

Principles *Integrity*

Toronto Catholic District School Board Code of Conduct Complaint Against Trustee Daniel Di Giorgio Recommendation Report¹ May 16th, Special Board Meeting

Introductory Comments

- [1] Principles *Integrity* was appointed the Integrity Commissioner for the Toronto Catholic District School Board (TCDSB) pursuant to an RFP that was issued in July of 2020. The RFP provided for a term of one year, with two one-year renewals at the discretion of the Board. The resulting professional services agreement provided for a term which commenced on October 1, 2020. These details are necessary to include in this report because the Respondent, Trustee Daniel Di Giorgio has challenged our jurisdiction to serve as the Integrity Commissioner in this investigation, which we will be responding to below.

- [2] Principles *Integrity* is at present the Board's Integrity Commissioner. Prior to its appointment pursuant to the RFP it served for the prior year on an interim basis.

- [3] We remain the Board's Integrity Commissioner notwithstanding the expiration of the initial term of the professional services agreement. Though no formal extension of that contract has been executed, both the Board and we have continued the relationship. The Board acknowledged this informal extension and chose to revisit the matter this April.

- [4] We also serve as Integrity Commissioner for over 40 local public bodies across the province, mostly under *Municipal Act* provisions which require every municipality to appoint an Integrity Commissioner.

- [5] For some of our clients (another School Board, a Police Services Board, and a District Social Services Administration Board), including the TCDSB, the appointment is not a statutory requirement. The appointment is made because the appointing body has concluded guidance and oversight from an Integrity Commissioner is required to improve the ability of their governing body to serve their public interest objectives.

- [6] As the Board's appointed Integrity Commissioner, we carry out a range of functions. We provide guidance to support a robust ethical framework, suggesting content and commentary for codes of conduct and assisting in the development of other policies. We are available to conduct education and training for the Board and for its committees. Perhaps most importantly, when a Trustee requests advice on their ethical responsibilities, our response guides the Trustee and protects them against future complaints on

¹ As amended August 8, 2022

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the same matter. We are also available to administrative leadership to guide policies and procedures which support good governance.

- [7] Good governance supports meaningful ethical compliance.
- [8] Though it is not an Integrity Commissioner's primary function, we also review allegations that an elected official has fallen short of compliance with the municipality or board's ethical framework and where appropriate we submit public reports on our findings, and make recommendations, including recommending sanctions.
- [9] When we commenced our formal role as Integrity Commissioner, our primary focus was on assisting the Board in achieving course correction. It was apparent from the experience of the Board's previous integrity commissioner, that the Board's Code of Conduct was being 'weaponized'.
- [10] Every Trustee interviewed as part of our informal onboarding exercise referred to the weaponization of the Code of Conduct as being our key priority. The only Trustee who did not voice that concern, because he did not participate in our onboarding interviews, was the Respondent in this matter, Daniel Di Giorgio.
- [11] When we deliver our public reports following an investigation our approach wherever possible is to provide tangible practical guidance for course correction, where appropriate, and improvement going forward. In delivering this report we note that the Board has, from our perspective, achieved relative peace following an exercise to overhaul the Board's code of conduct and complaint procedures, and our completion of remnant complaints from the previous Integrity Commissioner time period.
- [12] That relative peace lasted until relatively recently, which has given rise to the circumstances relevant to this Report. In all, six distinct complaints were received, all tied in some way to a committee meeting held on November 25, 2021. Not all of the complaints were treated as part of the investigation. The rest of this report is a lengthy and at times complex recital of the treatment given to each of the complaints, and the findings made. To assist the reader, where the text of a complaint is summarized, it appears with a grey shaded background.

The Initial Complaint

- [13] The original complaint in this matter (Complaint No. 1) was filed by Trustees *de Domenico, Di Pasquale, Li Preti and Rizzo* on December 8, 2022. The complaint was extensive and was forwarded in its entirety to Trustee Daniel

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Di Giorgio, the Respondent. The complaint, containing a mix of allegations and evidence, is summarized on the ensuing pages:

On November 26, 2021 an article was published by Corriere Canadese in its print and on line platform entitled "TCDSB, Light at the end of the tunnel."

This article was written by Joe Volpe and published following a highly contentious Board meeting where a group of eight Trustees voted as a block in order to secure all positions on all Committees.

In the article Trustee Daniel Di Giorgio is the only trustee quoted. His numerous highly offensive remarks are directly aimed at the four trustees listed above.

1: Trustees at the TCDSB sent a clear message to woke zealots whose goal appears to be the elimination of Catholicism from the school system: "enough with your nonsense". Those are the words of trustee Di Giorgio.

2: Daniel Di Giorgio is credited with having brought together the moderates on the Board.

Their objective was to clear out all of the wokeists (De Domenico, Di Pasquale, Li Preti and Rizzo) and "their [redacted]",² he said.

3: In fact, when it came to vote for a trustee on the LGBTQ2 Advisory Committee, De Domenico, one of their candidates, received zero votes. That means he did not vote for himself and that his allies did not think the vote was worthy of their confidence.

"It is ironic that someone who allegedly is advocating on behalf of this group received 0 votes to sit on the subject committee", commented Di Giorgio "

The Corriere Canadese provides a direct link to the TCDSB video whereby Trustee Di Giorgio asked a question of staff scrutineers regarding the tabulation of the votes. Trustee DiGiorgio draws attention to the fact that Trustee de Domenico received no votes.

² This version of the report has been redacted, because the Corriere Canadese article was subsequently amended by the publisher.

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The direct quotes by Trustee Daniel DiGiorgio attempt to demean, mock and diminish the reputations of the four Trustees listed above and members of the public.

The crack made by Trustee DiGiorgio uses profanity (██████)³ and is highly improper, unprofessional and unworthy of a Catholic school trustee.

The entire article is bolstered by the remarks of Trustee Di Giorgio, brings disrepute to the office of a Catholic school trustee, damages the reputation of the TCDSB and are a disgraceful contemptible glance into the disposition of a Board member on the rights of a marginalized community.

The attack by Trustee Di Giorgio is a charge on the social justice policies (apparently we're "wokeists") initiated and supported by the four Trustees and subsequently approved by the Board of Trustees. (Also a Code of Conduct Violation). The decision of the majority constitutes the decision of board.

The social justice policies center around the protection of members of the 2SLGBTQ+ community, an identified marginalized group of students, staff and families. Members of this community will not feel safe knowing a Trustee of the Board deems their safety and self-worth as ██████.⁴

Furthermore, Trustee DiGiorgio is now a member of the 2SLGBTQ+ Advisory Committee creating much angst amongst members.

The TCDSB has worked very hard to build trust with the 2SLGBTQ+ community and committee, and the comments made in this article have now made this group feel unsafe, particularly with Trustee Di Giorgio.

