



REPORT TO

REGULAR BOARD

POLICY REVIEW IN RELATION TO EXPANSION OF OMBUDSMAN OVERSIGHT

*For we aim at what is honorable not only in the Lord's sight but also in the sight of man.
2 Corinthians 8:21 ESV*

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RECOMMENDATION REPORT		

Vision:

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

Mission:

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



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A. EXECUTIVE SUMMARY

This report reviews TCDSB policies specifically in respect to the recent expansion of Ombudsman oversight to school boards, analyses potential risks and recommends updates where deemed necessary.

B. PURPOSE

During the October 13, 2015 Governance and Policy Committee Meeting, Trustees directed staff to identify policies related to Ombudsman oversight as high priority for review.

C. BACKGROUND

1. On December 11, 2014, Bill 8, *Public Sector and MPP Accountability and Transparency Act, 2014* (“Bill 8”) received Royal Assent.
2. Bill 8 included amendments to the *Ombudsman Act* and extended the Ombudsman of Ontario (“Ombudsman”) oversight to school boards effective September 1, 2015.

D. EVIDENCE/RESEARCH/ANALYSIS

1. Under the *Ombudsman Act*, anyone now has the right to file a complaint with the Ombudsman about a school board. The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a public sector body and affecting any person or body of persons in his, her or its personal capacity.
2. Bill 8 added the following clause to the *Ombudsman Act*:

Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission, in respect of which there is, under any by-law or resolution of a school board, a right of appeal or objection, or a right to apply for a hearing or review, on the

merits of the case to a designated school board official or employee, or to a committee constituted by or under a by-law or resolution of the school board, **until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired** (emphasis added).

3. The Ombudsman will investigate complaints regarding administrative conduct, school and school board policies, customer service provided by board staff, other matters within the authority of school boards as well as systemic issues.
4. According to literature provided by the Ombudsman, the Ombudsman can: resolve individual complaints; investigate issues that cannot be resolved locally; conduct large-scale investigations into broad, systemic issues affecting large numbers of people; require officials to co-operate with investigations and provide relevant evidence; and recommend changes to fix bureaucratic problems and improve governance, accountability and transparency.
5. According to the same literature provided by the Ombudsman, the Ombudsman cannot: overturn decisions of school boards or issue penalties (recommendations made by the Ombudsman are not binding). If the Ombudsman does make a recommendation, the school board will have a chance to respond before any report is made public. The Ombudsman will follow up on all recommendations to ensure they are implemented and have the desired effect.
6. The Board can mitigate the risk of the Ombudsman initiating an investigation or concluding an investigation with an unfavourable recommendation by ensuring all internal complaint processes regarding the abovementioned matters are clearly outlined in the Board's policies and procedures and all relevant stakeholders are aware of them.
7. The Board can also mitigate the risk of an unfavourable recommendation by ensuring relevant information and documentation

is kept and tracked appropriately regarding internal complaints in anticipation of the Ombudsman's request.

8. Staff have identified the following policies and internal processes as relevant to the extension of the Ombudsman oversight:
 - a) Guidelines For Trustees, Parents and Staff in Addressing School Related Concerns (A.33)
 - b) Conflict Resolution (H.M. 19)
 - c) Harassment and Discrimination in the Workplace (H.M.14)
 - d) Complaint Against a Staff Member (H.M.30)
 - e) Workplace Violence (H.M.37)
 - f) Workplace Accommodation for Employees with Disabilities (H.M. 38)
 - g) Fair Practice in Hiring and Promotion (H.M.40)
 - h) Transportation (S.T.01)
 - i) Bullying Prevention and Intervention (S.S.11)
 - j) Grievance Procedures found in Collective Agreements for different employee groups
 - k) Special Education Support Complaint Process
9. The following identifies the purpose of each policy or process, the complaint procedure and a right of appeal or objection and analysis of any required updates.
 - a) **Guidelines For Trustees, Parents and Staff in Addressing School Related Concerns (A.33)**
 - i. Purpose: When individuals or groups raise concerns staff will identify the issue, investigate and propose resolutions.
 - ii. Complaint & Appeal Procedure:
 - 1) Parent to first bring issue to teacher/staff member;
 - 2) If not resolved, escalate to principal;
 - 3) If not resolved at school level, escalate to superintendent;
 - 4) Superintendent may inform and consult with Associate Director;

