

SECTION 200 – Board Governance

APPENDIX TO POLICY 202.1: TRUSTEE CODE OF CONDUCT SANCTIONS

1. Trustees shall conduct themselves in an ethical and prudent manner in compliance with the Trustee Code of Conduct, Policy 202. The failure by trustees to conduct themselves in compliance with this policy may result in the Board instituting sanctions.
2. A trustee who believes that a fellow trustee has violated the Code of Conduct may seek resolution of the matter through appropriate conciliatory measures prior to commencing an official complaint under the Code of Conduct.
3. A trustee who wishes to commence an official complaint under the Code of Conduct shall file a letter of complaint with the Board Chair within thirty (30) days of the alleged event occurring and indicate the nature of the complaint and the section or sections of the Code of Conduct that are alleged to have been violated by the trustee. The trustee who is alleged to have violated the Code of Conduct and all other trustees shall be forwarded a copy of the letter of complaint by the Board Chair, or where otherwise applicable in what follows, by the Vice Chair, within five (5) days of receipt by the Board Chair of the letter of complaint. If the complaint is with respect to the conduct of the Board Chair, the letter of complaint shall be filed with the Vice Chair.
4. When a trustee files a letter of complaint and a copy of that letter of complaint is forwarded to all trustees, the filing, notification, content, and nature of the complaint shall be deemed to be strictly confidential, the public disclosure of which shall be deemed to be a violation of the Code of Conduct. Public disclosure of the complaint and any resulting decision taken by the Board may be disclosed by the Board Chair only at the direction of the Board, following the disposition of the complaint by the Board at a Code of Conduct hearing.
5. To ensure that the complaint has merit to be considered and reviewed, at least one other trustee must provide to the Board Chair, within three (3) days of the notice in writing of the complaint being forwarded to all trustees, a letter indicating support for having the complaint heard at a Code of Conduct hearing. Any trustee who forwards such a letter of support shall not be disqualified from attending and deliberating upon the complaint at a Code of Conduct hearing convened to hear the matter, solely for having issued such a letter.

6. Where no letter supporting a hearing is received by the Board Chair in the three (3) day period referred to in section 5 above, the complaint shall not be heard. The Board Chair shall notify all other trustees in writing that no further action of the Board shall occur.
7. Where a letter supporting a hearing is received by the Board Chair in the three (3) day period referred to in section 5 above, the Board Chair shall convene, as soon as is reasonable, an in-camera special meeting of the Board to decide whether to proceed to investigate the complaint or not. If the Board is of the opinion that:
 - 7.1 a complaint is frivolous or vexatious or is not made in good faith,
 - 7.2 a complaint is outside the jurisdiction of the Board or is more appropriately dealt with by another applicable legislative appeal, complaint or court process, or
 - 7.3 there are no grounds or insufficient grounds for conducting an investigation.The Board may choose not to investigate or, if already commenced, may terminate any investigation or may dispose of the complaint in a summary manner. In such event, the complainant shall be advised of the Board's decision in writing, with reasons, and provided with information regarding other options to pursue the complaint, if applicable.
8. If the Board decides to investigate the complaint, it shall take such steps as it may consider appropriate in the circumstances having regard for the specific nature of the complaint, which may include, but is not limited to:
 - 8.1 proceeding to investigate on its own,
 - 8.2 appointing a committee of the Board to conduct the investigation,
 - 8.3 seeking legal advice and/or engaging a third-party investigator.
9. Investigations will be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.
10. Where the Board determines to proceed with its own investigation, the Board Chair shall convene, as soon as is possible, another special meeting of the Board. At this special meeting of the Board, the Board Chair shall indicate, at the commencement of the meeting, the nature of the business to be transacted and that the complaint shall be heard in an in-camera session of the special meeting.
11. Without limiting what appears below, the Board Chair shall ensure fairness in dealing with the complaint by adhering to the following procedures.
 - 11.1 The Code of Conduct complaint shall be conducted at an in-camera session, Code of Conduct hearing, of a special Board meeting convened for that purpose. All preliminary matters, including whether one or more trustees may have a conflict of interest in hearing the presentations regarding the complaint, shall be dealt with prior to the presentation of the complaint on behalf of the complaining trustee.

- 11.2 The sequence of the Code of Conduct hearing shall be:
 - 11.2.1 The complaining trustee shall provide a presentation which may be written or oral or both;
 - 11.2.2 The respondent trustee shall provide a presentation which may be written or oral or both;
 - 11.2.3 The complaining trustee shall then be given an opportunity to reply to the respondent trustee's presentation;
 - 11.2.4 The respondent trustee shall then be provided a further opportunity to respond to the complaining trustee's presentation and subsequent remarks;
 - 11.2.5 The remaining trustees of the Board shall be given the opportunity to ask questions of both parties;
 - 11.2.6 The complaining trustee shall be given the opportunity to make final comments; and
 - 11.2.7 The respondent trustee shall be given the opportunity to make final comments.
- 11.3 Following the presentation of the respective positions of the parties, the parties and all persons other than the remaining trustees who do not have a conflict of interest shall be required to leave the room, and the remaining trustees shall deliberate in private, without assistance from administration. The Board may, however, in its discretion, call upon legal advisors to assist them on points of law or the drafting of a possible resolution.
- 11.4 If the remaining trustees in deliberation require further information or clarification, the parties shall be reconvened and the requests made in the presence of both parties. If the information is not readily available, the presiding Chair may request a recess or, if necessary, an adjournment of the Code of Conduct hearing to a later date.
- 11.5 In the case of an adjournment, no discussion by trustees whatsoever of the matters heard at the Code of Conduct hearing may take place until the meeting is reconvened.
- 11.6 The remaining trustees in deliberation may draft a resolution indicating what action, if any, may be taken regarding the respondent trustee.
- 11.7 The presiding Chair shall reconvene the parties to the Code of Conduct hearing and request a motion to revert to the open meeting in order to pass the resolution.
- 11.8 All documentation that is related to the Code of Conduct hearing shall be returned to the Superintendent or designate immediately upon conclusion of the Code of Conduct hearing and shall be retained in accordance with legal requirements.
- 11.9 The presiding Chair shall declare the special Board meeting adjourned.

12. A violation of the Code of Conduct however determined, may result in the Board instituting, without limiting what follows, any or all of the following sanctions:
- 12.1 Having the Board Chair write a letter of censure marked “personal and confidential” to the offending trustee, on the approval of a majority of those trustees present and allowed to vote at the special meeting of the Board;
 - 12.2 Having a motion of censure passed by a majority of those trustees present and allowed to vote at the special meeting of the Board;
 - 12.3 Having a motion to remove the offending trustee from one, some or all Board committees or other appointments of the Board passed by a majority of those trustees present and allowed to vote at the special meeting of the Board, for a time not to exceed the trustee’s term as trustee.
13. The Board may, in its discretion, make public its findings at the special meeting or at a regular meeting of the Board where the Board has not upheld the complaint alleging a violation of the Board’s Code of Conduct or where there has been a withdrawal of the complaint or under any other circumstances that the Board deems reasonable and appropriate to indicate publicly its disposition of the complaint.
14. All complaints received under this Code of Conduct and all information and records received, reviewed or generated during the course of an investigation and disposition of a complaint, including interviews and investigation reports, are and shall remain strictly confidential unless the Board directs otherwise.

REFERENCES

Legal Reference: Sections 33, 34, 51, 52, 53, 64, 67, 85, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96
Education Act

Approved: October 22, 2019
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