



REPORT TO

REGULAR BOARD

BILL 68 – CHANGES TO THE MUNICIPAL CONFLICT OF INTEREST ACT

A new command I give you: Love one another. As I have loved you, so you must love one another. By this everyone will know that you are my disciples, if you love one another.” John 13:34-35 NIV

Created, Draft

February 14, 2019

First Tabling

February 21, 2019

Review

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

P. Matthews, General Legal Counsel

INFORMATION 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.



Rory McGuckin
Director of Education

D. Koenig
Associate Director
of Academic Affairs

L. Noronha
Associate Director of Facilities,
Business and Community
Development, and
Chief Financial Officer

A. EXECUTIVE SUMMARY

Bill 68 made important changes to the Municipal Conflict of Interest Act. The two most important changes that will regularly impact Trustees are:

- i. Trustees who declare a conflict of interest will now be required, effective March 1, 2019, to file a written statement with the secretary of the Board disclosing the Trustee's interest and the general nature of the conflict.
- ii. The Board will be required, effective March 1, 2019, to maintain a registry where copies of such written statements may be accessed by members of the public.

The cumulative staff time required to prepare this report was 3 hours

B. PURPOSE

This report highlights two significant changes, as well as other changes to the Municipal Conflict of Interest Act.

C. BACKGROUND

The modernizing Ontario's Legislation Act, 2016 also known as Bill 68 made important amendments to the *Municipal Conflict of Interest Act* ("the Act") which are scheduled to come into effect on March 1, 2019.

D. EVIDENCE/RESEARCH/ANALYSIS

1. The following are the changes to the Act which come into effect on March 1, 2019:
 - i. At a meeting at which a trustee declares a conflict of interest, the trustee shall file a written statement of the interest and its general nature with the secretary of the Board (i.e. the Director of Education).
 - ii. Where a trustee, either on his or her own behalf or while acting for, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or the Board, the trustee shall not use his or her office in

any way to attempt to influence any decision or recommendation that results from consideration of the matter.

- iii. The Board is required to establish a registry which will contain:
 - a. Copies of written declarations made as prescribed in paragraph (i) above, and
 - b. A copy of the minutes from the meeting that documented that declaration of a conflict of interest
- iv. The registry described above must be available for inspection in the manner and during the time that the Board determines.
- v. Any member of the public, in reviewing the information in the Board's public registry or from any other source, will be entitled to make an application to a court to determine whether any trustee has acted contrary to the *Municipal Conflict of Interest Act*. ***This is a departure from the legislation's previous provisions extending this right to only an individual who qualified as an elector of the trustee in question.***
- vi. Where an application is made to a court alleging that a trustee has violated the *Municipal Conflict of Interest Act*, the court will now have discretion to consider whether the trustee took reasonable measures to prevent the contravention, including considering whether the trustee consulted with the municipal Integrity Commissioner.
- vii. In line with the new discretion to take trustees' reasonable measures into account, courts will also have a new ability to impose a range of penalties for contraventions of the *Municipal Conflict of Interest Act*. This range of penalties runs from lesser penalties such as a reprimand and suspension of remuneration, to more significant penalties such as declaring the trustee's seat vacant, disqualifying the trustee from running for re-election for up to 7 years, and ordering financial restitution where the trustee has made financial gain as a result of his or her contravention. Under the previous regime, only the more significant of these penalties were available and were applied to any circumstances where a trustee had violated the *Municipal Conflict of Interest Act*, regardless of any mitigating factors.

2. Please see **Appendix A** for two (2) memos received from OCSTA with respect to Bill 68.
3. The TCDSB Form upon which a Trustee shall file a written statement of the interest and its general nature with the secretary of the Board is found in **Appendix B**.

E. METRICS AND ACCOUNTABILITY

1. The TCDSB registry, where copies of written statements of a Trustee's conflict of interest, will be maintained by the Secretary to the Board, supported by the Recording Secretary.
2. This registry may be accessed by members of the public

F. CONCLUDING STATEMENT

This report is for the consideration of the Board.

