICY NO: T.04

Purpose:

This *Code of Conduct* applies to all Trustees. It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of the Board, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Trustees.

Commentary and examples used in this *Code of Conduct* are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document by the Integrity Commissioner and supplementary materials may also be produced as deemed appropriate.

Where a Trustee discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Trustee may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that they are asked to investigate a complaint.

Trustees seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.

The *Education Act* is the primary piece of legislation governing school boards however there are other statutes that govern the conduct of elected officials. It is intended that the *Code of Conduct* operate together with and as a supplement to applicable legislation, including the:

- *Education Act*
- *Municipal Act, 2001*;
- *Municipal Conflict of Interest Act (MCIA)*;
- *Municipal Elections Act, 1996*;



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- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA);*
- *Criminal Code of Canada*
- *Ontario Human Rights Code*

Trustees are expected to discharge their duties and responsibilities in a professional and ethical manner consistent with Gospel Values and the teachings of the Catholic Church.

General Introduction:

Trustees of the Toronto Catholic District School Board (Trustees) recognize their obligation to serve the Board's students and staff, their constituents and the general public in a conscientious and diligent manner understanding that as leaders of the community, they are held to a higher standard of behaviour and conduct. That standard includes upholding the Catholic Faith and adhering to the Oath of Office taken each year at the Caucus meeting.

Trustees represent all the citizens in the Catholic community in the City of Toronto and are responsible to the electorate through the democratic process. Fellow citizens have entrusted trustees through the electoral process with the education of all students in the community they serve as their advocates. The public is entitled to expect the highest standard from the school trustees that it elects.

Trustees recognize that ethics and integrity are at the core of public confidence in government and in the political process; that elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real. They recognize the need to uphold both the letter and the spirit of the law including policies adopted by the Board.



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Catholic Trustees, as representatives of the Catholic community must ensure that the mission of Catholic education, as part of the broader mission of the Church is fulfilled. Because of this unique and distinctive mission, Catholic school trustees honour a set of additional expectations that have been set for them by the Church and by the Catholic community. The vocational call to trusteeship is to serve.

This Code of Conduct ensures that Trustees share a common basis and understanding for acceptable conduct of Trustees, in concert with and beyond the minimum standards of behaviour set out in the existing legislative framework. The Toronto Catholic District School Board is an inclusive learning community rooted in the love of Christ. We educate students to grow in grace and knowledge and to lead lives of faith, hope and charity.

Our vision of Catholic education invites each one of us— parents, students, teachers, principals, chaplains, support staff, trustees, clergy, supervisory personnel — to work together as a community of believers committed to putting the values of our faith into practice in the daily life of the school, the home, and in all of society. (Fulfilling the Promise Assembly of Catholic Bishops of Ontario)

We Believe...

- in the worth and dignity of every person
- in the critical role that our Catholic schools play in promoting Gospel values, social justice, environmental responsibility, human solidarity and the common good
- that high standards and expectations foster greater achievement
- that people thrive in a safe, healthy and compassionate environment grounded in respect for the diversity of every person
- that teaching is responsive to individual needs
- that teaching and learning should be rooted in research and evidence



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- that each of us shares responsibility for creating collaborative communities of learning
- that equity, diversity, accessibility and inclusivity are integral to the Catholic community
- that the 21st century competencies – collaboration, real world problem solving and innovation, knowledge construction, skilled communication, self-regulation and the use of information communication technology for learning, are essential.

This Code of Conduct is consistent with the principles of transparent and accountable government, and is reflective of the Board's values relating to Faith, Community and Culture which require each Trustee, within the duties prescribed in the Education Act, its Regulations and other applicable legislation, and reflecting a ministry within the Church, to:

- a) appreciate that Catholic schools are an expression of the teaching mission of the Church;
- b) provide an example to the Catholic Community that reflects the teaching of the Church;
- c) facilitate the best possible Catholic education according to the programs approved by the provincial Minister of Education and supported by the Archdiocese of Toronto and the Assembly of Catholic Bishops of Ontario (ACBO);
- d) recognize and rigorously defend the constitutional right of Catholic education and the democratic and corporate authority of the Board;
- g) work to improve personal knowledge of current Catholic educational research and practices;
- h) affirm a strong sense of Christian Catholic Community; and
- i) provide support, encouragement and prayer for the efforts of all persons engaged in the ministry of Catholic Education in Canada;



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Alignment with MYSP:

Living Our Catholic values

Strengthening Public Confidence

Fostering Student Achievement and Well-Being

Achieving Excellence in Governance

Providing Stewardship of Resources

Inspiring and Motivating Employees

Policy:

1. Trustees shall serve the public and their constituents in a conscientious and diligent manner.
2. Trustees should be committed to performing their functions with integrity impartiality and transparency.
3. Trustees shall perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.
4. There is a benefit to School Boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise.



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Regulations:

1. Avoidance of Conflicts of Interest

In this Regulation:

- a. “disqualifying interest” means an interest in a matter that, by virtue of the relationship between the Trustee and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Trustee could not participate impartially in the decision-making processes related to the matter.
- b. “non-disqualifying interest” means an interest in a matter that, by virtue of the relationship between the Trustee and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Trustee could participate impartially in the decision-making processes related to the matter so long as:

The Trustee fully discloses the interest so as to provide transparency about the relationship; and

The Trustee states why the interest does not prevent the Trustee from making an impartial decision on the matter.

1. Trustees shall not participate in the decision-making processes associated with their office when prohibited to do so by the *Municipal Conflict of Interest Act*.
2. Trustees shall not participate in the decision-making processes associated with their office when they have a disqualifying interest in a matter.



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3. For greater certainty:

- a) Trustees shall not participate in the decision-making processes associated with their office when they have a direct, indirect or deemed pecuniary interest in a matter, except in compliance with the *Municipal Conflict of Interest Act*.
- b) Trustees shall not participate in the decision-making processes associated with their office when they have an interest that though in compliance with the *Municipal Conflict of Interest Act*, is nevertheless a disqualifying interest by virtue of the nature of the relationship between the Trustee and other persons or bodies to be affected by the decision.

4. Treatment of Non-Disqualifying Interests:

- a) Trustees may participate in the decision-making processes associated with their office when they have a non-disqualifying interest provided they file at their earliest opportunity a Transparency Disclosure in a form and manner established by the Director of Education acting in consultation with the Integrity Commissioner.
- b) Transparency Disclosures are public documents and shall be available for public viewing on the Board web site.
- c) The determination of whether an actual disqualifying interest or an actual non-disqualifying interest exists, when challenged, is subject to the determination by the Integrity Commissioner of whether a reasonable person fully informed of the facts would believe that the Trustee could not participate impartially in the decision-making processes related to the matter.



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Commentary

Trustees should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and private conflicts of interest, both apparent and real. Trustees shall also not extend in the discharge of their official duties, preferential treatment to Family members, organizations or groups in which they or their Family members have a direct or indirect pecuniary interest.

Trustees have a common understanding that in carrying out their duties as a Trustee, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family member or an individual which is not available to every other individual.

Trustees may seek conflict of interest or other advice, in writing, from the Integrity Commissioner. Where members choose to seek external legal advice on conflict of interest or other Code of Conduct issues, these fees will not be reimbursed by the TCDSB and cannot be charged to any office account.

When a member, despite the existence of an interest, believes that he or she may still participate in a matter with an open mind, the public interest is best served when the Trustee is able to articulate the interest, and why the interest does not amount to a disqualifying conflict of interest.

Trustees must remain at arm's length when Board staff or the Board is asked to consider a matter involving a Family member or a person or organization with whom the Trustee has a real or apparent conflict of interest.



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5. Trustees who seek advice from the Integrity Commissioner with respect to the application of this Regulation may rely on the provisions of Part B. "Framework and Interpretation" (paragraph 3) and the Regulation 17, "Acting on Advice of Integrity Commissioner."
6. Trustees shall avoid any interest in any contract made by him/her in an official capacity and shall not contract with the Board or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.
7. Trustees, while holding public office, shall not engage in an occupation or the management of a business that conflicts with their ability to diligently carry out their role as a Trustee, and shall not in any case profit directly or indirectly from such business that does or has contracted with the TCDSB.
8. Despite paragraph g., a Trustee may hold office or a directorship in an agency, board, commission or corporation where the Trustee has been appointed by the Board or by the Federal or Provincial Government.
9. Despite paragraph g. a Trustee may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Trustee disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Trustee does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Trustee a qualified opinion, the Trustee may remedy the situation in the manner specified by the Integrity Commissioner.



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Commentary

Trustees should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the Board at any time

The legislative obligation is set out in the Municipal Conflict of Interest (MCIA). If the Trustee, or a family member of the Trustee, sits on a body which has a pecuniary interest in a matter before the Board (such as an application for grant, support or other contribution), that Trustee has a deemed pecuniary interest. The Trustee should disclose the interest and should not participate in or vote on such matter, in compliance with the obligations of s.5, MCIA.

The Code of Conduct captures the broader common law responsibility and requires members to avoid the appearance of favoring organizations or groups on which the Trustee's family members serve.

Family members of Trustees are not precluded, or even discouraged, from serving on not-for-profit organizations or other bodies. However, where family members of Trustees serve in such a capacity, the Trustee should declare a conflict of interest whenever there is a matter for the Board consideration in which the not-for-profit organization or body has a pecuniary interest.

2. Gifts, Benefits and Hospitality

In this Regulation:

- a. "Gift" means money, fee, advance, payment, gift, gift certificate, promise to pay, property, travel, accommodation, entertainment, hospitality or any other personal benefit connected directly or indirectly with the performance of a Trustee's duties of office, but excludes:



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- i. Compensation authorized by law;
 - ii. Political contributions otherwise reported by law, in the case of Trustees running for office;
 - iii. Services provided by persons volunteering their time;
 - iv. Contributions of value that are specifically addressed in other provisions of this Code
 - v. Gifts provided to the TCDSB and which are logged, archived and/or publicly displayed as such.
- b. A Gift provided with the Trustee's knowledge to a Family member that is connected directly or indirectly to the performance of the Trustee's duties, is deemed to be a Gift to that Trustee.
- c. "Token of Appreciation" means such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, or which are a suitable memento of a function honouring the Trustee.
- d. "Official Hospitality" means 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 at a conference, seminar or event where the Trustee is either speaking or attending in an official capacity at an official event (such as at meetings of AMO, FCM, or conducted by providers of continuing education).