Many of the members of the TCDSB 2SLGBTQ+ Advisory Committee have communicated with the four trustees expressing their intense discomfort and disapproval with Trustee Di Giorgio's comments and have indicated they will be requesting his immediate resignation from the committee.

At issue and at the core of TCDSB policies to protect members of the 2SLGBTQ+ community, an identified marginalized group of students, staff and families. Members of this community will not feel safe

³ *ibid*

⁴ *ibid*

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knowing a trustee of the TCDSB regards their safety and self-worth as [REDACTED].⁵

The TCDSB 2SLGBTQ+ Advisory Committee members have told the four trustees that they presume he has shown his true feelings in the article and he is not an ally to the committee but an opponent. They feel unsafe by his presence and with his relationship with the publication Corriere Canadese.

The official rebuke is an issue of public interest as confirmed by the members of the 2SLGBTQ+ community and the public at large. The public is interested because they care about the TCDSB and are concerned about how it is governed.

Trustee Di Giorgio's crude and crass comments create a hostile environment for trustees, students and staff; a diminished and negative perception of the TCDSB and degrades its goals and arduous work to promote equity, acceptance and inclusion of all TCDSB students.

It attempts to make a mockery of the four Trustees involved in the Pride motions and other social justice issues.

It has created a firestorm of outrage in the 2SLGBTQ+ community and the public at large. Social media has innumerable comments lamenting the demeaning nature and homophobic rationale behind the comments of Trustee Di Giorgio.

Much of the progress of the Board in terms of creating a welcoming and accepting place to work and learn has been destroyed by the vile and revealing nature of the comments of Trustee Di Giorgio.

"They had enough of the hi-jacking the educational agenda and preventing others from doing what is best for the children under their care and respecting mothers and fathers who have put their trust in Catholic education. Daniel Di Giorgio is credited with having brought together the moderates on the Board.

Their objective was to clear out all of the wokeists (De Domenico, Di Pasquale, Li Preti and Rizzo) and "their [REDACTED]", he said.⁶

Judging from the results of the votes for Committee Chairs and Vice Chairs, this foursome was "shut out".

⁵ *ibid*

⁶ *ibid*

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The Corriere has published (at time of writing this) two further edits of the article though none change the quotes listed herein.

The Corriere has previously published articles and cartoons that attack the LGBTQ+ community and the four Trustees, in one instance by portraying the four Trustees with Pride Flags stamped on their foreheads. One might ask why an elected Catholic official would conduct an interview with a publication such as Corriere Canadese unless like-minded people are finding a home in that media outlet

[Screen Shot on Toronto Catholic School Parent Group Facebook page omitted]

Trustee DiGiorgio twists the facts and situations to make political points to hurt others. He acted on his pent-up anger by 'sticking it' to Trustee de Domenico and other trustees in an under-handed way. He admits he holds grudges.

One need not be Sherlock Holmes to deduce what was going on after several trustees were propelled into leadership positions at the caucus/board meeting who met in secret. Trustee DiGiorgio is given 'credit' for orchestrating this in the Corriere Canadese ..

Trustee DiGiorgio conducted pre-vote discussions in secret when a majority of the trustees participated. This allowed an elected body to reach consensus before a formal vote was taken with no public oversight.

Trustee DiGiorgio uses passive aggressive tactics and takes no responsibility but rather, points the finger, or simply ignores his role in the "drama".

On Friday November 26th the Corriere Canadese ran the article as indicated above. Trustee DiGiorgio sent an email to Trustee de Domenico and copies all trustees, the Director of Education, Principles Integrity and other staff including legal counsel.

Trustee DiGiorgio uses passive aggressive tactics and takes no responsibility but rather points the finger at Trustee do Domenico instead of Mr. Joe Volpe who supposedly "misquoted" DiGiorgio in the article.

Trustee DiGiorgio tried to intimidate a fellow trustee via this email. He writes:

"Without the removal of the false quote I will be forced to lodge a formal complaint."

[No formal complaint has been filed with us]

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[Screen shots of email exchanges between certain Trustees omitted]

In conclusion:

We have valid and justifiable cause to believe Trustee Daniel DiGiorgio contravened regulations in the TCDSB Trustee Code of Conduct, procedures and policies. As elected trustees we are "compelled to set on or report breaches to which we witnessed . . . ". We bring this to your attention as per regulation.

Trustee Di Giorgio:

- Did not respect differences in trustees, their ideas, and their opinions;
- Dishonoured the dignity of trustees
- Demeaned trustees with rude, disrespectful and uncivil language and behavior
- Intentionally communicated biased and incomplete Information in a public forum
- Sent emails including images (and copied others) that disrespected, intimidated, and threatened, belittled and disparaged
- Spoke to media and made critical, statements that resulted in stressful consequences to the four trustees and the 2SLGBTQ+ students, families, allies and employees
- Met in private to collude against four trustees.
- Exhibited verbal and nonverbal communication unbecoming of a school trustee
- Demonstrated no awareness of his own conduct
- Exhibited personal attacks, immature attitude and lacked decorum
- Chose a manner of communicating that was derisive and demeaning.
- Worked behind the scenes to cobble support against trustees by meeting etc. diluting transparency and accountability of an elected official
- Met in private to collude against four trustees with the purpose to block them from positions of leadership
- Harbors a grudge against the four trustees
- Did not conduct himself in a manner that promotes public confidence
- Dispensed his duties in a manner that lacked openness and transparency so that stakeholders could understand the process and rationale which was used to reach decisions
- Failed to ensure the affairs of the Board are conducted with openness justice and compassion
- Neglected to demonstrate integrity
- Displayed in words and deeds hostility towards the four trustees

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The Second and Third Complaints

- [14] A complaint in two parts was received from a member of the public which centred on the same fact situation as the first complaint. The first part of that complaint (Complaint No. 2) is spoken to under the heading Dispositions below. The below statement, extracted from the second part of the complaint (Complaint No. 3) was included as an impact statement in the materials presented to Trustee Di Giorgio when the complaints were first initiated:

IMPACT

Mr. Di Giorgio's comments in the article contained foul language, targeted specific trustees based on their association with marginalized 2SLGBTQ community members, against Section 12 of the Human Rights Code, and focused on the motive to halt progress for this group, who are in critical need of additional support from education leaders. This shows a lack of respect not only for the community, but for the board's by-laws, policies and resolutions already passed. These actions have the effect of making reasonable people believe Mr. Di Giorgio is acting in the best interest of Joe Volpe, not vulnerable students or the board. As well as making 2SLGBTQ students, families and allies not feel welcome and feel more unsafe at the TCDSB. This is further confirmed when a student expressed their disappointment with his vote on a Twitter post, and the trustee proceeded to hide their comment, rather than respond accordingly.

- [15] To this point a single complaint letter was provided to the Trustee, containing the allegations which are summarized above.
- [16] Additional complaints were filed and the multiplicity and timing of their receipt introduced complications to the review of the matter.