APPENDIX A

Ontario Catholic School
Trustees' Association

Box 2064, Suite 1804
20 Eglinton Avenue West
Toronto, Ontario M4R 1K8
T. 416.932.9460 F. 416.932.9459
ocsta@ocsta.on.ca www.ocsta.on.ca

Beverley Eckensweiler, *President*
Michelle Griepsma, *Vice President*
Nick Milanetti, *Executive Director*

February 7, 2019

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Beverley Eckensweiler, President

SUBJECT: Bill 68 Municipal Conflict of Interest Requirements - Update

Summary:

Bill 68, *Modernizing Ontario's Municipal Legislative Act* received Royal Assent on May 30, 2017. New requirements regarding conflict of interest **become effective March 1, 2019** for school boards.

The key new requirements are:

- All boards must establish a **registry of conflict of interest declarations from trustees** that is open to the public;
- All boards now require a **written declaration of conflict of interest** from trustees at all committee and board meetings.

OCSTA has drafted a template **conflict of interest declaration form** to assist boards with these requirements (attached).

The **registry** must contain the following information:

- A copy of each conflict of interest declaration and each conflict of interest statement by a trustee;
- An excerpt from the minutes of the meeting where the declaration is made;
- The registry may be organized by date, type of meeting and the statement and declaration documents filed for each trustee that declares a conflict of interest;
- The registry can be made public either via a web posting or a publically accessible file at the board office, accessible during standard office hours.

...Continue

Background Information:

Conflict of interest legislation is concerned only with pecuniary or financial interests. The *Municipal Conflict of Interest Act* refers to three kinds of financial interests:

1. Direct Interest: a trustee would have a direct interest if the board was considering buying property owned by the trustee;
2. Indirect Interest: a trustee is the senior officer of a company bidding for a board contract;
3. Deemed: a trustee's spouse, child or parent owns a company that is bidding for a board contract.

Declaring a Conflict:

If a trustee identifies a direct, indirect or deemed conflict of interest in a matter and is present at a meeting of the board or committee of the board which the matter is being discussed, he or she must declare a conflict **before** any discussion of the matter begins. The trustee is required to take the following steps:

1. Publicly declare the conflict of interest, state the general nature of the interest and have the declaration recorded in the minutes of the meeting;
2. File a written statement of the interest and its general nature with the secretary of the committee or board (effective March 1, 2019);
3. Do not vote on any question in respect to the matter;
4. Do not take part in any discussion of the matter;
5. Do not attempt to influence the voting on any question related to the matter;
6. In a closed session of a committee or board meeting, the trustee with conflict should leave the room for as long as the matter is discussed and have that fact recorded in the minutes.

Filing Trustee Campaign Financial Statements:

As a reminder, all trustees are required to complete and file accurate campaign financial statements by 2:00 pm on March 29, 2019. If you have a bookkeeper or accountant complete the financial statement for you, you are still responsible for ensuring that it is complete and accurate and filed on time.

If you have any questions please contact myself or Stephen Andrews at sandrews@ocsta.on.ca.

Attachment

TEMPLATE

NAME OF BOARD

BOARD CONTACT INFORMATION

Statement & Declaration of Interest

Trustee Name: _____

Board/Committee Meeting Date: _____

Agenda Item: _____

Topic: _____

Statement & Declaration of Interest

Signature

Date

Date Filed in Registry



Ontario Catholic School
Trustees' Association

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Beverley Eckensweiler, *President*
Michelle Griepsma, *Vice President*
Nick Milanetti, *Executive Director*

February 8, 2019

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Beverley Eckensweiler, President

SUBJECT: CLARIFICATION: Bill 68 Municipal Conflict of Interest

Further to the memorandum sent on Thursday, February 7, 2019 regarding Bill 68, *Modernizing Ontario's Municipal Legislative Act* that amend the *Municipal Conflict of Interest Act* we want to clarify its impact on school boards and trustees in two areas.

As of March 1, 2019:

1. All boards must establish a **registry of conflict of interest declarations from trustees** that is open to the public;
2. All boards require a **written declaration of conflict of interest** from trustees at all committee and board meetings.

All other aspects with respect to the *Municipal Conflict of Interest Act* pecuniary or financial interests remain unchanged.

If you have any questions please contact myself or Stephen Andrews at sandrews@ocsta.on.ca.

Toronto ON M2N 6E8

Trustee Name: _____

Board/Committee Meeting Date: _____

Agenda Item: _____

Topic: _____

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Date _____

Date Filed in Registry