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- e. "Business Hospitality" means entertainment, 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;
- f. "Publications" means communication to the offices of a Trustee, including subscriptions to newspapers, and periodicals.
 - 1. No Trustee shall accept any Gift unless expressly permitted by this Regulation.
 - 2. No Trustee shall accept any Gift involving the use of property or facilities, such as a vehicle, office, club membership or vacation property at less than reasonable market value or at no cost. Notwithstanding this prohibition, with specific approval provided by the Board, a Trustee may be sponsored to attend educational site visits connected with an identified project.
 - 3. Gifts identified in Column B of *Gift Treatment and Disclosure Table* may be accepted by a Trustee provided the Gift is disclosed in accordance with the conditions set out in Column 'C'.
 - 4. Gift Disclosure, where required, is to be accomplished by filing within 30 days of receipt of the gift or reaching the annual limit, a Trustee Information Statement in a form prescribed by the Integrity Commissioner and providing same to the Board Recording Secretary for posting on the Board's web site.



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5. Gifts identified in Column B shall not be accepted, without the Integrity Commissioner's specific approval, when the conditions set out in Column 'D' are applicable.

6. In providing advice to a Trustee about their obligations respecting Gifts, or in considering any inquiry with respect to a Trustee Information Statement or an assertion that this Regulation has been breached, or in providing consent, where required, that a Gift may be accepted, the Integrity Commissioner shall determine whether the receipt of the Gift might, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the public duty of the Trustee. In the event that the Integrity Commissioner makes that preliminary determination, they shall call upon the Trustee to justify receipt of the gift or benefit.

7. Should the Integrity Commissioner determine the receipt of a Gift was inappropriate, the Integrity Commissioner may direct the Trustee to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Trustee to forfeit the gift or remit the value of any gift or benefit already consumed to the TCDSB. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.



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Gift Treatment and Disclosure

A	B	C	D
<u>Type of Gift</u>	<u>Examples</u>	<u>Gift Disclosure</u> <i>Apparent Value at which Gift, or the cumulative value from one source in a calendar year is disclosable</i>	<u>Gift No Longer Allowable</u> <i>Condition or Actual Value beyond which gift is not allowable (Value assessed on basis of single Gift or cumulative Gift value from one source in calendar year) (without Integrity Commissioner approval)</i>
Token of Appreciation	Plaques, Pens, Mugs, Vase, Event Photos, and similar	No need to record - Deemed Zero Value	Actual Value of a single gift is over \$100 (allowable with IC approval)
	Perishable (includes flowers, food)	No need to record - Deemed Zero Value	Excludes Alcohol with actual value over \$100
	Gift to Board	Not a 'Gift'. No need to record. Board staff to record and take possession unless otherwise on public display. Deemed Zero Value	N/A
Course of Business	Publications	No need to record - Deemed Zero Value	N/A
	Art	\$100	\$100
	Business Meals	\$100	\$100
	Business Hospitality	\$100	\$250 More than two Event Tickets (Golf, Gala, Sporting, Entertainment) per event More than one event per year from the same person or organization (allowable with IC approval)



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	Official Hospitality	\$100	No limit
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Commentary

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official, but can also be seen as an instrument of influence and manipulation. The object of this regulation is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a Code of Conduct that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the Board be such that no Trustee is perceived as showing favouritism or bias toward the giver. There will never be a perfect solution.

Each Trustee is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, for review by the Integrity Commissioner in the event of a complaint.

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property or club membership) at a reduced rate or at no cost is not an acceptable gift or benefit. The purpose of the Code is not to prohibit Trustees from accepting all invitations to socialize at a vacation property with personal friends who are in no way associated with the business of the TCDSB.



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Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before the Board or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements. Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Trustee chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function with a developer or supplier could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the scope of permissible gifts and benefits, meaning that Trustees should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favouritism.

An invitation to attend a fund-raising gala, provided the Trustee is not consistently attending such events as a guest of the same individual or corporation, is also part of the responsibilities of holding public office. Where a Trustee is uncertain in regard to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Trustees is acceptable in situations where the Trustee pays their portion of the meal expense and treats it as a personal expense, meaning a claim is not made under the Trustee Services and Expenditures Policy T.17. Proper caution and diligence not to discuss matters before the Board for a decision must be exercised at all times. When in doubt it is prudent to consult with the Integrity Commissioner.



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3. Trustee's Role in Funding Charitable/Community Events

There are a range of expenses that support a Trustee's role in community development and engagement activities within their ward. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Locally-elected officials do not have this benefit. Trustees should refer to the *Trustee Services and Expenditures Policy T.17* for guidance of expenses eligible for reimbursement.

1. As community leaders, Trustees may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups. Monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Trustees should not handle any funds on behalf of such organizations.

Trustees routinely perform important work in supporting charitable causes and in so doing, there is a need for transparency respecting the Trustee's involvement. The following guidelines shall apply:

- a) Trustees should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;
- b) Trustees or persons acting on behalf of a Trustee shall not solicit or accept support in any form from an individual, group or corporation, with any pending significant matter or procurement proposal before the Board, which the Trustee knew or ought to have known about;



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- c) With reference to member-organized community events, Trustees must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event;
- d) Where a Trustee sponsors and/or lends support to a community or charitable event, this *Code* recognizes that all donations are subject to the *Trustee Services and Expenditures Policy T.17*;
- e) No donation cheques should be made payable to a Trustee. Trustees may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group;
- f) Trustees should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Trustee agrees to fundraise on behalf of a charity or community group, the Trustee should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Trustee agrees to fundraise on behalf of a charity or community group, the Trustee should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.



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2. Nothing included herein affects the entitlement of a Trustee to:

- a) urge constituents, businesses or other groups to support community events and advance the needs of a charitable organization put on by others in the Trustee's ward or elsewhere in the City of Toronto;
- b) play an advisory ex officio or honorary role in any charitable or non- profit organization that holds community events in the Trustees' ward; and
- c) collaborate with the TCDSB and its affiliates to hold community events.

Commentary

By virtue of the office, Trustees will be called upon to assist various charities, service clubs and other non-profits as well as community associations, by accepting an honourary role in the organization, lending their name or support to it or assisting in fundraising. Transparency and accountability are best achieved in today's era by encouraging contributors to make donations to such organizations on-line through a website or where that is not possible through a cheque made payable directly to the organization. Cash should never be accepted.

4. Confidential Information

- 1. No Trustee shall disclose the content of any such matter, or the substance of deliberations, of an *in-camera* meeting until the Board discusses the information at a meeting that is open to the public or releases the information to the public.



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2. 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 where required by law or authorized by the Board to do so.
3. No Trustee shall use confidential information for personal or private gain, or for the gain of Family members or any person or corporation.
4. No Trustee should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Board property or assets.
5. 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 is not prohibited by Board policy.

Commentary:

Confidential Information includes information in the possession of, or received in confidence by, the TCDSB that the TCDSB is either prohibited from disclosing, or is required to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA"), or any other legislation.

MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.



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The Education Act allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the Board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the Code of Conduct, “confidential information” includes this type of information.

As elected officials, Trustees will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Trustees’ duties Constituency records that are at all times under the control of the Trustee and are not subject to MFIPPA.

Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it “Confidential”, such communication will not be given any higher level of confidentiality than any other communication. The words “Privileged”, “Confidential” or “Private” will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

5. Use of Board Resources

1. No Trustee shall use for personal purposes any staff services, property, equipment, services, supplies, websites, blogs, or other Board-owned materials, other than for purposes connected with the discharge of their Board duties.



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2. No Trustee shall obtain personal financial gain from the use or sale of Board developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Trustees acknowledge and do not dispute that all such property remains exclusively that of the TCDSB.
3. No Trustee shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.

Commentary

Trustees, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their Board duties as public officials.

Trustees are held to a higher standard of behaviour and conduct and therefore should not use TCDSB property for any purpose other than for carrying out their official duties. For clarity, this Regulation is intended to prohibit the use of Board resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

Careful attention should be given to the provisions of the Board's Trustee Services and Expenditures Policy T.17 which identifies allowable expenses. During election campaigns, the provisions of Regulations 6 and 7 will apply.



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4. No Trustee shall use the services of Board staff, or make requests for documents or information from Board staff, unless such information is required for the purpose of carrying out their duties as public officials.
5. No Trustee shall include in his or her website, newsletters, E-mails or other printed material, advertising of businesses in the Board, including the distribution of gift certificates, free tickets or a compiled list of businesses located in a ward.

6. Election Campaigns

1. Trustees are required to follow the provisions of the *Municipal Elections Act, 1996* and Trustees are accountable under the provisions of that statute.
2. No Trustee shall use the facilities, equipment, supplies, services, staff or other resources of the Board (including the Board's newsletters, individual websites linked through the Board's website and social media accounts used for ward communication) for any election campaign or campaign-related activities and all such sites shall not use the TCDSB logo.
 - a) If a member of the Board uses any social media account for campaign purposes, such account must not be created or supported by Board resources or use the TCDSB logo. Social media accounts used for campaign purposes must utilize personal cell phones, tablets and/or computers.



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- b) To avoid confusion with any website or social media accounts used for the Trustee's work, Trustees who choose to create or use social media accounts for campaign communications must include, for the duration of the campaign, a clear statement on each campaign website or social media account's home page indicating that the account is being used for election campaign purposes.
 - c) Despite the foregoing, Trustees are allowed to place campaign phone numbers, websites and E-mail addresses on election pages on the Board's website may be available and authorized for use by all candidates for school board office.
- 3. In a municipal election year, commencing May 1 (alternate: July 2) until the date of the election, Trustees may not publish newsletters or distribute newsletters in TCDSB facilities. All newsletters distributed through the mail must be post- marked by no later than May 1 (alternate July 2) in an election year. Trustees may, during such period, use Board facilities to communicate important notifications to separate school supporters in their ward by E-mail or by letter on the Trustee's usual letterhead.
- 4. In a municipal election year, commencing on May 1 (alternate July 2), until the date of the election, no candidate, including Trustees, may directly or indirectly book any TCDSB facility for any purpose that might be perceived as an election campaign purpose.



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Commentary

Staff should not interpret or provide advice to Trustees regarding the requirements placed on candidates for municipal office.

Trustees should not authorize any event that could be perceived as the TCDSB providing them with an advantage over other candidates. It is the personal responsibility of Trustees to ensure that any use of facilities or the services of staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Trustees or any other candidates, in this regard.

5. No Trustees shall use the services of persons for campaign related Activities during hours in which those persons receive any compensation from the Board.
6. The Integrity Commissioner may at any time be consulted with regard to complying with any part of Regulation 6.