- 5) Superintendent and/or Associate Director will communicate with trustee regarding concern and/or information which may impact school community; and
 - 6) Superintendent and/or Associate Director will communicate with Director of Education and Chair of the Board regarding concern and/or information which may have system wide implications or may be the object of media interest and may require a system response or Board motion.
- iii. Analysis: Complaint and escalation procedure is detailed and sound. Staff recommends that the policy in the new meta-policy format attached at **APPENDIX A** be approved.

b) Conflict Resolution (H.M. 19)

- i. Purpose: Policy addresses issues, disagreements or disputes which may occur between the staff and the TCDSB community and between different members of the TCDSB community.
- ii. Complaint & Appeal Procedure: Not clearly defined in the policy. Conflict Resolution brochure only references the policy and provides Conflict Resolution department contact information.
- iii. Analysis: Staff recommends Policy H.M. 19 be updated with detailed complaint procedure and include an Operational Guideline. This will require appropriate consultation and the updated policy and guideline will be brought forward at a later date.

c) Harassment and Discrimination in the Workplace (H.M.14)

- i. Purpose: This Policy extends to all Board employees, contract employees, volunteers and Trustees who are employed by or perform functions for the Toronto Catholic District School Board and that similarly, each of these groups has the right of freedom from harassment and discrimination in the workplace.
- ii. Complaint & Appeal Procedure: The complaint and appeal procedure is clearly outlined in the policy and detailed in “The

Respectful Workplace: Addressing Harassment and Discrimination, 2015.”

- iii. Analysis: Complaint and appeal procedure is detailed and sound. No changes necessary.

d) Complaint Against a Staff Member (H.M.30)

- i. Purpose: This policy deals specifically when a complaint is directed at a staff member from either another staff member or a member of the TCDSB community.
- ii. Complaint & Appeal Procedure:
 - 1) If complainant has dealt directly with staff member and is not satisfied with response, complainant or staff member may ask superordinate to assist with resolution process;
 - 2) Potential for committee meeting of the Board for a complaint to be heard;
 - 3) Specific process for student complaints addressed by policy.
- iii. Analysis: Policy to be updated in meta-policy format and add detail emphasizing that anonymous complaints will not be acted upon unless they fall within health and safety exceptions. This is not a change to any process, but rather a clarifying point on the Board’s current practice. Staff recommends that the policy in the new meta-policy format attached at **APPENDIX B** be approved and distributed to school communities.

e) Workplace Violence (H.M.37)

- i. Purpose: Reinforces the Board’s commitment in addressing all forms of workplace violence that can injure workers. This Policy is created to comply with the Occupational Health and Safety Act.
- ii. Complaint & Appeal Procedure: The policy directs workers to follow the internal responsibility system and report all incidents of workplace violence to their immediate supervisor.

- iii. Analysis: The policy can be supplemented with the current “Workplace Violence Reporting Form” currently used by the Board, attached as an appendix to the policy. The policy can be revised to include that the investigation outcome can be appealed to the Ministry of Labour. This is not a change to any process, but rather clarifying points on the Board’s current practice. Staff recommends that the policy attached at **APPENDIX C** be approved.

f) **Workplace Accommodation for Employees with Disabilities** (H.M. 38)