The Fourth Complaint

- [17] The next complaint (Complaint No. 4) was initiated with the Trustee on January 17th, and the Trustee was given additional time to respond. Leaving aside the preamble (all of which was provided to Trustee Di Giorgio with the additional complaint administration), the various assertions in the complaint are summarized here:

Privacy

Trustee Di Giorgio responded to the Integrity Commissioner on December 22, 2021 by copying all trustees, legal counsel and the Director of Education.

Trustee Di Giorgio copied all trustees, the Director of Education and board legal counsel on the email sent to him from the Integrity

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Commissioner initiating the Code of Conduct complaint containing confidential information.

The email disclosed the name of a member of the public who made a complaint against Trustee Di Giorgio thereby breaching confidentiality. The email also included the complaint filed by Trustees de Domenico, Di Pasquale, Li Preti and Rizzo.

In our opinion Trustee Di Giorgio failed to keep information private and this may likely denote a “privacy breach”. It is our understanding that a privacy breach occurs when data including personally identifiable information such as a name, is disclosed. This is the situation in this case and may potentially put the Board in legal jeopardy.

Complaints to the Integrity Commissioner are highly confidential. Trustees must be held to a high standard and Trustee Di Giorgio knows better and did it anyways. He disrespected the privacy of the complaints, the complainants as well as the process.

Furthermore, the privacy breach has other far reaching consequences as it may deter others from launching formal complaints to the Integrity Commissioner. It sabotages and undermines the work of the Integrity Commissioner.

The Integrity Commissioner responded on December 23, 2021 to Trustee Di Giorgio and copied all others who had received the email thread sent by Trustee Di Giorgio.

Participation in Investigative Process

Trustee Daniel Di Giorgio refuses to participate in an investigative process thereby obstructing the process contrary to Regulation 16 (Reprisals and Obstruction) in the Trustee Code of Conduct. Instead of cooperating with the initial stages of the fact finding procedure he chose not to engage. What's more he did what he could to impede, thwart and foil the Code of Conduct proceedings.

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Obstruction

Moreover, Trustee Di Giorgio is obstructing the work of the Integrity Commissioner in attempting to gather information and data to subvert and undercut the integrity of the Integrity Commissioner and the requirements of the Trustee Code of Conduct. He is not upholding the board approval of the code and uses TCDSB staff to gather information.

Soon after Trustee Di Giorgio received the initiation of the Trustee Code of Conduct package from the Integrity Commissioner he went on a witch hunt intended to subvert and undermine the authority of the Integrity Commissioner and to terminate their contract.

On 2022-01-01, 10:24 PM, "Di Giorgio, Daniel (Trustees' Services)"
<Daniel.DiGiorgio@tcdsb.org> wrote:

"Hi Brendan, Derek & Paul,

Happy new year to you all. I'm hoping you three can assist in answering the following questions:

-When was the existing Integrity Commissioner hired?

-When were the interviews conducted?

-Which trustees sat on the interview panel?"

Another email from Trustee DiGiorgio read:

"In addition to the requests below, could you kindly provide the Board report where the trustees approved the hiring of Principles Integrity."

Paul Matthews, Legal Counsel for the board responded to Trustee Di Giorgio's questions copying the emails to trustees and senior staff as seen in

This is Paul Matthews original response dated January 3, 2021 to questions posed by Trustee Di Giorgio:

"Happy New Year Daniel, here are the answers to your inquiries:

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1. *Principles Integrity was retained by contract executed October 1, 2020*
2. *The Board of Trustees approved the recommendation of the Selection Committee in the Monthly Procurement Report that went to the Corporate Services Committee meeting in public on. September 10, 2020."*

Trustee Di Giorgio felt the need to ask follow up questions of legal counsel and once again copied trustees and senior staff by that continuing the thread. In an additional email he sought further clarification:

Quick follow up questions. I took a look at the report you referenced and found the following:

"This report recommends that the award for the Services of an Integrity Commissioner to be made to the highest scoring Proponent best meeting Board requirements which is Principles Integrity be approved for an annual cost of \$63,500, for an initial One (1) year term to commence September 21, 2020 until September 21, 2021, with an option to extend for an additional Two (2), One (1) year period at the Board of Trustee's discretion."

- *Following September 2021, was this contract extended?*
- *If so, was the extension approved by the Board of Trustees as stated above?*
- *Lastly, was the extension for a 1 or 2 year period?*
- *Thank you in advance for the clarification on these points"*

Circulation of Private Information

The circulation of the information sent from Trustee Di Giorgio is obstructive to the investigation and a breach of privacy.

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He sent the attachment (complaint) to all Trustees which included the name of a member of the public and outed her to the Board and some senior staff.

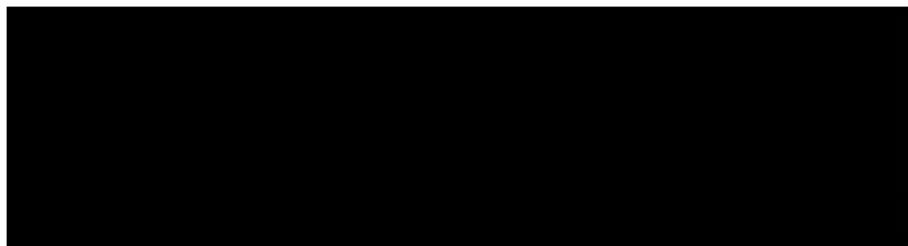
Reprisal

No trustee should seek any reprisal or threaten any reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner in the course of an inquiry pursuant to a complaint. By circulating a thread of emails following the complaint is tantamount to retaliation and subversion. Trustee Di Giorgio sabotaged his self serving actions and shows his rationale for disrupting the work of the Integrity Commissioner by undermining Principles Integrity and others.

Trustee Daniel Di Giorgio intimidated at least three specific people in his emails: the Integrity Commissioner; a member of the public and a trustee he had lodged a complaint against in January of 2021.

He also dictates the terms of his involvement with the Integrity Commissioner requesting only one of the principals from Principle Integrity.

Trustee Di Giorgio states he will not participate in the investigation process and brings up issues and personalities one year after the fact.



Continuing his snarly comments Trustee Di Giorgio gives rise to excuses which are irrelevant on several counts. Firstly a complainant's name is private; he besmirches her integrity and credibility by implying she has a "history with the TCDSB"; public reports are public however, a complaint to the Integrity Commissioner is strictly confidential and finally, insinuating an "affiliation with certain trustees" is not factual or pertinent.

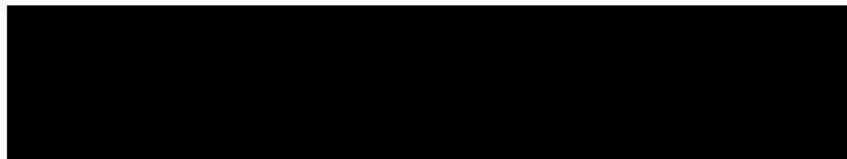
⁷ The document referenced is the subject of an appeal to the Office of the Information and Privacy Commissioner of Ontario.