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7. Improper Use of Influence

1. No Trustee shall use the influence of their office for any purpose other than for the exercise of their official duties.

If the Board has taken a position in an Ontario Municipal Board/Local Planning Appeal Tribunal (“OMB/LPAT”) matter and instructed the Board’s legal counsel to appear at a hearing in support of such position, no member of the Board who disagrees with such position, shall give evidence at such hearing or otherwise work against the will of the Board in such matter. With the consent of the lawyer assigned to represent the Board at an OMB/LPAT hearing, a member of the Board who is in support of the the Board instructions to such lawyer, may give evidence at an OMB/LPAT hearing. Notwithstanding the above, if the OMB/LPAT has decided to mediate a dispute between parties in a matter, any member of the Board may offer his or her services to assist with such mediation regardless of his or her position in the matter and participate, if approved by the OMB/LPAT mediator.

Commentary

Examples of prohibited conduct are the use of one’s status as a Trustee to improperly influence the decision of another person to the private advantage of oneself, or one’s Family member, or friends. This would include attempts to secure preferential treatment beyond activities in which Trustees normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of a future advantage through a Trustee’s supposed influence within the Board in return for present actions or inaction.



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Contact with members of tribunals appointed by the Board on any case might be viewed as attempts to intimidate the tribunal member. Generally, Trustees should not take part in the proceedings of any other tribunal where the Board is a party unless such participation is approved by the Integrity Commissioner

2. Pursuant to section 283 of the *Education Act*, the Director of Education is the CEO of the Board and has exclusive authority to direct Board staff. The Board, and not individual Trustees appropriately give direction to the Director of Education.

Note from p. 7 of T.04:

No Trustee shall use his or her position, authority or influence for personal, financial or material gain or personal business purposes or for the personal, financial or material gain or business purposes of a relative, friend and/or business associate. Every Trustee shall uphold and enhance all Board business operations by:

- a) maintaining an unimpeachable standard of integrity in all their relationships, both inside and outside the Board;
- b) fostering the highest standard of professional competence amongst those for whom they are responsible;
- c) complying with and being seen to comply the letter and spirit of:
 - The laws of Canada and the Province of Ontario,
 - Contractual obligations applicable to the Board; and
- d) rejecting and denouncing any business practice that is improper or inappropriate or may appear to be improper or inappropriate.



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8. Business Relations

1. No Trustee shall allow the prospect of his/her future employment by a person or entity to affect the performance of their duties to the Board, detrimentally or otherwise.
2. No Trustee shall borrow money from any person who regularly does business with the Board unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money, such as a credit union.
3. No Trustee shall act as a paid agent before the Board or a committee of the Board or any agency, board or committee of the Board.
4. No Trustee shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

9. Trustee Conduct

Conduct at the Board and Committee Meetings:

1. Trustees shall conduct themselves at the Board and committee meetings with decorum in accordance with the provisions of the Board's Operating By-law.



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2. Trustees shall endeavour to conduct and convey the Board's business and all their duties in an open and transparent manner (other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session), and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.

Commentary

Trustees recognize the importance of cooperation and strive to create an atmosphere during Board and committee meetings that is conducive to solving the issues before the Board, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

Various statutes, the Board's Operating By-law and decisions by courts and quasi-judicial tribunals and the Information and Privacy Commission, establish when the Board can discuss issues in closed session. Transparency requires that the Board apply these regulations narrowly so as to best ensure that decisions are held in public session as often as possible.

Unless prohibited by law, Trustees should clearly identify to the public how a decision was reached and the rationale for so doing.

3. Trustees shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the Board or by virtue of being an elected official.



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Commentary

Individual Trustees are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience. Trustees should not be absent from the Board or committee meetings, or from those of agencies, boards and commissions to which they are appointed without reasonable justification (for example, illness of the Trustee, family circumstance, or other Board business) for more than three consecutive scheduled meetings or on a regular basis.

4. Trustees shall conduct themselves with appropriate decorum at all times.

Commentary

As leaders in the community, Trustees are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

10. Media Communications

1. Trustees will accurately communicate the decisions of the Toronto Catholic District School Board, even if they disagree with the majority decision of the Board, and by so doing affirm the respect for and integrity in the decision-making processes of the Board.
2. Trustees will keep confidential information confidential, until such time as the matter can properly be made public.



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3. In all media communications, including social media, Trustees will treat each other, staff and members of the public with decorum, dignity and respect, and shall avoid messaging that amounts to abuse, bullying or intimidation.

Commentary

A Trustee may state that he/she did not support a decision, or voted against the decision. A Trustee should refrain from making disparaging comments about other Trustees or about the Board's processes and decisions.

When communicating with the media, a Trustee should at all times refrain from speculating or reflecting upon the motives of other Trustees in respect of their actions as a Trustee.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Trustees erodes public confidence.

While Trustees are encouraged to actively participate in vigorous debate, Trustees should understand that they are part of a democratically elected representative body and should not engage in social media as if they are outsiders. In this regard, caution should be exercised when blogging, posting, tweeting, re-posting and linking to posts using social media, whether the member is using a personal account or a Board account.

Trustees who post blogs should recognize that the Canadian Association of Journalists has identified the ethical conflict faced by journalists holding elected public office. It is recognized that there may be an irreconcilable conflict in carrying out both roles at the same time.



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While social media can be an excellent tool for communicating quickly with constituents and sharing ideas and obtaining input, social media can breed incivility that generally is avoided in face-to-face interactions. In a world where a transitory comment can become part of the permanent record, Trustees should exercise restraint in reacting too quickly, or promoting the social media posts of others whose views may be disparaging of the Board's decisions or another Trustee's perspectives.

11. Respect for Board By-laws and Policies

1. Trustees shall encourage public respect for the Board and its by-laws.
2. Trustees shall adhere to such by-laws, policies and procedures adopted by the Board that are applicable to them.

Commentary

A Trustee must not encourage disobedience of a Board decision or by-law in responding to a member of the public, as this undermines confidence in the Board and in the Rules of Law.

Trustees are required to observe the policies and procedures established by the Board at all times, and are directed to pay special attention to, and comply strictly with, the Board's Operating By-law and Trustee Services and Expenditures Policy T.17. In exceptional circumstances, a Trustee may request the Board grant an exemption from any policy.



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12. Respectful Workplace

1. Trustees are governed by the Board's *Harassment and Discrimination Policy H.M.14*. All Trustees have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.
2. All complaints received involving Trustees under the *Harassment and Discrimination Policy H.M.14*. shall be referred to the Integrity Commissioner for processing in accordance with both the said policy and the *Trustees Code of Conduct Complaints Protocol*.
3. The *Ontario Human Rights Code* applies in addition to the Board's *Harassment and Discrimination Policy H.M.14*

Commentary

It is the policy of Board of Trustees that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

The Board's Harassment and Discrimination Policy H.M.14 ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

The Board's Harassment and Discrimination Policy H.M.14 applies equally to members of staff and Trustees. It will provide guidance to the Integrity Commissioner when a complaint is received involving a Trustee.



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13. Conduct Respecting Staff

1. No Trustee shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
2. No Trustee shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. Trustees shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Trustee or faction of the Board.
4. No Trustee shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Trustees shall show respect for the professional capacities of the staff of the Board.

Commentary

Under the direction of the Director of Education, staff serve the Board as a whole, and the combined interests of all Trustees as evidenced through the decisions of the Board. Only the Board as a whole has the authority to approve budget, policy, committee processes and other matters.

Accordingly, Trustees shall direct requests outside of the Board-approved budget, process or policy, to the Director of Education or directly to the Board.



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In practical terms, there are distinct and specialized roles carried out by the Board as a whole and by the Trustees when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as committee members and as chairs of committees, and participating as Board representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Board staff in both the carrying out of their responsibilities and in dealing with the Board. Staff are expected to provide information to Trustees that they are entitled to.

Board staff are accountable to the Director of Education who is accountable to the Board. Sometimes the line between staff duties and activities that are political in nature is not clear. Trustees must respect the difference between the two in making requests of staff.

Trustees should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

the Board's Harassment and Discrimination Policy H.M.14 , Code of Conduct Policy S.S.09 applies to Trustees. Staff and Trustees are entitled to be treated with respect and dignity in the workplace.

It is inappropriate for a Trustee to attempt to influence staff to circumvent normal processes, or overlook deficiencies in an operational matter. It is also inappropriate for Trustees to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the Director of Education. Any such attempts may be reported to the Integrity Commissioner.



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14. Employment of a Trustee's Relatives/Family Members and Acquaintances

1. No Trustee shall attempt to influence the outcome of a recruitment process to favour a friend, Family member or other relative of the Trustee.
2. No Trustees shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family member.
3. No Trustee shall supervise a Family member, or be placed in a position of influence over a Family member.
4. No Trustee shall attempt to use a Family relationship for his or her personal benefit or gain.
5. Every Trustee shall adhere to the Board's *Fair Practice in Hiring and Promotion H.M.11* policy.

Commentary

If a Family member of a Trustee is an applicant for employment with the Board or is a candidate for promotion or transfer, the Family member will proceed through the usual selection process pursuant to the Board's hiring policies, with no special consideration.



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15. Not Undermine, Work Against the Board's Decisions

1. Trustees shall not actively undermine the implementation of the Board's decisions.

Commentary

The role of elected officials, once a Board decision is made, is to support the implementation of that decision, not to work against its implementation, publicly or behind the scenes. The Board decisions are arrived at following discussion and debate, reflecting the democratic process. Trustees are expected to engage in debate with their fellow Board members through the democratic process of government. However, once the Board has made its decision, Trustees must recognize that decision as the duly considered decision of the Board. As members of that body, Trustees who do not agree with the decision - are not to engage in activities that seek to challenge or undermine that decision.

Trustees can express disagreement with the Board's decisions, but it is contrary to the ethical behaviour of Trustees to actively seek to undermine, challenge or work against the Board's decisions.

2. Trustees shall not engage in litigation or other legal challenges against the TCDSB or the Board's decisions. Despite this provision:
 - a. Members may pursue a complaint or request for investigation under a statutory scheme dealing with requirements for open and transparent processes, access to information, the protection of privacy, or the protection of human rights;
 - b. Members are not restricted from participating in litigation or other legal challenges if they are uniquely impacted by the decision, such as when the Board has imposed a penalty or reprimand following a report of the Integrity Commissioner;



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- c. Members are not restricted from participating in litigation or other legal challenges if they did not participate, and were not entitled to participate, in the deliberations and respective decision of the Board, or in regard to which the the Board has made a decision in regard to their interests, in circumstances where they are uniquely impacted by the decision.