- i. Purpose: The policy outlines the accommodation process for employees with disabilities.
- ii. Complaint & Appeal Procedure:
 - 1) If at any time the employee is dissatisfied with the accommodation plan and has been unable to resolve the issue through discussions with the Principal/Supervisor and the Benefits Department, he/she may submit any concerns in writing to the Superintendent of Human Resources or designate for resolution.
 - 2) The Superintendent of Human Resources or designate shall review the letter of concern and make inquiries in order to determine whether the requirements of the Board’s policy and this procedure have been met. On request of the employee, the Superintendent of Human Resources or designate will provide a decision in writing.
- iii. Analysis: Complaint procedure and appeal process is detailed and sound. Reformatting the policy in the new meta-policy format is not a change to any process, but rather clarifying points on the Board’s current practices. Staff recommends that the policy in the new meta-policy format attached at **APPENDIX D** be approved.

g) **Fair Practice in Hiring and Promotion** (H.M.40)

- i. Purpose: This Policy affirms the Board's commitment to providing fair, equitable and transparent hiring processes at the Toronto Catholic District School Board consistent with its denominational rights and in accordance with the Ontario Human Rights Code.
- ii. Complaint & Appeal Procedure: The policy indicates that applicants unsuccessful in their attempt to gain employment or promotion at TCDSB will be afforded the opportunity to request descriptive feedback. The Director of Education and the Superintendent of Human Resources are responsible for this policy.
- iii. Analysis: Policy to be updated with clarity on complaint and appeal procedure for unsuccessful applicants. This is not a change to any process, but rather clarifying points on the Board's current practices. Staff recommends that the policy attached at **APPENDIX E** be approved.

h) Transportation (S.T.01)

- i. Purpose: The policy outlines the conditions required in order for transportation services to be provided to students attending schools in the Toronto Catholic District School Board.
- ii. Complaint & Appeal Procedure: The policy indicates that anyone wishing to appeal a decision or recommendation made by staff can appear in person at the Board's Administrative and Corporate Services Committee to present their case to the Board of Trustees.
- iii. Analysis: Complaint procedure is detailed and sound. Committee reference to be updated as "Corporate Affairs, Strategic Planning and Property Committee." This is not a change to any process, but rather clarifying points on the Board's current practices. Staff recommends that the policy in the meta-policy format attached at **APPENDIX F** be approved.

i) Bullying Prevention and Intervention (S.S.11)

- i. Purpose: This Policy affirms the need for students to feel safe at school. A safe and positive learning environment is essential for

student achievement and well-being, supporting students to reach their full potential.

- ii. Complaint & Appeal Procedure: The policy makes reference to the Safe Schools Reporting Form-Part I to be completed when bullying behaviour observed. Appendix B of the policy clearly outlines the steps to be taken for investigation and reporting of bullying behaviours. No reference is made to options concerning appealing the outcome of the investigation.
- iii. Analysis: The policy should be supplemented with clear language regarding the complaint procedure after the investigation outcome. This is not a change to any process, but rather clarifying points on the Board's current practices. Appendix A of the policy, "TCDSB Model Bullying Awareness, Prevention and Intervention Plan" has been incorporated into the Safe Schools Action Plan as its preamble, and therefore is no longer relevant as an appendix. Staff recommends that the policy in the meta-policy format attached at **APPENDIX G** be approved.

j) Grievance Procedures under Collective Agreements

- i. Purpose: To secure, at the lowest possible administrative level, solutions to claims by union members and their representatives relating to the interpretation, application or administration of the collective agreements or allegations that a collective agreement has been contravened.
- ii. Complaint & Appeal Procedure: Each grievance procedure is detailed in respective collective agreements. Either party has the option to escalate an issue to arbitration if not resolved at the school board level.
- iii. Analysis: Grievance procedure and appeal process sound. No changes necessary.

k) Special Education Support Complaint Procedure

- i. Currently, the Special Education Plan of the TCDSB includes the document, "Parent Guide to Special Education," which informs parents of their options when they disagree with an Identification,

Placement and Review Committee (IPRC) Decision. The Guide specifically outlines the complaint and appeal process.

- ii. Analysis: Complaint and appeal process sound. No changes necessary.