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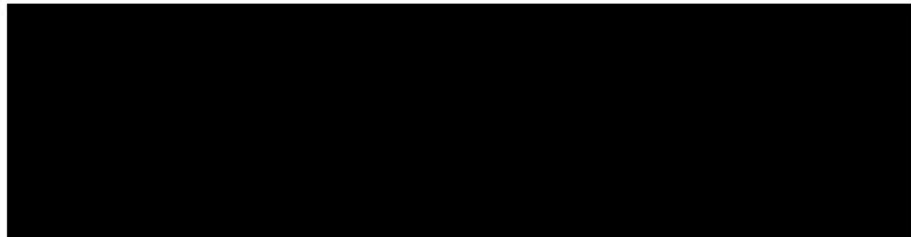
Trustee Di Giorgio says:



In response to the process outlined by the Integrity Commissioner of the possible investigation regarding avoiding “multiplicity of complaints” that all complaints will be amalgamated. Trustee Di Giorgio questions the authority and methodology of the Integrity Commissioner.



Trustee Di Giorgio email reads:



Intimidation and Scare Tactics

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** . . . It is our contention that Trustee Di Giorgio has not treated members of the public, other trustees or the Office of the Integrity Commissioner suitably and has violated board policy.

Questioning Hiring of Integrity Commissioner

Emails from Trustee Di Giorgio, to staff and trustees regarding the

⁸ *Ibid*

⁹ *Ibid*

¹⁰ *Ibid*

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hiring process for the Integrity Commissioner started immediately following notice of complaints against him. Trustees and senior staff have received multiple emails interrogating the process of hiring and inquiries about the contract and general requests pertinent to the Integrity Commissioner.

As Trustee Di Giorgio is being investigated by the office of the Integrity Commissioner, these emails questioning the hiring of the Integrity Commissioner and other Issues regarding the Office of the Integrity Commissioner are improper, unethical and underhanded.

We claim this is a clear violation of our code of conduct as Trustee Di Giorgio is obstructing the work of the Integrity Commissioner. This is obviously an attempt to undermine the credibility of the office of the Integrity Commissioner. It is dishonourable.

Trustees and staff continue to be copied on a stream of questions that one might conclude are presented to solely question the legitimacy of the Integrity Commissioner. This while there is an active case with Trustee Di Giorgio.

It seems **Trustee Di Giorgio is attacking the process and doing whatever it takes to serve his own self interest not to have the Integrity Commissioner proceed with an investigation** and to terminate the contract with Principles Integrity. Any issue Trustee Di Giorgio has with Principles Integrity is evasion and should not be considered valid or legitimate.

On the Verge of Ending Submission

Unfortunately, upon nearing completion of this complaint Trustee Di Giorgio continues the thread of emails over his fishing expedition of the Office of the Integrity Commissioner and besmirching, smearing and dishonouring trustees and staff.

Trustee DiGiorgio states in his email to legal counsel on January 4, 2022:

*"I am personally surprised that no staff member would have flagged this for the Board of Trustees in advance of the contract expiring. **This could have been brought to the Board's***

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attention at the September 9, 2021 corporate services meeting. Additionally, I am not sure which member of staff, if any, would have been responsible for bringing this to the Board's attention. Please advise."

*"Who signed the original contract agreement with the IC (September 2020-September 2021)? **Would it not be incumbent upon that individual to ensure that the appropriate notification was given to the Board of Trustees in advance of the contract expiring** given that the public report clearly states any extension will be at the Board of Trustees' discretion and there are public monies involved. Please advise."*

*"This would have serious financial implications and might even raise the issue of a **potential misappropriation of funds** given that the Board of Trustees did not approve these funds to be spent by virtue of not formally extending the contract."*

Accusing trustees who have used the services of the Integrity Commissioner of "misappropriation of funds" hits a new low in defiling trustees.

Questioning staff about the contract is contemptible. This is the first time the board contracted the services of an Integrity Commissioner. They continue to serve unless otherwise authorized by the board otherwise. To suggest otherwise by Trustee Di Giorgio is foolhardy. Moreover, in the midst of a pandemic staff prioritized issues and this particular contract was delayed by four months.

Finally EXHIBIT U [omitted from this summary] shows Trustee Di Giorgio intent. He says in his email on January 5, 2022:

*"Hi Ms.Atwood-Petkovski,
Based on information that has recently come to my attention, I will not be in a position to respond until at least January 20,2022. I also have a [redacted] January 10th so **the issue may be redundant**.*

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Unfortunately, I am unable to elaborate at this stage given the confidential nature of the information I received.”

Based on information provided by the board’s Legal Counsel that the contract for Principles Integrity was on the board agenda on January 20th exemplifies the real intent of his witch hunt. Quite simply to undermine, rid himself of the investigative process and to oust the Integrity Commissioner.

Conclusion

Trustee Daniel Di Giorgio:

- Neglected the minimum standards of behaviour set out in the existing legislative framework; and
- Disclosed confidential information about a member of the public; and
- Circulated threads of emails disclosing private and confidential matters relating to an active investigation; and
- Did not adhere to by-laws, policies and procedures adopted by the Board that are applicable to them; and
- Undermined the implementation of 'board decisions; and
- Gathered information and data to subvert and undercut the integrity of the integrity commissioner and the requirements of the Trustee Code of Conduct; and
- Refused to uphold the board approval of the code and uses TCDSB staff to gather information to intimidate and threaten; and
- Obstructed the Integrity Commissioner in the carrying out of their responsibilities; and

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- Threatened and undertook an active reprisal against a person initiating an inquiry or complaint under the Trustee Code of Conduct, or against a person who provides information to the Integrity Commissioner in any investigation; and
- Wilfully attempted to obstruct, prevent or defeat the course of an investigation; and
- Challenged the Integrity Commissioner's investigation and process; and
- Deliberately provided misleading information or twisted information to his liking; and
- Knowingly attempted to disrupt proceedings and interfered with the workings of the investigation
- Interfered with an active investigation; and
- Abstained from providing evidence; and
- Disrespected, the privacy of the complaints and the complainants; and
- Questioned the hiring of Principles Integrity to undermine their authority; and
- Refrained from participating in an investigative process thereby obstructing the investigation process contrary to Regulation 16 (Reprisals and Obstruction).in the Trustee Code of Conduct; an
- Dishonoured the dignity of trustees and staff; and
- Demeaned a member of the public with disrespectful comments; and

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- Exhibited communications unbecoming of a school trustee; and
- Smeared reputations and retaliated against the Integrity Commissioner; and
- Unable or unwilling to shoulder responsibility and instead deflects blame to others; and
- Accusing trustees of “potentially misappropriating funds; and
- Failed to uphold both the letter and spirit of rules, policies, procedures and by-laws adopted by the board.