Commentary

When members are allowed to participate in activities to challenge the Board's properly considered decisions, such as legal challenges or other forms of litigation, this is contrary to the interests of the TCDSB as determined by the decision of the democratically elected governing body, the Board. Formal advocacy can create challenges to staff as to when and how much information can be provided to the Board (legal advice for example) because of the potential for a legal challenge, which may benefit an involved Trustee who would have 'insider knowledge'.

3. Despite this Regulation, Trustees may seek to have a Board decision reconsidered in accordance with the Board's Operating By-law.

16.Reprisals and Obstruction

1. It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of their responsibilities.
2. No Trustee shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the *Code of Conduct*, or against a person who provides information to the Integrity Commissioner in any Investigation.



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3. It is a violation of the *Code of Conduct* to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the *Code of Conduct*.

17. Acting on Advice of Integrity Commissioner

1. Any written advice given by the Integrity Commissioner to a Trustee binds the Integrity Commissioner in any subsequent consideration of the conduct of the Trustee in the same matter, as long as all the relevant facts were disclosed to the Integrity Commissioner, and the Trustee adhered to the advice given.

18. Implementation:

1. Trustees are expected to formally and informally review their adherence to the Code on a regular basis or when so requested by the Board.
2. At the beginning of each term, Trustees will be expected to meet with the Integrity Commissioner and/or attend training conducted by the Integrity Commissioner.
3. The Trustee Code of Conduct applies to a Student Trustee elected to serve on the Board pursuant to Section 55 of the Education Act and the Regulations made thereunder, provided that
 - a) In giving broad, liberal interpretation to any provision of the Trustee Code of Conduct any necessary changes shall be inferred given the context and role of a Student Trustee



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- b) Regulation 6, Election Campaigns, does not apply to Student Trustees; and
- c) Any complaint regarding whether a Student Trustee breached the Code of Conduct shall be administered by the appropriate Board personnel responsible for student discipline and not the Integrity Commissioner, however the Integrity Commissioner may be consulted for guidance on the interpretation and application of the Trustee Code of Conduct.

Commentary

Trustees are expected to understand the obligations on elected official set out in this Code of Conduct, and are encouraged to contact the Integrity Commissioner for any clarification required. A Code of Conduct component will be included as part of the orientation for each new term of the Board.

Definitions:

Family

Includes “child”, “parent” and “spouse” as those terms are defined in the *Municipal Conflict of Interest Act* (set out below for ease of reference), and also includes

- step-child and grand-child;
- siblings and step-siblings;
- aunt/uncle, niece/nephew, first cousins
- in-laws, including mother/father, sister/brother, daughter/son
- any person who lives with the Trustee on a permanent basis.



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Child

A child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

Parent

A parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

Spouse

A person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

Trustee

A member of the Board of Trustees of the Toronto Catholic District School Board, including the Chair.

TCDSB

The Toronto Catholic District School Board

Social Media

Publicly available, third party hosted, interactive web technologies used to produce, post and interact through text, images, video and audio to inform, share, promote, collaborate or network.

Staff

Includes the Director of Education, Associate Directors, Superintendents, Directors, Managers, Supervisors [better description of Board Administrative Staff?] and all non-union and union staff whether full-time, part- time, contract, seasonal or volunteers.



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Nomination Day

The last day for filing or withdrawing a nomination as provided for by the Municipal Elections Act, 1996.

Evaluation and Metrics:

The effectiveness of the policy will be determined by measuring the following:

There will be a review by Trustees of this policy every two years starting in January 2018 to ensure understating, awareness and effectiveness.

APPENDIX A

TCDSB CODE OF
CONDUCT
COMPLAINT
PROTOCOL

TCDSB CODE OF CONDUCT COMPLAINT PROTOCOL

Definitions:

“Eligible Complainant” means:

- a) a Trustee, student, staff member, contractor or service provider of the TCDSB;
- b) a Roman Catholic (Separate School) elector;
- c) an Eastern Right Catholic;
- d) a representative of an organization demonstrably interested in TCDSB matters; or
- e) such other persons demonstrably interested in TCDSB matters.

PART A: INFORMAL COMPLAINT PROCEDURE

Any Eligible Complainant who has identified or witnessed behaviour or an activity by a Trustee that they believe is in contravention of the *Trustees Code of Conduct* (the “Code”) may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Trustee that the behaviour or activity contravenes the Code;
- (2) encourage the Trustee to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) if applicable, confirm to the Trustee their satisfaction with the response of the Trustee; or, if applicable, advise the Trustee of their dissatisfaction with the response; and
- (5) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All Eligible Complainants are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite

that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

**PART B: FORMAL COMPLAINT PROCEDURE TO BRING
ALLEGED BREACHES TO THE ATTENTION OF THE
BOARD:**

Initial Complaint

1. (1) A request from an Eligible Complainant for an investigation of a complaint that a Trustee has contravened the Trustees Code of Conduct (the “complaint”) shall be brought to the attention of the Board by sending it directly to the Integrity Commissioner by E-mail substantially in the form attached to this Protocol as Schedule “A”, or delivered in hard copy to an address the Integrity Commissioner may designate for that purpose.
- (2) All complaints shall be submitted by an identifiable Eligible Complainant (which includes an authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Trustees Code of Conduct. The complaint should include the name of the applicable Trustee, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) Election Blackout Period:

No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to the Board respecting an investigation, within the election period described within s.223.4 and 223.4.1 of the *Municipal Act*, except as described in those sections.

Classification by Integrity Commissioner

2. (1) Upon receipt of a complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Trustees Code of Conduct and not covered by other legislation, a complaint with respect to the *Municipal Conflict of Interest Act* or other relevant the Board policies.
- (2) If the complaint, on its face, is not a complaint with respect to non-compliance with the Trustees Code of Conduct or another Board policy governing ethical behaviour or the *Municipal Conflict of Interest Act*, or if the complaint is covered by other legislation, the Integrity Commissioner shall advise the complainant in writing as follows:
 - (a) if the complaint on its face 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;
 - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter;
 - (c) the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, and shall be provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate. The Integrity Commissioner may proceed with that part of the complaint that is within jurisdiction.
- (3) The Integrity Commissioner may reformulate a complaint by

restating, narrowing or clarifying the complaint so that the public interest will be best served were the complaint to be pursued.

- (4) The Integrity Commissioner may report to the Board that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- (5) The Integrity Commissioner shall report annually to the Board on complaints not within the jurisdiction of the Integrity Commissioner, or which have been resolved informally by the Integrity Commissioner, but, where possible, shall not disclose information that could identify a person concerned.

Investigation

- 3. (1) The Integrity Commissioner is responsible for performing the duties set out in this Protocol independently and shall report directly to the Board in respect of all such matters. In applying this Protocol, the Integrity Commissioner shall retain the discretion to conduct investigations applying the principles of procedural fairness, and any deviation from the provisions of this Protocol for that purpose shall not invalidate the investigation or result in the Integrity Commissioner losing jurisdiction.
- (2) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, or that the pursuit of the investigation would not, in the opinion of the Integrity Commissioner, be in the public interest, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.
- (3) The Integrity Commissioner shall file an annual report to the Board respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner. Other than in exceptional circumstances, the Integrity Commissioner will not report

to the Board on any complaint described in subsection (2) except as part of an annual or other periodic report.

- (4) Where the Integrity Commissioner rejects or terminates an investigation pursuant to this section, reasons shall be provided.
4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.
 5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required in the context of a particular situation, the principles of procedural fairness:
 - (a) provide the complaint (or where the complaint has been restated in accordance with subsection 2(3), the restatement) and relevant supporting material to the member whose conduct is in question and provide the member with a reasonable opportunity to respond.
 - (2) Except where the Integrity Commissioner determines that it is not in the public interest to do so, the name of the complainant shall be provided as part of the complaint documents.
 - (3) The Integrity Commissioner may speak to anyone relevant to the complaint, and access and examine any information as the Integrity Commissioner believes to be necessary to support an investigation into a matter, including all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the TCDSB, and the Integrity Commissioner may enter any Board work location relevant to the complaint for the purposes of investigation and settlement.
 - (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Trustee unless the member has had reasonable notice of the basis for and an opportunity to comment on the proposed findings.

- (5) The Integrity Commissioner may make interim reports to the Board where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
6.
 - (1) The Integrity Commissioner shall report to the complainant and the respective Trustee generally no later than 90 days after the making of the complaint.
 - (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also submit a public report to the Board outlining the findings, and any recommended corrective action.
 - (3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to the Board except as part of an annual or other periodic report.
 - (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
7. If the Integrity Commissioner determines that there has been no contravention of the Trustees Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
8. the Recording Secretary shall process the report for the next meeting of the Board.

Board Review

9.
 - (1) The Integrity Commissioner's report shall be considered to be a report brought to the attention of the Board pursuant to subsection 218.3(1) of the *Education Act*.

- (2) Consideration of the Integrity Commissioner's report by the Board satisfies the requirement of the Board to make inquiries into the matter pursuant to subsection 218.3 (2) of the Education Act.
- (3) The Board shall consider the Integrity Commissioner's report at a meeting open to the public provided that where the breach or alleged breach involves:
 - (a) the security of the property of the Board;
 - (b) 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;
 - (c) the acquisition or disposal of a school site;
 - (d) decisions in respect of negotiations with employees of the board; or
 - (e) litigation affecting the board,

the meeting may be closed to the public to the extent required to permit the Board to consider such confidential content so long as the vote on whether the Trustee has breached the Trustees Code of Conduct, and any vote on any imposition of a sanction, is open to the public.

- (4) If after consideration of the Integrity Commissioner's report the Board determines that a Trustee has breached the Trustees Code of Conduct, the Board may:
 - a) Censure the Trustee
 - b) Bar the Trustee from attending all or part of a meeting of the Board or a meeting of a committee of the Board
 - c) Bar the Trustee from sitting on one or more committees of the Board, for the period of time specified by the Board
 - d) Revoke the appointment of the Trustee as Chair of the

Board or as Chair of a Committee of the Board, or as a member of a body to which the Board appoints one or more Trustees

- e) Such other remedies within the Board's power to impose that are directly relevant to the nature of the breach and/or which are designed to prevent future occurrences of a similar breach. Without restricting the generality of the foregoing such remedies may include:
 - a. a request that a genuine apology be made
 - b. training as may be recommended by the Integrity Commissioner
 - c. the Board adopting a public resolution disassociating itself from any action or statement the Trustee has been found to have taken or made.