E. VISION

VISION	PRINCIPLES	GOALS
Ensure all relevant board policies and practices include clear internal complaint and appeal processes.	Living Our Catholic Values Strengthening Public Confidence Fostering Student Achievement and Well-Being Inspiring and Motivating Employees	Update policies as identified below.

F. ACTION PLAN

Explanation of Action Items

Policy	Goal	Action
Guidelines For Trustees, Parents and Staff in Addressing School Related Concerns (A.33)	Update this internal complaint procedure to meta-policy format.	Policy to be approved in new meta-policy format.
Conflict Resolution (H.M. 19)	Clearly define complaint & appeal procedure.	Policy to be updated with complaint procedure with Operational Guideline when full report brought at later date.
Complaint Against a Staff Member	Increase awareness of this internal complaint	Policy to be approved in new meta-policy format with

Policy	Goal	Action
(H.M.30)	procedure and add clarifying language for anonymous complaints.	clarity on anonymous complaints and distributed to school communities.
Workplace Violence (H.M.37)	Include current reporting form used by the Board and clarify complaint & appeal procedure.	Add “Workplace Violence Reporting Form” as appendix to policy. Include individuals dissatisfied with investigation outcomes may contact the Ministry of Labour.
Workplace Accommodation for Employees with Disabilities (H.M. 38)	Update policy in meta-policy format.	Policy to be approved in meta-policy format.
Fair Practice in Hiring and Promotion (H.M.40)	Clearly define complaint & appeal procedure and append Operational Guideline.	Specify that unsuccessful applicants may contact the Sr. Manager of Recruitment for descriptive feedback. If not satisfied with response, may contact the Sr. Coordinator of Academic Services.
Transportation (S.T.01)	Update committee reference and change to meta-policy format.	Committee reference to be updated as “Corporate Affairs, Strategic Planning and Property Committee” and policy to be approved in meta-policy format.
Bullying Prevention and Intervention (S.S.11)	Update policy to include complaint escalation options and change to meta-policy	Policy to be supplemented with clear language regarding how to escalate dissatisfaction of the investigation outcome.

Policy	Goal	Action
	format.	Update policy in meta-policy format.

G. METRICS AND ACCOUNTABILITY

1. Recommendations in this report will be monitored through policy development and departments responsible for the policies and procedures therein.
2. Further reports to Board regarding recommended changes or updates to policies will be brought as deemed necessary.

H. IMPLEMENTATION & STRATEGIC COMMUNICATIONS

1. The implementation plan includes updating policies and adding supplemental information where necessary. Departments involved include but are not limited to: Conflict Resolution, Occupational Health and Safety, Safe Schools and Human Resources.
2. Departments responsible for the abovementioned policies will ensure relevant documentation is kept and tracked appropriately regarding internal complaints in anticipation of the Ombudsman's request.
3. Many issues begin with complaints at the local school-based level, so it is imperative that all personnel, especially principals and superintendents are keenly aware of the relevant policies.
4. Communication of all internal complaint and appeal processes is essential to increase awareness of all options available to the TCDSB community and staff.

I. STAFF RECOMMENDATION

Staff recommends the following:

1. That Guidelines For Trustees, Parents and Staff in Addressing School Related Concerns (A.33)(APPENDIX A) be approved in meta-policy format and distributed to school communities.
2. That Complaint Against a Staff Member (H.M.30)(APPENDIX B) be approved in meta-policy format and distributed to school communities.
3. That Workplace Violence (H.M.37)(APPENDIX C) be approved in meta-policy format with Workplace Violence Reporting Form attached.
4. That Workplace Accommodation for Employees with Disabilities (H.M.38)(APPENDIX D) be approved in the meta-policy format.
5. That Fair Practice in Hiring and Promotion (H.M.40)(APPENDIX E) be approved.
6. That Transportation (S.T.01)(APPENDIX F) be approved in the meta-policy format.
7. That Bullying Prevention and Intervention (S.S.11)(APPENDIX G) be approved in meta-policy format.