[18] The next complaint (complaint No. 5) was not initiated with the Trustee but is spoken to under Dispositions below.

[19] Complaint No. 6, the final complaint, was received by us on March 10, 2022 and after our analysis we determined that, with one exception, it contained no additional discrete allegation and merely supplemented evidence already provided to us. The exception, relating to an allegation of conflict of interest, is spoken to under the heading Dispositions, below.

Process Followed for the Investigation

[20] In the course of investigating this complaint, it had been suggested by the Respondent Trustee Di Giorgio that Principles *Integrity*, or one or other of its principals, Jeffrey Abrams and/or Janice Atwood, are biased in regard to Trustee Di Giorgio, and therefore cannot impartially and independently conduct an investigation into the complaints against him.

[21] Trustee Di Giorgio claims that this bias was exhibited during an electronic interview involving the Trustee and both principals of Principles *Integrity* on February 17, 2021 in regard to a complaint investigation then being conducted as a result of a complaint filed by Trustee Di Giorgio against another Trustee. Although we do not record our zoom meetings, we take notes. We have no recollection, nor do our notes disclose, any issue raised by the Trustee at that time, though we do recall having to ask probing questions of the Trustee. An investigator is entitled to ask probing questions, and it may be in that respect that the Trustee’s believes he perceives some predisposition on our part.

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[22] The current investigation was commenced on December 22, 2021 in response to complaints filed against Trustee Di Giorgio. In the course of the investigation, the Trustee brought forward a motion to remove Principles *Integrity* as Integrity Commissioner to the Board, on the basis that the initial term of one year under the respective professional service contract had expired. In that respect it should be noted that:

- Although the appointment under the agreement was for an initial term of one year, it was structured to allow for extensions where mutually agreed upon
- An Integrity Commissioner is typically appointed for a period of 2, 3 or 4 years, in order to ensure the structural independence of the position
- Both parties to the agreement continued to operate under the terms of the agreement
- The practice of continuing to work even while an expired contract has not yet been formally extended or renewed is a common practice; for example, it is a common practice for teachers employed by the Board to continue to work under such circumstances

[23] Despite Trustee Di Giorgio's motion to remove Principles *Integrity*, the Board determined that Principles *Integrity* should continue as its Integrity Commissioner until at least the end of April, 2022.

[24] Nevertheless, the Trustee had suggested that Principles *Integrity* is biased against him as is evidenced by his treatment during the interview of February 2021. On the basis of that allegation and given his attempt to remove us as Integrity Commissioner, it is important as a question of procedural fairness that we address the issue of whether we are prevented from conducting this inquiry on the basis of bias.

[25] In addressing the question of bias, it is important that there be transparency with respect to our substantive interactions with Trustee Di Giorgio in the course of the investigation. The following is a chronology of our attempts to engage the Trustee meaningfully in our investigation:

- December 22, 2021 @ 2:50 pm
Principles Integrity ('PI') email to Trustee attaching complaints with detailed particulars provided to Trustee Di Giorgio, and requesting response by January 14, 2022
- December 22, 2021 @ 4:02 pm
Trustee email to PI, copied to other Board members, that:
 - he has not reviewed the complaint;
 - he will not respond as he has other more urgent matters to attend to;

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- he wants to know what has happened on a code of conduct workplace harassment complaint filed one year ago regarding another Trustee;
 - he does not intend to respond to the allegations until the Integrity Commissioner Report on the matter is before the Board;
 - he refuses to deal with Jeff Abrams but will communicate with Janice Atwood; and
 - he has forwarded the email including the complaint package to the other Board Trustees, the Director of Education and Board Legal Counsel
-
- December 23, 2021 @ 11:15 am
PI email to Trustee and all others copied by Trustee on previous email cautioning that the complaint and all communications are required to be maintained as confidential during the investigation process, a caution contained in the correspondence explaining the process; and that the breach may trigger review under privacy legislation
 - December 23, 2021 @ 11:30 am
Trustee email to PI asserting his refusal to deal with Jeff Abrams and that Principles *Integrity's* practice of plural pronoun "we" now precludes him from dealing with Janice Atwood.
 - December 27, 2021 @ 11:36 am
Trustee email to PI challenging privacy concern raised by him having shared the complaint, and criticizing our decision to consolidate related complaints
 - January 5, 2022 @ 12:11 pm
Trustee email to PI that it has come to his attention our contract was not formally extended or renewed by the Board, and refusing to cooperate with our investigation of complaints against him until issue is clarified
 - January 5 @ 4:50 pm
Trustee email to PI that due to [redacted personal health information], he is unable to respond until at least January 20
 - January 17 @ 8:49 am
PI email to Trustee attaching additional complaint, with detailed particulars provided to Trustee DiGiorgio requesting responses to both sets of complaints by Jan. 31, 2022
 - January 28 @ 7:05 pm
Trustee email to PI that he is anticipating a report from Principles *Integrity* will affect the investigations underway, and advising that there has been a

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complaint to the Ontario Ombudsman regarding this matter and he is awaiting a response from them

- January 31 @ 8:00 am
PI email to Trustee reiterating request that he respond to the complaints, as required, and advising that there is no imminent report coming to the Board, were we aware of any matter under review by the Ombudsman, which would affect the matter
- January 31 @ 9:24 am
Trustee email to PI reiterating that he has been advised a report is being prepared which will materially affect the proceedings
- January 31 @ 10:32 am
PI email to Trustee reiterating requirement that Trustee respond to the complaints provided to him December 22 and January 17, as the failure to do so would obligate us to complete our review and report our findings to the Board without the benefit of the Trustee's input and submissions
- January 31 @ 7:33 pm
Trustee email to PI and copied to all Board members and numerous senior administrative staff, reiterating that he will not respond until the matters previously raised – the report he believes is being prepared, which will materially affect the proceedings, is provided to the Board, and the Ombudsman who he believes is reviewing the matter -- are concluded

[26] The independence and impartiality of an administrative fact-finding agency or tribunal is fundamental to the proper application of procedural fairness in an investigation. The question becomes whether there is a reasonable apprehension of bias. Though an integrity commissioner has broader functions than an agency or tribunal, the principle does apply to our work.

[27] The test, which is an objective one, is whether a reasonable person informed of the facts, viewing the matter realistically and practically, would conclude that the tribunal members were not institutionally independent and impartial or that they were institutionally or individually biased in the conduct of the matter.

[28] In one of the leading cases on bias of administrative tribunals and agencies, the panel of the Federal Court of Appeal¹ stated at paragraph 37:

It is now recognized that the constitutional or common law rules of independence and impartiality applicable to the courts do not apply with the same stringency to administrative tribunals....[quoting from a Supreme Court of Canada decision]
“an informed person's assessment will always depend on the circumstances.