Consequences of the Imposition of a Sanction

- (5) 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 that are not available to the members of the public.
- (6) Where a Trustee is barred from attending all or part of a meeting of the Board the Trustee's absence is deemed to be authorization for the Trustee to be absent from the meeting for the purpose of clause 228 (1) (b) of the Education Act.
- (7) If the Board determines that a Trustee has breached the Trustees Code of Conduct under subsection (4),
 - (a) the Board shall give the Trustee written notice of the determination and of any sanction imposed by the Board;
 - (b) the notice shall inform the Trustee that he or she may make written submissions to the Board in respect of the determination

or sanction by a date specified in the notice that is at least 14 days after the notice is received by the member; and
 (c) the Board shall consider any submissions made by the Trustee in accordance with clause (b) and shall confirm or revoke the determination within 14 days after the submissions are received.

- (8) If the Board revokes a determination under clause (7) (c), any sanction imposed by the Board is revoked.
- (9) If the Board confirms a determination under clause (7) (c), the board shall, within the time referred to in that clause, confirm, vary or revoke the sanction.
- (10) If a sanction is varied or revoked under subsection (8) or (9), the variation or revocation shall be deemed to be effective as of the date the original determination was made under subsection (4).
- (11) The Board's deliberations and voting to confirm or revoke a determination that the Trustee has breached the Trustees Code of Conduct, or to confirm, vary or revoke a sanction imposed as a consequence, shall be open to the public and only such portions of the meeting as provided for in subsection (3) may be closed to the public.

Confidentiality

- 10. (1) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy 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.
- (2) All reports from the Integrity Commissioner to the Board will be made available to the public.
- (3) 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.
- (4) The Integrity Commissioner in a report to the Board on whether a

Trustee 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.

**Schedule
“A”
Complaint
Form**

I (name of Eligible Complainant).

being an Eligible Complainant on the basis that I am (select all that are relevant)

- ☐ a Trustee, student, staff member, contractor or service provider of the TCDSB;
- ☐ a Roman Catholic (Separate School) elector;
- ☐ an Eastern Right Catholic;
- ☐ a representative of an organization demonstrably interested in TCDSB matters; or
- ☐ an other person demonstrably interested in TCDSB matters,

hereby request the Integrity Commissioner appointed by the Toronto Catholic District School Board to conduct an inquiry about whether or not the following Trustee(s) has contravened the Trustees Code of Conduct or the *Municipal Conflict of Interest Act*:

(name of Trustee(s))

I have reasonable and probable grounds to believe that the above Trustee(s) has contravened the Trustees Code of Conduct and/or the *Municipal Conflict of Interest Act* by reason of the following (please include date, time and location of conduct, the Rules contravened, and particulars, including names of all persons involved, and of all witnesses, and information as to how they can be reached, (attach additional pages as needed):

I hereby request the Integrity Commissioner to conduct an inquiry with respect to the above conduct. Attached are copies of documents and records relevant to the requested inquiry.

Signature: _____

Date: _____

Name: _____

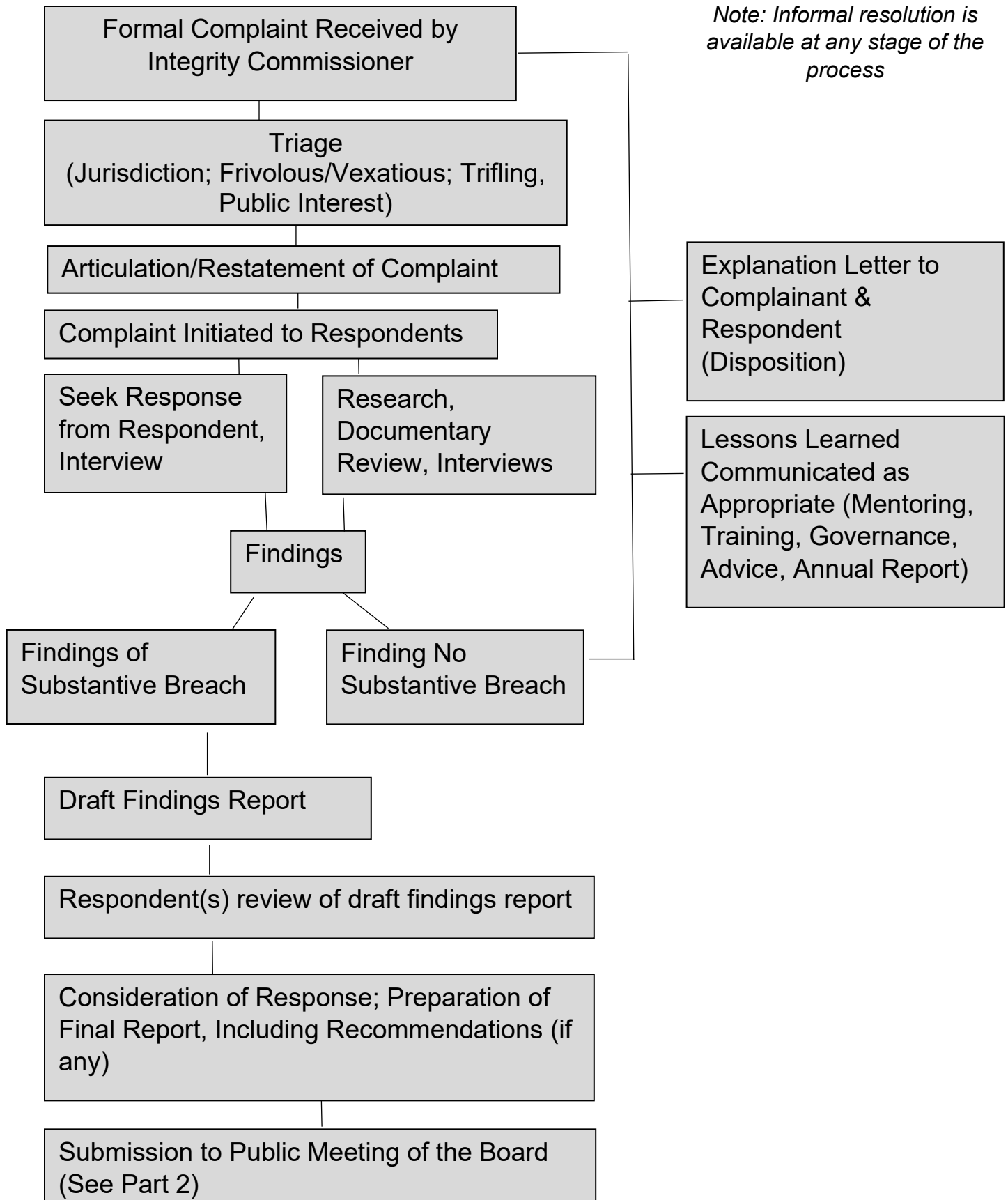
Address: _____

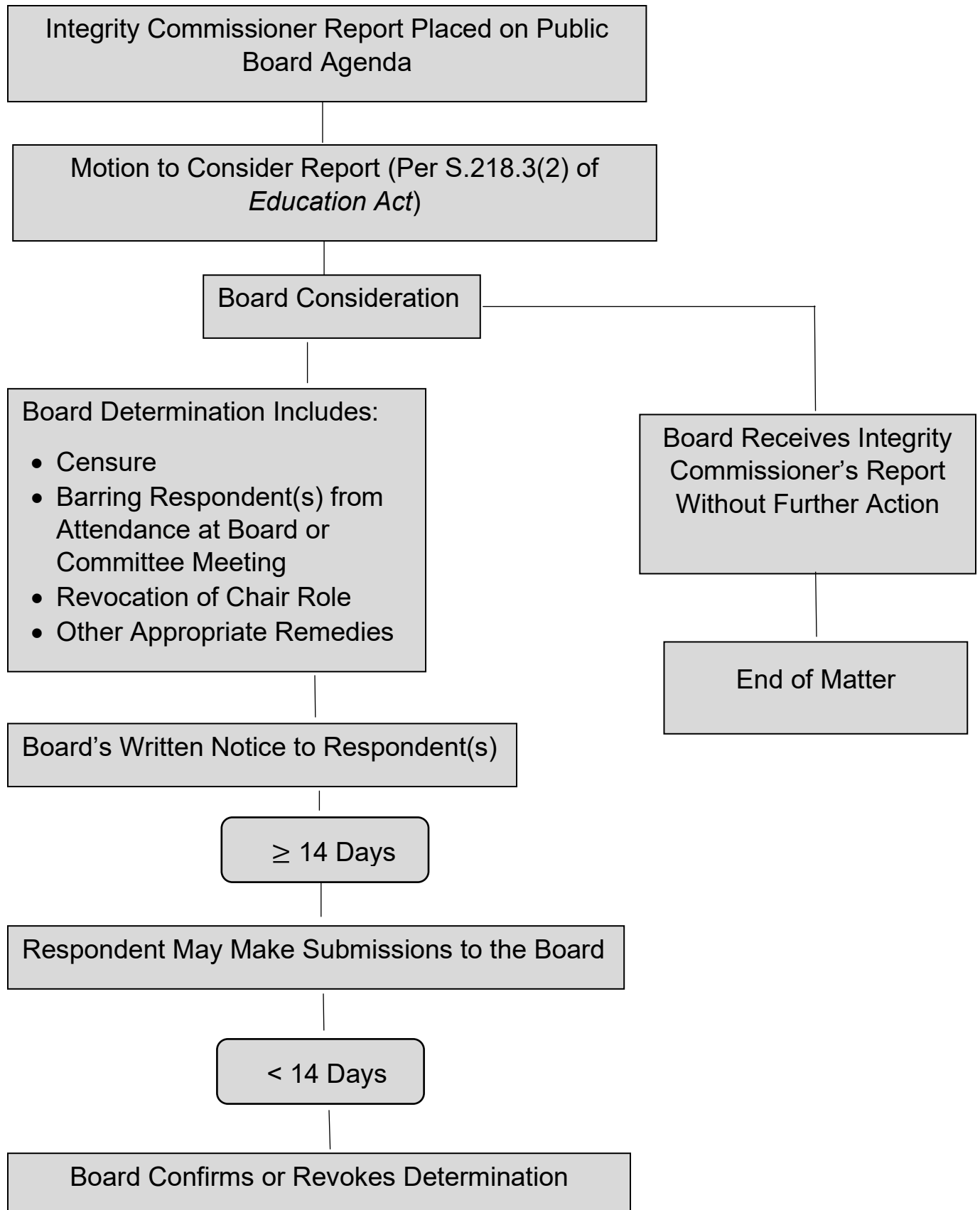
Email: _____

Phone: _____

All Fields Mandatory

Email completed Complaint to
Principles *Integrity* at:
postoffice@principlesintegrity.org



Part 2 – Board Review

April 5, 2021

Board of Trustees
Toronto Catholic District School Board
80 Sheppard Avenue East
Toronto Ontario
M2N 6E8

Complaint Dispositions

The purpose of this report is to update the Board on the disposition of complaint investigations arising from matters being brought to the attention of the integrity commissioner.

