

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 or 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.

APPENDIX B

Signature: _____
Date: _____
Name: _____
Address: _____

Email: _____
Phone: _____

All Fields Mandatory

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