¹ Northwest Territories v Public Service Alliance of Canada 2001 FCA 162 (CanLII)

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The nature of the dispute to be decided, the other duties of the administrative agency and the operational context as a whole will of course affect the assessment. In a criminal trial, the smallest detail capable of casting doubt on the judge's impartiality will be cause for alarm, whereas greater flexibility must be shown toward administrative tribunals."

[29] In that matter, the three members of the panel who had been appointed by the Canadian Human Rights Commission to inquire into a complaint had not been appointed to a newly established tribunal. Their appointments were therefore not being extended. The continuation of the hearing before them would result in their remuneration on a per diem basis for the duration of the matter.

[30] The complainant alleged that the tribunal members were not independent or impartial, given that their appointments had not been extended and their per diem remuneration was to be impacted by the continuation of the hearing.

[31] In finding no reasonable apprehension of bias, the Court stated at paragraphs 38 and 39:

The appellant, in my view, in what I can only term either a desperate move or a wasted effort (*un coup d'épée dans l'eau*), argues that there is a reasonable apprehension of bias resulting from the fact that the three members, being paid on a per diem basis, might protract and prolong the hearing of the complaint in order to extract more money from the government.

...

Again, a reasonable person well informed of all the facts surrounding these proceedings and the allegations made by the appellant could not and would not conclude that the members would be, for that reason, institutionally or individually biased in the conduct of their hearing.

...In any event, the appellant is not without remedy if prejudicial interference on the part of the Treasury Board or actual bias on the part of the members as a result of the Treasury Board's position occurs and can be established. But it cannot be inferred from the mere possibility of eventual misconduct on either side that a reasonable apprehension of bias would arise. More than fanciful speculation is required to create in the mind of a well-informed and reasonable person a reasonable apprehension of bias.

[32] In our view, based on the jurisprudence, we are confident in our ability to maintain an independent and impartial perspective in the investigation of the complaints against Trustee Di Giorgio, and our judgment is not affected by the motion unsuccessfully brought by the Trustee to terminate our retainer with the Board.

[33] To conclude otherwise would be, in effect, to enable respondents to choose who can investigate them merely by criticizing the investigator, or in this case seeking to remove them from office. Quite simply the test is whether an integrity commissioner is able to review the matter without bias. We have taken the

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Trustee's concerns into account, and having given them due consideration, have concluded that neither our perspective nor judgment has been clouded by the Trustees assertions and actions.

[34] As such, we have proceeded to conduct this investigation with rigour and all due diligence, applying the tenets of procedural fairness. In that respect our process consisted of:

- Reviewing the complaints to determine whether they were within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the complaints should be restated or narrowed, where this better reflects the public interest
- Making dispositions regarding portions of the complaints
- Notifying the Trustee of the complaints he need respond to and seeking his response
- Reviewing recordings of relevant meetings, agendas and minutes, reports, and other relevant documents
- Interviewing relevant witnesses and seeking the participation of the Respondent Trustee
- Providing the Respondent with an opportunity to review and provide comments regarding our draft findings
- Making our findings and determinations by employing the 'balance of probabilities standard' (whether an event more likely occurred than not) based upon the evidence which was available to us.

Analysis of Complaints

[35] The assessment of whether a person has violated the Trustee Code of Conduct provisions applicable to them is done on a qualitative not quantitative basis.

[36] Though the compilation of complaints by the various complaints has been detailed, if not exhaustive, it is not our role to engage in a brute force exercise. Not every single allegation of transgression or problematic behaviour warrants an in depth analysis. The filtering of consequential conduct and behaviour which is in the public interest to review is an important function.

[37] Not having had the Trustee-Respondent's cooperation in this investigation, we had no input from him on whether the fulsome complaints could have been narrowed or resolved in any respect. The only substantive input we have had from him is his assertion that he was misquoted by the Corriere Canadese, although lacking in any specificity or proof of efforts to correct such misquotes.

[38] Without his involvement we have not had any opportunity to test the credibility of his assertions.

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[39] We are left, in that respect, with the unchallenged allegations of the complainants, and the uncontroverted evidence, and our interpretation of that evidence to the Trustee Code of Conduct provisions applicable to Trustee Di Giorgio.

[40] Given that it is the qualitative, not quantitative nature of complaint allegations which bear on an investigation, we find it unnecessary to address every allegation contained in the series of complaints received. Those we consider the most important, the most salient, and the most impactful and consequential from the perspective of the public interest are addressed in this report.

Applicable Ethical Standards

[41] The following provisions of the Trustee Code of Conduct (the 'Code'), being Board Policy No. T.04., are most applicable and as such serve as the ethical standard against which we have assessed our findings.

[42] Our interpretation of the Code is influenced by its Purpose statement which includes:

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.

[43] In addition the Code includes, under 'General Introduction'

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.

...

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*

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- *that teaching and learning should be rooted in research and evidence*
- *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*

[44] Further, under 'Policy', certain principles are set out, including:

1. *Trustees shall serve the public and their constituents in a conscientious and diligent manner.*
2. *Trustees shall 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.*

[45] The above provisions guide us in interpreting the substantive Code provisions in the context of the Trustee's conduct. It is clear from the Code's interpretative provision, the introduction and the policy statement that Trustees are held to high standards of ethical behaviour.

[46] With that in mind, the following excerpts from the substantive Code provisions are relevant:

[47] Under 4. 'Confidential Information':

- iii *No Trustee shall use confidential information for personal or private gain, or for the gain of Family members or any person or corporation.*

[48] Under 7. 'Improper Use of Influence':

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:

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a) maintaining an unimpeachable standard of integrity in all their relationships, both inside and outside the Board;

...

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,*

[49] Under 9. Trustee Conduct

Conduct at the Board and Committee Meetings:

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

ii. 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.

...

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

[50] Under 10. 'Media Communications':

i. 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.

ii. Trustees will keep confidential information confidential, until such time as the matter can properly be made public.

iii. 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.

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[51] Under 11, 'Respect for Board By-laws and Policies':

- i. *Trustees shall encourage public respect for the Board and its by-laws.*

[52] Under 12. 'Respectful Workplace',

- i. *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.*

[53] Under 13. 'Conduct Respecting Staff'

- ii. *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.*
- iii. *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.*
- iv. *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.*

[54] Under 16. 'Reprisals and Obstruction'

- i. *It is a violation of the Trustee Code of Conduct to obstruct the Integrity Commissioner in the carrying out of their responsibilities.*
- ii. *It is a violation of the Trustee 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.*

Findings

[55] We find that Trustee Di Giorgio's conduct in this matter falls below the standard expected of him under the Trustee Code of Conduct in the following ways:

Quotes in Corriere Canadese

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[56] We find that there is no reliable evidence to suggest that Trustee Di Giorgio was misquoted in *Corriere Canadese*. Though he has issued a bare denial and claims that he was misquoted, we find on the balance of probabilities that this is not the case.