‘Disposition’ is the term we use when a complaint has been resolved without there having been a finding of a breach of either the Trustees Code Of Conduct or the *Municipal Conflict Of Interest Act*. Most dispositions are made privately through a communication to the complaining party, with a courtesy summary being provided to the respondent trustee. Dispositions are also typically referred to in a general way in a periodic report to the Board.

This public report contains additional detail beyond what would typically be provided due to the public nature of the complaints addressed, the fact that a new Code of Conduct complaint protocol has not yet been adopted by the Board, and the opportunity to provide pro-active advice to prevent problematic occurrences in the future. In one case the Disposition is being made in order to allow us to move forward on an existing complaint tied to the same underlying circumstances.

Matters Covered by this Report:

The following matters are covered by this report:

1. Complaints regarding communications by Trustee Marcus De Domenico (email and social media). See Appendix 1
2. Compliance with Residency Requirements by Trustee Maria Rizzo. See Appendix 2
3. Disposition of a Trustee’s complaints for refusal to participate in an interview.

Preliminary Matters:

We would be remiss if we failed to note that the Board has only recently put in place a broadly-scoped integrity commissioner (previous ‘integrity commissioners’ having served only as complaint investigators), and that recommended revisions to the Code of Conduct and to the accompanying complaint protocol have not yet been formally adopted. In this interim period we have been guided by established practices for municipal integrity commissioners and have been transparent with the Board as to how complaint administration will be modified from past practice. The Board’s direction to report publicly on findings of Code breaches informs the public nature of this report.

It should also be noted that the proper role of an integrity commissioner is to serve the public interest by not only making findings on allegations that the Trustees Code of Conduct or the *Municipal Conflict of Interest Act* have been breached; it is primarily to seek out solutions to ethical concerns through education, advice, and where necessary, the independent investigation of complaints. We maintain a solutions-oriented perspective on every element of our responsibilities.

Dispositions:

1. Disposition of Complaints regarding Trustee De Domenico

The Disposition set out at Appendix 1 to this report brings to a close the investigation of three complaints regarding Trustee Marcus De Domenico. Because of the thematic similarity to the three matters, the complaints were consolidated into one investigation.

Each of the three complainants alleged that Trustee De Domenico had engaged in communications with them that they found to be in tone and substance in breach of the Trustee's obligation to use appropriate language and professionalism in communications with constituents.

Two of the complaints had been previously dismissed by the Board as being 'without merit', however no basis for that determination was ever provided to the complainants. The Board's previous integrity commissioner subsequently declined to investigate the matters.

It merits note that the Board's now outdated 'Formal Complaints Process Chart' which guided past investigations, provided that in order for complaints to be found to be either 'frivolous', 'vexatious' or 'without merit':

- The formal rationale for dismissing the complaint is to be recorded; and
- The Chair of the Board will advise the complainant of the outcome of the Board's review and reasons

In the course of our review of the matters we were unable to determine the rationale for the Board's dismissal of the complaints as being without merit.

With the Board's *reconsideration* of the disposition of a complaint involving Trustee Del Grande the two complainants sought to have their complaint re-opened on a similar basis. Noting that in the Del Grande matter there was not cause to reopen the underlying investigation, we exercised our discretion and undertook to review the two previous complaints on a partially re-opened basis because the facts alleged aligned with a third complaint.

As noted in the Disposition, though we did find some of the communications complained of to have fallen short of the Trustee's standard of behaviour, his acknowledgement of the

transgressions and his willingness to course correct led us to conclude that no sanctions ought to be recommended to be imposed.

Our conclusion, in part, was informed by the absence of guidance for Trustees in their use of social media, particularly when blocking constituents from discussions which take place on open platforms. We recommend that the Board consider the adoption of such guidance, informed by the following discussion.

Blocking constituents on open platforms:

As elected officials Trustees will often engage with constituents through social media and will maintain their own social media presence to support that effort. Through no fault of a Trustee, other social media users of the Trustee's platform will from time to time post in a way that is objectively problematic. This is to be distinguished from legitimate positions which, though contrary to the Trustee's opinion on a matter, are neither hateful, disparaging, defamatory, discriminatory, or off topic.

It is also the case that while Trustees are obliged to adhere to a high standard of behaviour as required by their code of conduct, their constituents are not under a similar obligation.¹

Why Is Blocking A Constituent on Twitter A Relevant Consideration?

In traditional terms, social media can be perceived in many respects as an electronic version of the 'town square'. It is a place where opinions and ideas are shared, contentious matters are addressed, and where people come together just to come together. In its best light, social media represents a democratization of communications between citizens and their elected officials. Regrettably, social media is not always a platform for healthy discussion. At times it attracts unconstructive negativism, and even hate.

The potential for unconstructive and even offensive communication over social media has resulted in the development of certain tools through which participants can control their accounts. One of the tools available on Twitter is the ability to 'block' another registered Twitter user from interacting with the user.

A person who is blocked by their elected official may feel concerned that their Trustees treatment of them prevents them from listening to, and responding to, comments made about public interest issues in the 'town square' by:

- The Trustee
- The Trustee's followers who 'like', 'reply', or 'retweet' the Trustee's posts
- Other direct communications like direct messaging

¹ It should be recognized that aside from Trustees no other members of the TCDSB school community are subject to the jurisdiction of the integrity commissioner and so it is possible that Trustees may find it frustrating to have to take a higher ground approach when responding to pointed social media postings.

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If blocked, a person does not learn that they have been blocked unless they visit the Twitter user's account page. Without checking, they would be unaware of the fact that they cannot participate in the conversations facilitated directly through the Trustee's Twitter account.

If they are aware of the blocking, the constituent can log out of their account and visit the 'town square' but will not be able to join the conversation on the matter under discussion unless they create a new account.

We draw a distinction between open Twitter accounts, which permit any Twitter user the ability to follow the account, and Twitter accounts which require that permission be given before another Twitter user can follow the account.

For open accounts (where anyone can visit without asking for permission to 'follow' the account), anyone can follow the account unless they are prevented by blocking. Accounts which are not 'open' (ones which require permission to follow the account) are by their very nature unlike the 'town square' because they do not provide unrestricted access.

The effect of blocking a person on Twitter from accessing an open account is to deny the person the ability to see the user's tweets unless they log out from their own account, effectively denying them the ability to participate in a discussion in the Town Square. Many users argue that blocking is a form of censorship, particularly because it is invisible and arbitrary.

Arbitrary blocking of criticism on an open Twitter account hosted by a Trustee, through which the business of the Board is discussed with constituents, should be recognized as contrary to the provisions and principles embodied in the Trustees Code of Conduct. That said, codes of conduct typically articulate little proactive guidance on the point.

Accordingly we recommend that the Board develop a policy framework for when and how Members of the Board may block constituents from their open social media accounts, including on Twitter.

Why 'Blocking' on Twitter constitutes a contravention of the Code of Conduct

There is no obligation for elected officials to utilize social media, however, a growing number of politicians are active on social media as a means of keeping their constituents and the public informed. Social media also enables elected officials to 'take the temperature' of the communities they serve. As noted, there is a 'public town square' aspect to social media which differs from one-way communications vehicles such as email distributions or newsletters.

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Blocking is a means of preventing a participant from adding or otherwise providing input to a Twitter post.²

Although at times blocking a person from a forum may be appropriate (or even required, as in the case of removing hate speech), blocking a constituent merely because there is disagreement on a policy or political perspective, or because the person was being critical, is not appropriate.

American case law has determined that social media, facilitated by an elected official, could be characterized as a ‘public forum’, and that removal or constraint on participation in that public forum could constitute an unreasonable constraint on free speech rights.

In one 2019 decision³, which involved a lengthy analysis of jurisprudence, it was generally determined that when an elected official uses social media to communicate with constituents, and invites comment, the social media page takes on the attributes of a public forum; banning participants from that public discourse arbitrarily, or merely because their comments represent an unwelcome perspective, may constitute an infringement of their constitutional free speech rights (amounting to ‘viewpoint discrimination’).

It is not necessary to look to the U.S. for guidance on the question of whether blocking a constituent expressing criticism that does not contain objectively offensive or objectionable content on social media may be contrary to the standards (openness, transparency, listening to one’s constituents, undue influence, keeping an open mind) required of elected officials under a code of conduct.

Being blocked precludes a user from reading other tweets unless logged out of their own Twitter account, blocks them from engaging with the elected official on Twitter, and prevents them from commenting directly on posts, retweeting posts, or making comments which can be seen by others who follow the account. The blocked user is, for all intents and purposes, censored on the Member’s social media account.

Codes of conduct typically contain only general provisions regarding communication: conveying information on matters in an open and transparent manner, allowing the public to view the rationale for decisions, and to treating members of the public with respect and without abuse. These requirements are engaged in any complaint that an elected official has blocked a person from a public account without warranted excuse.

² Blocking removes the ability of the participant to see the Twitter account, whereas another Twitter tool, ‘muting’ allows viewing but prevents the muted person’s posts from showing on the account holder’s time line (the posts would however appear on the muted person’s own timeline).

³ Davison v. Randall, No. 17-2002 (4th Cir. 2019)

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Codes of conduct are policy documents and should be regarded as guides to proper ethical behaviour. The best guidance can be provided through clearly articulated policy, to prevent problematic and non-compliant action by trustees.

The Board should adopt a policy which clarifies that Trustees who utilize open social media platforms for communicating with their constituents should not *unreasonably* or *arbitrarily* block participants. Blocking constituents because they express an alternate or opposing perspective on an issue, or who are constructively critical of a position taken by an elected official, is not appropriate.

We recognize that given the recent and rapid evolution of social media as a means of communicating with constituents, codes of conduct have not kept pace in providing appropriate guidance for elected officials.

As noted in our disposition, we do not believe that the three complaints that were reviewed in the course of our investigation warranted the imposition of a sanction given the Trustee's acknowledgment of the lesson learned and the changes in his behaviour which were noted in our monitoring period.

We hasten to add that that our perspective does not mean that Trustees are disabled from engaging in impassioned debate on public interest matters. It is not a breach of the Code or any standard of public service to disagree with the position of another person. It is, however, essential that elected officials demonstrate a high standard in communications, that they do not simply 'erase' disagreement, and that they refrain from engaging in disrespectful and unprofessional communications.

We therefore commend the Board to adopt a policy that provides guidance to Trustees on their use of social media, and that the policy include guidance on the preconditions that should be established before blocking a person on an open social media account, such as:

- Providing notice to the offending constituent of the reasons why the blocking is to be implemented
- Specifying the time period (proportional to the nature of the offending behaviour) during which the blocking is to remain in effect

2. Disposition of Complaint Filed by Joe Volpe and Corriere Canadese respecting Trustee Rizzo's Eligibility to Hold Office

The Disposition set out at Appendix 2 to this report brings to a close the investigation of a complaint based in an assertion that Trustee Rizzo is not eligible to hold office on the basis that she did not and does not reside within the geographic area of the TCDSB, and further that she is not a separate school elector.

The Disposition contains a full recitation of the matters at issue, our findings, and our reasoning.

We concluded that the Trustee has at all relevant times maintained her residence within the geographic area covered by the Board, notwithstanding the Trustee's occasional use of a property outside of the geographic area of the Board, which use was complicated by the Trustee taking necessary and appropriate steps in the face of the COVID-19 pandemic. Further, we determined that the Trustee is as required noted on the Preliminary List of Electors as a separate school supporter.

The Trustee's residency and school support being found to be in compliance with both the *Education Act* and the *Municipal Elections Act*, we found that the Trustee was in compliance with her code of conduct obligation to adhere to applicable legislation, and that there was no evidence to support that she was not eligible to hold office.

3. Disposition of Complaints Filed by Trustee as Vexatious or made in Bad Faith

Four separate complaints were filed by a Trustee in late February, claiming that three other Trustees were in violation of the Code of Conduct for the reasons recited in the complaints.

The Trustee Complainant was immediately requested to make themselves available for a telephone or zoom interview to discuss the complaints, and we indicated our availability for that purpose, including evenings as might be convenient.

Requests to schedule interviews were made on

- February 22, 2021
- February 23, 2021
- February 24, 2021
- March 18, 2021 and
- March 22, 2021

The Trustee Complainant took the position that we should be able to conduct our investigations without interviewing them, and that an exchange of email would be sufficient.

We explained that as the independent party with the responsibility to respond to allegations that the Trustees Code of Conduct has been breached it was our responsibility to shape our investigations in a manner which best suited the public interest.

The Trustee's response was that they were not comfortable having 'a verbal conversation' regarding the complaints.

On March 22 the Trustee Complainant, maintaining their refusal to be interviewed, indicated that they would be consulting their legal counsel for next steps. We indicated that that was an excellent idea and indicated our willingness to discuss with the lawyer they retained the Trustee Complainant's participation in interviews. We have not heard back from the Trustee Complainant or legal counsel in that regard. Instead, on March 29, the Trustee Complainant

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indicated that an accommodation was required in the form of an email interview, without providing any substantiating reasons.

An interview is an important step in our investigation process. It allows us to seek pertinent information, pursue lines of questioning as they develop, narrow or focus elements of a complaint, canvass appropriate outcomes and informal resolution as may be relevant, and to assess credibility. Except in the most clear-cut circumstances (a well-articulated complaint, narrowly defined issues and clear documentary evidence) it is our practice to conduct an interview, primarily through Zoom in the past year, with every complainant, the respondent, and most witnesses. We consider this to be an important part of our investigative process.

The facts alleged by the Trustee Complainant in each of the complaints raise issues which require, in our view, a direct interview. When requested, interview subjects are able to be supported by legal counsel or another person of their choosing.

The Trustee Complainant's refusal to cooperate with an investigation by making themselves available in response to our repeated requests for an interview leaves us with no choice but to conclude that the complaints have either been filed for a purpose other than to have an allegation of a code transgression properly investigated (which we would consider to be vexatious), or that they have been made in bad faith.

One of the complaints involves circumstances which have already been made the subject of a complaint by another complainant. It is not possible for one complaint to move forward while another based on the same underlying facts remains in abeyance. We therefore are taking this opportunity to advise the Board that we are disposing of all four complaints filed by the Trustee Complainant who is refusing to cooperate with us, without investigation, so that we may move forward with a same scenario complaint already filed by a different Trustee.

All of which is respectfully submitted,

Sincerely,

Principles *Integrity*
Integrity Commissioner for
the Toronto Catholic District School Board



[addresses redacted as necessary]

Joint Disposition
Code of Conduct Complaints Respecting Trustee Markus de Domenico

We have concluded our investigation into three complaints filed in respect of allegations that Trustee Markus de Domenico breached the Trustees Code of Conduct for the TCDSB through his use of social media communications and at times through email. We are writing to advise you of our conclusions.

This Disposition deals with three separate complaints.

Two of the referenced complaints were in respect of matters that had already been considered by the Board of Trustees for the Toronto Catholic District School Board (the 'Board') and were dismissed 'without merit'. No reasons for the decisions, however, were provided to those respective complainants, and the complainants therein sought to have the matters reinvestigated.

A third complaint was received that had not been previously investigated.

All three complaints involved a common theme in that they alleged that Trustee de Domenico:

- Showed a lack of professionalism in his dealings through social media
- Blocked complainants inappropriately in social media
- At times responded through email or social media in a way that was described variously as intimidating, slanderous, aggressive, threatening, demeaning, discriminatory, misogynistic or bullying (described as 'cyber-bullying')

We undertook a review of the previously decided complaints (decided prior to our appointment as integrity commissioner for the TCDSB) at the request of the complainants, on the basis that no reasons for the Board's decision to dismiss the complaints had been provided. Though it is generally not in the public interest to re-investigate matters that have already been brought to conclusion, in this instance given the commonality of themes the circumstances underlying those complaints were brought forward for examination in the context of the third complaint. The presence of the third complaint provided an opportunity to review all three matters, dealing as they did with similar allegations of behaviour, in order to determine an appropriate outcome.

The role of the integrity commissioner in these instances:

Integrity commissioners carry out a range of functions. They assist in the development of an elected body's ethical framework, for example by suggesting content or commentary for codes of conduct. They conduct education and training for elected officials. One of the most important functions is the provision of advice and guidance to members to help sort out ethical grey areas or to confirm activities that support compliance. And finally, but not principally, they investigate allegations that a person has fallen short of compliance with the elected body's ethical framework and where appropriate they submit public reports on their findings, and make recommendations, including recommending sanctions which the Board may consider imposing in giving consideration to that report.

It is important that the integrity commissioner's broad range of functions be mentioned at the outset of disposition letter. Our role differs from other 'adjudicators' whose responsibilities generally focus, to state it colloquially, on making findings of fact and fault, or to determine which of two parties in litigation is 'most right'.

While is a necessary component in concluding an investigation to make findings of fact and fault, that is not the only component. We take a solutions-oriented approach and make recommendations which we believe best serve the public interest.

The tenets of procedural fairness govern how we undertake investigations and also require us to provide reasons for our conclusions and recommendations, which is the purpose of this correspondence.

We have assessed the evidence we gathered in a fair, independent and neutral manner. We have interviewed all necessary parties and considered relevant documents and records.

What we do not do is make judgments on policy or political perspectives being considered or decided by the Board. We recognized that underlying the behaviour which gave rise to the complaints were strong differences of opinion on matters of board business. Our concern lay with whether the Trustee carried himself in compliance with the code of conduct, and we make no comment with respect to the political perspectives of the participants.

Findings:

The tone and content of the Trustees communications at times reflected (unfortunately) the tone and style often found in social media exchanges, and as a result he fell below the standard expected of Trustees. For example the Trustees Code of Conduct provides:

In performing their duties as trustees, and in all matters of communication including email, telephone and face-to-face meetings with staff, parents and other stakeholders, appropriate language and professionalism are expected. Trustees must adhere to all pertinent Board policies.

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The Trustee has acknowledged that some of the communications he authored could not be said to be professional. That said, the more serious allegations in the complaints of misogyny and cyber-bullying were not founded.

We also found that the Trustee on occasion would 'block' people on social media which in and of itself can give rise to code of conduct concerns. We recognize however the limited opportunity Trustees have had to consider the ethical ramifications of blocking and so we will be using this opportunity to provide guidance to the Board.

Matters Influencing the Decision Not to Sanction:

Though we did make findings that in some instances the manner in which Trustee de Domenico engaged in communications with his constituents fell below the standard expected of him, he acknowledged his transgressions and undertook not to repeat them.

Without the Trustee's knowledge we audited his publicly available postings to see if we could detect any continuance of the previous offending methods of communication. We did not observe any further instances of communications of the nature originally complained of.

The course correction which was achieved met our solutions-oriented objective and we conclude this matter without recommendation for sanction. We do however note that it would be appropriate that the Board receive better policy guidance on social media use, particularly the use of blocking tools, and will be advising the Board of our suggestions in that regard when we present a summary of this disposition to them.

A version of this disposition will be provided to the respondent, Trustee de Domenico, and to the Board for information on an anonymized basis.

We appreciate the time and effort each of the complainants took to bring these matters to our attention, and for the cooperation we received from all parties throughout the investigation.

Sincerely,

signed

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Integrity Commissioner for the
Toronto Catholic District School Board

APPENDIX 2

April 4, 2021

Corriere Canadese
287 Bridgeland Ave.,
Toronto, ON M6A 1Z6
Attention: Joe Volpe, Publisher and President
Sent via Email: volpej@corriere.com

Disposition of Complaint
Trustee Maria Rizzo's Non-compliance with Eligibility Requirements
Residency and School Support

The Complaint

We have concluded our investigation into your complaint that Trustee Maria Rizzo is not eligible to hold office on the Board of the Toronto Catholic District School Board (TCDSB). The matter having originally been brought to the Board's attention, it was referred to the office of the integrity commissioner for an independent examination of the allegations submitted. If proved true, the allegations would not only demonstrate ineligibility for the Trustee's elected office, they would also lead to a finding of non-compliance with the Trustees Code of Conduct which requires:

3. Civil Behaviour

...

Among other things, Trustees should:

- respect and comply with all applicable federal, provincial and municipal laws;

4. Complying with Legislation

All Trustees will comply with the letter and spirit of all laws of Canada and the Province of Ontario and any contractual obligations of the Board in conducting the business of the Board.