[57] His quotes to *Corriere Canadese*, published on November 26, 2022, included the following:

“enough with your nonsense”

And though the article omits quotation marks around the entirety of the phrase, we consider it more likely than not that he conveyed the essence of the statement:

Their objective was to clear out all the wokeists (De Domenico, Di Pasquale, Li Preti and Rizzo) and “their [REDACTED],”¹¹ he said

[58] We find, on a balance of probabilities, that he did make the statements which he was quoted as saying in the publication.

[59] The Trustee is certainly entitled to his political perspective. However, to suggest that others who exercised their own political judgement with respect to Board matters was disrespectful, disparaging and intolerant of others’ views.

[60] The statements suggest that some Trustees on the Board are intent on undermining and derailing the educational agenda, and preventing the Board from acting in the best interests of children. This is intolerant, dismissive and disrespectful of the different perspectives around the Board table, and worse, disparaging of the work of those who seek to advance tolerance, diversity and inclusion at the TCDSB.

[61] We find the statements were disparaging of the Trustees he identified and to the Board as a whole.

[62] Whether the Trustee used the term ‘wokeist’ or not, it is clear from the context of the article that the topic of discussion included the policy considerations the Board has debated with regard to the LGBTQ2S+ students at the Board, and equating the position of some Trustees as being [REDACTED]¹² is both disparaging of both those Trustees and marginalized students who identify themselves as part of that community.

¹¹ *ibid*

¹² *ibid*

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- [63] We find that the statements failed to demonstrate an understanding of the General Introduction of the Code:

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.... They recognize the need to uphold both the letter and the spirit of the law including policies adopted by the Board.

And

that equity, diversity, accessibility and inclusivity are integral to the Catholic community

- [64] Further, the statements infringe the Trustee's obligations under Rule 10., 'Media Communications', which require that:

iii. 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.

- [65] As such, we find that Trustee Di Giorgio's statements breach the Trustee's obligations under the Code.

*Privacy and Confidentiality and
Obstructing the Integrity Commissioner*

- [66] We find that the Trustee did breach the privacy of the person who submitted Complaint No. 2 & 3 by disclosing their identity when, in contravention of our instructions, circulated the first complaint initiation package to the other Trustees, the Director of Education and the Board's Legal Counsel on December 22nd. The Trustee repeated the disclosure by a further email on December 27th.

- [67] Whether the breach of privacy amounted to one which would be of concern to the Information and Privacy Commissioner of Ontario is not within our jurisdiction to determine.

- [68] It is, however, within our jurisdiction to make the finding that the circulation breached the Trustee's obligation to maintain confidentiality:

iii No Trustee shall use confidential information for personal or private gain, or for the gain of Family members or any person or corporation.

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It is also within our jurisdiction to determine whether the disclosure was in effect an attempt to obstruct our investigation:

- i. It is a violation of the Trustee Code of Conduct to obstruct the Integrity Commissioner in the carrying out of their responsibilities.*

It being the case that the Trustee's circulation of the initiation package not only disclosed the identity of one complainant, a member of the public, but his commentary on our investigation interview almost a year earlier, and his conveyance of the raw complaint knowing that many of the recipients were potential witnesses, was an attempt to take control of the investigation.

[69] It was also a clear attempt at obstruction to quarterback an attempt to remove the Integrity Commissioner in the midst of an investigation against him, as is set out in the materials. Notably whatever the merits of the Trustee's concerns regarding the expiry of the initial term of the Integrity Commissioner Professional Services Agreement, his motion at the January 20, 2022 meeting of the Board's Corporate Services, Strategic Planning And Property Committee to end the Board's relationship with the Integrity Commissioner on an urgent basis is conclusively an attempt to obstruct the investigation involving him at the time.

[70] We find that the Trustee's circulation of the identity of a complainant constituted the use of confidential information for personal gain.

[71] We find that the Trustee's attempt to remove the Integrity Commissioner in the midst of an investigation against him constitutes an attempt to obstruct under the Code.

Conduct Respecting Staff

[72] The same motion, in embellishing the implications of the contractual matter between the Integrity Commissioner and the Board, and in its overt criticism of staff including allegations respecting their management of the contractual matter, was an attempt to maliciously impugn the reputations of staff contrary to Rule 13 of the Code:

Rule 13

iv. 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.

Dispositions

[73] Six separate complaints arising out of the November 25, 2021 meeting were ultimately assessed under this investigation.

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- [74] Complaints Nos. 1, 4 and 6 were made by the Trustees identified above. Complaints 2, 3 and 5 were made by members of the public.
- [75] Not all of the complaints figured in our analysis in this report respecting whether Trustee Di Giorgio breached the Trustee Code of Conduct in the circumstances described.
- [76] Some of the complaints made thematic reference to the Board's previous decisions involving matters close to the LGBTQ2+ community.
- [77] In Complaint No. 2, allegations were made, also arising out of the Board's November 25, 2021 meeting, that the Board appointed a Trustee (not, in this instance Trustee Di Giorgio) to a committee position of authority notwithstanding the imposition of a previous sanction and a complaint to the Ontario Human Rights Tribunal.
- [78] Complaint No. 2 was accompanied by Complaint No. 3, which was included in the complaint first initiated with Trustee Di Giorgio, specifically by incorporating a portion of the complaint as an impact statement. The balance of the complaint covered the same territory as other complaints referenced above.
- [79] Trustee Di Giorgio was not named in Complaint No. 2 except indirectly in voting, as others did, to make the appointment.
- [80] Complaint No. 2 included that the collective behaviour of a majority of the Trustees at the November 25th meeting resulted in systemic homophobic and transphobic discrimination for 2SLGBTQ+ community at the Board, both in the procedures and tactics used to make committee leadership appointments which, it was alleged, were targeted at that community, but also in the results.
- [81] Without minimizing the importance of the allegation, the matter having already been referred to the Ontario Human Rights Commission for review, and it being the case that an Integrity Commissioner has no jurisdiction over policy decisions made by an elected body, Complaint No. 2 will be the subject of a separate Disposition letter to be issued contemporaneously with this report.
- [82] Further, the jurisdiction of an Integrity Commissioner is confined to the ethical conduct and behaviour of individual Trustees, having regard to the standards of behaviour established under their Code of Conduct. Our jurisdiction does not extend to a review of Board decisions.
- [83] Complaint No. 5 has been entirely disposed of on this basis and was the subject of a formal disposition in February. The events complained of in Complaint No. 5

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arose out of the same meeting of the Board that gave rise to the other series of complaints.

- [84] Some of the elements of the complaint were featured in other complaints concerning Trustee Di Giorgio made in the course of the investigation addressed in this report.
- [85] Included in the Complaint No. 5 disposition were allegations that block-voting occurred and that meetings were held in the absence of the public to pre-determine the votes of the block members.
- [86] The meeting in question concerned the decision by the Board to appoint members to the Board's various committees. In our observations the conduct of the meeting did not disclose categorical evidence of a *complete* predetermination of the voting outcome for the assignments. To the extent voting strategies had been discussed in advance, by parties on both sides of the question, there was sufficient debate to support the decision having been made in public.
- [87] Complaint No. 6 was received by us on March 10, 2022, well after the other complaints in this matter had been initiated and largely investigated. It was described as an addendum to the previous complaints filed by the Trustees (Complaint Nos. 1 & 4). We gave careful consideration to Complaint No. 6, including whether to initiate it with Trustee Di Giorgio as part of the investigation already well underway.
- [88] In our view, it was not necessary to do so, for the following reasons.
- [89] Complaint No. 6 focused though on the January 20, 2022 Corporate Service, Strategic Planning and Property Committee meeting addressed above as part of our responsibility to address assertions that we, as investigator of these matters, may have been biased, and in our considerations of reprisal and obstruction.
- [90] The one element in Complaint No. 6 that was not present in other complaints was that Trustee Di Giorgio was in a conflict of interest when he attempted to remove the Integrity Commissioner from the investigation by moving the motion on January 20, 2022 to appoint an interim Integrity Commissioner.
- [91] After careful consideration, we determined that any benefit to the public interest in having us consider the matter as part of the current investigation did not outweigh the impact of the delay in filing the additional complaint.
- [92] Though the Code does not contain any limitation period for the filing of complaints, in cases where an allegation is submitted that the Trustee had a pecuniary interest in a matter, we have reference to the *Municipal Conflict of Interest Act*. In this instance both a pecuniary and non-pecuniary interest was alleged.

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- [93] *The Municipal Conflict of Interest Act* contains a six-week limitation period during which a complainant must file their complaint. Complaint No. 6, having been filed more than six weeks from the date when the complainants first became aware of the issue (January 20, 2022), and containing content that was already being addressed in this report, was therefore not initiated with the respondent Trustee and did form part of our consideration of the other complaints.

Recommendations and Concluding Remarks

- [94] Trustee Di Giorgio's refusal to participate in our investigation was unfortunate. It denied him an opportunity to explain his position respecting the allegations and removed any opportunity to assess the complaint for informal resolution. His attempts to turn the focus of the matter to issues of jurisdiction and bias was similarly unfortunate, but we are confident the Board will be able to consider our recommendations in their proper context.
- [95] In the morning of April 4, 2022 we forwarded a draft of this report to Trustee Di Giorgio (up to this section on recommendations and concluding remarks) as is our practice:

Trustee Di Giorgio,

We have now completed our investigation of the complaints filed against you. Prior to concluding our report to the Board we are advising you that we have made findings that you have contravened the Trustee Code of Conduct. Our Preliminary Findings Report is attached.

*One of the purposes of sharing a Preliminary Findings Report is to enable a Respondent one final opportunity to respond to our recitation of the matters under investigation, including the findings we make. If you wish to make any comments or submissions before we finalize our report and submit it to the Board, please provide us your response on or before **Wednesday April 13, 2022.***

*We remind you that to preserve the integrity of our investigation, you are required to **keep this communication and the attached document confidential.***

*In particular, we remind you that you may not share the attached **Preliminary Findings Report with your colleague Trustees or any staff at the Board.** Once we have your response, if any, we will be submitting a final version of the document, containing our recommendations and concluding remarks, to the Board for its consideration.*

It would be appreciated if you would acknowledge receipt of this email. If you have any questions regarding the process, please let us know.

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[96] The deadline for the receipt of comments was extended twice at the Trustee's request on the basis of his personal circumstances. The final extension was to April 22, 2022.

[97] During the evening of April 21, 2022 we received the following response from the Trustee:

I have conducted a limited review of Principles Integrity's draft findings report following my [redacted] early this week.

I disagree with the draft preliminary findings that I have breached the code of conduct or that my conduct fell below the standard set in the Code of Conduct, or that I breached the privacy of any person who submitted a complaint.

It was my understanding that Principles Integrity would be submitting a report on recusal to the Director of Education. In the apparent absence of this report, it is not prudent for me to comment prematurely on the draft findings report. I am currently seeking to obtain legal advice on procedural issues related to the expected report on recusal and how it affects the pending investigation against me and a fair opportunity to provide evidence to support my disagreement with your findings in the future.

[98] We do not know how the Trustee formed an 'understanding' that we would be submitting a report on recusal to the Director of Education. Though the Board's external counsel did communicate a Board member's suggestion to that effect, we made it clear that the issue of recusal would be dealt with in this report, as we have done above.

[99] The Trustee is and was entitled to retain legal counsel to assist him. With our investigation completed and our report now having been concluded, he may, if he chooses, retain legal counsel to support any response he may have to the matter when it is considered by the Board, and under the process established by the *Education Act* 218.3(6) for the making of written submissions should the Board determine the Trustee Code of Conduct has been breached.

[100] It would not be in the public interest to delay reporting any further.

[101] Under section 218.1 of the Education Act a Trustee's is obliged to comply with the Board's code of conduct.

[102] We have found that Trustee Di Giorgio failed to comply with the Trustee Code of Conduct for the reasons noted in detail above.

[103] The Board's complaint protocol, which forms an appendix to the Trustee Code of Conduct, provides the process for the Board's consideration of an Integrity Commissioner's report where allegations of transgressions have been found:

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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 Trustee Code of Conduct, and any vote on any imposition of a sanction, is open to the public.

[the Report does not give rise to any of the confidential content recited, and so the Board must consider this Report in public session]

(4) If after consideration of the Integrity Commissioner's report the Board determines that a Trustee has breached the Trustee 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

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- 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.

[104] In the circumstances of this matter, we believe sanctions are warranted.

[105] As noted above Trustee Di Giorgio was disparaging and exhibited intolerance toward those who seek to advance tolerance, diversity and inclusion at the TCDSB, including his colleagues on the Board of Trustees; he failed to maintain confidentiality when he circulated confidential information provided to him by the Integrity Commissioner, including personal information about an identifiable individual, and did so for his own personal gain as part of his attempts to obstruct the investigation; and he engaged in overt criticism of staff regarding their management of the Integrity Commissioner's contract in an attempt to maliciously impugn their reputations.

Recommendations:

[106] We therefore recommend as follows:

1. That the Board of Trustees for the Toronto Catholic District School Board make a determination that on the basis of this Report, Trustee Daniel Di Giorgio has breached the Trustee Code of Conduct.
2. That Board impose the following sanction:
 - i) that Trustee Daniel Di Giorgio be barred from sitting on the Board's 2SLGBTQ+ Advisory Committee for the balance of the current term.

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3. That the Board adopt a public resolution disassociating itself from the statements attributed to Trustee Di Giorgio published on November 26, 2022 in the Corriere Canadese.