You have alleged that Maria Rizzo is not qualified to hold her office as a Trustee on the basis that her residence is outside the area of jurisdiction of the TCDSB, and that she is not a separate school supporter. You have asked that the TCDSB remove Trustee Rizzo from her post and take steps to have her replaced forthwith.

The stated basis for your complaint is that Trustee Rizzo has disqualified herself as follows:

1. The last three addresses in which she lives or has lived are all listed as being owned by an EP (English Public School) supporter. They include an address in Springwater, Ontario, purchased in 2016 and co-owned with her husband. This property is not in the electoral jurisdiction of the TCDSB.
2. The address which she listed as her home address prior to, and including the election year, 2018, is not owned by her but by someone with a Rizzo last name.

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The owner was also in the past registered as a Public School supporter. You rely in part on the absence of a registered rental agreement attesting to the Trustee's status as a Catholic School supporter.

3. The *Municipal Elections Act* requires that candidates who meet the qualifying criteria to run for office must, if elected, remain qualified for the duration of the term, and it is your position that the Trustee has not maintained her eligibility requirements.

Process Followed for the Investigation

In conducting our investigation, Principles *Integrity* applied the principles of procedural fairness. This fair and balanced process includes the following elements:

- Reviewing the Complaint to determine whether it is within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the Complaint should be restated or narrowed, where this better reflects the public interest
- Notifying the Respondent of the Complaint and seeking her response
- Reviewing the *Trustees Code of Conduct*, the *Education Act 1990*, the *Municipal Elections Act, 1996* and other relevant legislation
- Reviewing relevant documentation and municipal records
- Interviewing relevant witnesses

In the course of our investigation, it was necessary that we become aware of sensitive personal and personal health information of the Trustee. Though that information figured prominently in our coming to the conclusions we arrived at, we must protect the confidentiality of the information and have refrained from disclosing it in this report. To validate our work, we engaged the services of an experienced investigator to participate in relevant interviews and review our conclusions.

Relevant Legislation

For ease of reference, we have set out the legislative provisions most relevant to the determinations we have made in the course of our investigation:

Education Act

Section 1, Interpretation and Other Matters:.

Entitlement to vote based on residence

(8) Despite any provision of this Act, except subsection (9), or of any other Act, including clause 17 (2) (a) of the *Municipal Elections Act, 1996*, for the purposes of regular elections and by- elections, a person is not qualified to

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vote for a member of a board for an area unless the person resides in the area on voting day.

Exception

(9) Subsection (8) does not apply to a person who is an owner or tenant of residential property in the area referred to in subsection (8), or who is a spouse of that person.

Entitlement to vote in the area of jurisdiction of a board

(10) For the purposes of sections 50.1, 54, 58.8 and 58.9, a person is entitled to vote in the area of jurisdiction of a board if, on voting day, he or she,

- a. resides in the area or is a person to whom subsection (9) applies;
- b. is a Canadian citizen;
- c. is at least 18 years of age; and
- d. is not a person referred to in clause 17 (2) (d) of the Municipal Elections Act, 1996. (referencing categories of persons prohibited from voting, not relevant to this investigation)

Interpretation

(11) For the purposes of subsections (8) and (10), “resides” has the same meaning as in section 17 of the Municipal Elections Act, 1996.

Section 54, Residents other than supporters entitled to vote:

s. 54 (1) Despite the provisions of this or any other Act but subject to subsection (2), a Roman Catholic who is not a supporter of any board, who is a person entitled under subsection 1 (10) to vote in the area of jurisdiction of a Roman Catholic board and who wishes to be an elector for the Roman Catholic board at an election is entitled,

- (a) to cause his or her name to be entered on the preliminary list for the voting subdivision in which he or she resides, as an elector for the Roman Catholic board; and
- (b) to be enumerated as an elector for the Roman Catholic board.

Section 58.9, Entitlement to vote: general:

s.58.9(1) The members of a district school board to be elected for a geographic area established under section 58.1 shall be elected by general vote of the electors qualified to vote in the geographic area for the members of that district school board.

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Section 58.9, Entitlement to vote: English-language separate district school boards:

s. 58.9(3) The members of an English-language separate district school board shall be elected by persons entitled under subsection 1(10) to vote in the area of jurisdiction of the board who,

(a) are not qualified under subsection 58.8(1) to be electors for a French-language district school board; and

(b) are separate school supports or persons entered on a preliminary list under section 54.

Section 219, Qualifications of Members:

219 (1) A person is qualified to be elected as a member of a district school board or school authority if the person is qualified to vote for members of that district school board or that school authority and is resident in its area of jurisdiction.

(2) A person who is qualified under subsection (1) to be elected as a member of a district school board or school authority is qualified to be elected as a member of that district school board or school authority for any geographic area in the district school board's or school authority's area of jurisdiction, regardless of which positions on that district school board or school authority the person may be qualified to vote for.

(3) A member of a district school board or school authority is eligible for re-election if otherwise qualified.

Section 219, Disqualifications:

(4) Despite subsection (1), a person is not qualified to be elected or to act as a member of a district school board or school authority if the person is,

...

(e) otherwise ineligible or disqualified under this or any other Act.

Section 219, Qualification to act as a member:

(9) A person is not qualified to act as a member of a district school board or school authority if the person ceases to hold the qualifications required to be elected as a member of the district school board or the school authority.

Section 219, Vacancy where member disqualified:

(11) The seat of a member of a district school board or school authority who is not qualified or entitled to act as a member of that district school board or that school authority is vacated.

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Municipal Elections Act, 1996:

Section 2, Residence:

- 2 (1) For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.
- (2) The following rules apply in determining a person's residence:
 1. A person may only have one residence at a time.
 2. The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.
 3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence.

Section 17, Qualifications:

- (2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, he or she,
 - (a) resides in the local municipality or is the owner or tenant of land there, or the spouse of such owner or tenant;
 - (b) is a Canadian citizen;
 - (c) is at least 18 years old; and
 - (d) is not prohibited from voting under subsection (3) or otherwise by law.

Section 17, Persons prohibited from voting:

- (3) The following are prohibited from voting:
 1. A person who is serving a sentence of imprisonment in a penal or correctional institution.
 2. A corporation.
 3. A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44.
 4. A person who was convicted of the corrupt practice described in subsection 90 (3), if voting day in the current election is less than five years after voting day in the election in respect of which he or she was convicted.

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Analysis:

To summarize the applicable legislation noted above, for Trustee Rizzo to be qualified to be elected to her role on the Board and to maintain her seat, she was required to:

- be qualified as an elector to vote for members of the TCDSB by:
 - residing within the geographic area served by the Board (the City of Toronto), or be the owner or tenant of residential property within the geographic area served by the Board, or be the spouse of the person owning such residential property
 - being a Canadian Citizen
 - being at least 18 years old
 - being not otherwise disqualified under section 17(d) of the *Municipal Elections Act* (the grounds cited there not being relevant to this investigation)
 - being entitled to be enumerated and listed as a Roman Catholic elector on the Preliminary List of Electors produced by MPAC; and
- be qualified as a person eligible to be elected to serve on the TCDSB by being:
 - qualified to vote (as above)
 - residing in the area of the Board's jurisdiction.

It merits note that neither property ownership nor the registration of a rental agreement is required by the legislative scheme to support a person's eligibility to vote or to stand for office as a catholic school Trustee.

In the context of the facts alleged and the requirements of the legislation we conducted an independent investigation to determine if Trustee Rizzo is qualified to hold her office on the basis of her residency and her school support pursuant to the *Education Act, 1990* and the *Municipal Elections Act, 1996*.

Specifically, we found it necessary to determine whether Trustee Rizzo resided at the property identified in municipal election records for the last municipal election as her residence (the "Toronto Property"), and continues to reside there. In carrying out this investigation, we communicated with City election officials and we reviewed documents and records from the Municipal Property Assessment Corporation ("MPAC").

We also conducted interviews with a variety of people who would have had direct knowledge of where the Trustee resides, including:

- individuals who currently provide and/or have provided professional services to Trustee Rizzo and her mother at the Toronto Property
- individuals who have visited Trustee Rizzo at the Toronto Property
- individuals who have regularly observed Trustee Rizzo at the Toronto Property
- Friends and neighbours
- individuals who have attended at the Toronto Property to make deliveries to Trustee Rizzo, or to conduct business, including Board business.

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Without exception the individuals we interviewed confirmed to us that Trustee Rizzo lives at and has lived at the Toronto Property at all times relevant to our investigation, and that she maintains a bedroom and office in the house.

Other Members of Trustee Rizzo's immediate family also live at the Toronto Property.

The Municipal Property Assessment Corporation (MPAC) is legislatively responsible for collecting occupant information (name, date of birth, citizenship and school support) for municipal, District Social Services Administration Boards and school board elections across Ontario, and for keeping up-to-date population figures for every municipality in Ontario.

MPAC uses the occupant information to create a Preliminary List of Electors, used by municipalities to produce the final Voters' List for municipal and school board elections, as well as population reporting for various municipal and school board planning purposes.

The information obtained from MPAC shows that Trustee Rizzo is listed as a "boarder" at the Toronto Property, that she lives in the Unit, and that she is an English separate school supporter. The status of "boarder" is distinct from a person who either owns a property or pays rent or other compensation to an owner in order to obtain permission to reside at a property. Trustee Rizzo's residency is tied to her status as a family member of the owner of the property and so 'boarder' is the most apt description for the nature of her occupancy.

We are also aware that Trustee Rizzo had an interest in another Toronto property up to 2017. Around the time of sale of that property, another property was purchased in Springwater Ontario. Though the Springwater property was not the Trustee's primary residence, greater use of the property was made during 2020 than in previous years because of her need to minimize exposure to family members during the COVID-19 pandemic. Notwithstanding her frequent attendance there, we heard consistent evidence from the persons we interviewed that the Trustee was also in regular attendance at the Toronto Property.

Summary of Findings:

We find that Trustee Rizzo's residence is the Toronto Property and was so for the purpose of the 2018 municipal and school board elections. Trustee Rizzo is listed on the MPAC records as a boarder and an English Separate School supporter at that location. The Toronto Property being within the geographic area served by the TCDSB, and otherwise being eligible as an elector, she was and remains qualified to be elected and serve as a member of the Board.

Accordingly we find that the Trustee has complied with all applicable law with respect to her eligibility to be elected to and serve on the Toronto Catholic District School Board, and so is in that respect in compliance with the applicable provisions of the Trustees Code of Conduct.