

## **POLICY 108: TRUSTEE CODE OF ETHICS**

### **ADMINISTRATIVE PROCEDURES**

Trustees are required to conduct themselves in an ethical and prudent manner in compliance with the Trustee Code of Ethics (the "Code"). The failure by Trustees to conduct themselves in compliance with the Code may result in the Board of Education instituting sanctions.

To assist the Board of Education in self-governance, Trustees who wish to report an infraction under the Trustee Code of Ethics may follow the processes below.

A Trustee who believes that a fellow Trustee has violated the Code is encouraged to seek resolution of the matter through the Informal Complaint Process when possible prior to commencing an official complaint under the Code.

#### **Informal Complaint Process**

It is recognized that a contravention of the Code may occur that is relatively minor, or committed inadvertently or due to an error of judgment made in good faith. In such instances the priority shall be to alert the offending Trustee to the violation and his/her obligations under the Code. Only serious and/or reoccurring breaches of the Code by a Trustee should be investigated following the official complaint procedure. Both the offending and offended Trustee shall seek resolution in an informal, cooperative fashion marked by mutual respect, seeking to understand with an openness to growth and improvement.

1. The Trustee who believes a violation has occurred will engage in an individual private conversation with the Trustee affected.
2. Failing resolution through the private conversation the parties will engage the Board Chair, Vice Chair or designate to gain resolution. If the concern is with the Board Chair, the concern should be raised with the Vice Chair.
3. The Chair and at the Chair's option the Chair and Vice Chair will attempt to resolve the matter to the satisfaction of the Trustees involved.

It is recognized that for reasons which may include the nature of the issue of concern or the manner in which it has come to a Trustee's attention, informal measures may not be appropriate.

If resolution through the Informal Complaint Process is not possible, the Official Complaint Process will be followed.

Serious and/or reoccurring breaches of the Code by a Trustee should be investigated following the Official Complaint Process.

#### **Official Complaint Process**

1. A Trustee who wishes to commence an official complaint under the Code shall file a letter of complaint with the Board Chair within a reasonable period of time following the alleged event occurring or of knowledge of the same and indicate the nature of the complaint and the section or sections of the Code that are alleged to have been violated by the Trustee. The Trustee who is alleged to have violated the Code and all other

Trustees shall be forwarded a confidential copy of the letter of complaint as part of the confidential agenda materials for a closed (in-camera) meeting.

2. 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. Public disclosure of the complaint and any resulting decision taken by the Board of Education may be disclosed by the Board Chair only at the direction of the Board of Education, following the disposition of the complaint by the Board of Education at a Code hearing.
3. The Board Chair shall convene, as soon as is reasonable, a closed (in-camera) meeting of the Board of Education to allow for a hearing of the alleged violation of the Code. As with any Board of Education meeting, quorum must be established for the meeting to proceed. For efficiency purposes and due to the potentially limited number of individuals who are able to participate in a vote related to a complaint, all Trustees will make best efforts to attend such meetings of the Board of Education, even in circumstances where such individuals may be in a conflict of interest or may otherwise wish to abstain. Furthermore, a decision as to whether an individual will be permitted to attend a Board of Education meeting related to a Code complaint by telephone may be made in a meeting held in advance of the meeting in which a complaint will be considered.
4. At the closed (in-camera) meeting of the Board of Education, the Board Chair shall indicate, at the commencement of the meeting, the nature of the business to be transacted. Procedural fairness and the rules of natural justice shall govern the formal inquiry. Without limiting what appears below, the Board Chair shall ensure fairness in dealing with the complaint by adhering to the following procedures, which may be adapted by direction of the Board of Education in order to address the circumstances of the complaint, provided that any deviation from this process is consistent with natural justice and procedural fairness:
  - a. The complaint shall be heard at a Code of Ethics hearing, at a closed (in-camera) Board of Education meeting convened for that purpose.
  - b. All preliminary matters, including whether adaption to the process for the hearing should be amended or whether one (1) or more Trustees may have a conflict of interest in making a decision regarding the complaint, shall be dealt with prior to any submissions about the complaint.

A conflict of interest is as defined in the Code and as may be determined by an individual or a majority of those Trustees present at a Code of Ethics hearing. A conflict of interest is ordinarily raised only in circumstances where a Trustee has a personal interest in the outcome. It would not typically be raised in circumstances where a Trustee has been a witness to conduct that is the subject matter of a complaint since it is expected that all Trustees will conduct themselves in accordance with the Code and in the interests of the School District. If it is determined that a Trustee is in a conflict of interest, the Trustee shall not participate in deliberations or vote in respect of any resolution however the Trustee shall be present as required in order to maintain quorum of the Board of Education.

- c. The sequence of the Code of Ethics hearing shall be in keeping with the following which is intended to provide a fair opportunity for both parties to be heard and to respond as appropriate. Neither party is obligated to make submissions or to respond to questions.
  - i. The complaining Trustee shall provide a presentation which may be written or oral or both. The complaining Trustee may opt to rely on the written complaint in place of this presentation;
  - ii. The respondent Trustee shall provide a presentation which may be written or oral or both;
  - iii. The complaining Trustee shall then be given an opportunity to reply to the respondent Trustee's presentation;
  - iv. The respondent Trustee shall then be provided a further opportunity to respond to the complaining Trustee's presentation and subsequent remarks;
  - v. The remaining Trustees of the Board of Education shall be given the opportunity to ask questions of both parties;
  - vi. The complaining Trustee shall be given the opportunity to make final comments; and
  - vii. The respondent Trustee shall be given the opportunity to make final comments.
- d. 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 staff. The Board of Education may, however, in its discretion, call upon legal advisors to assist them on points of law or upon staff in respect of any points of information or to provide administrative direction or for assistance in the drafting of a resolution.
- e. 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 hearing to a later date.
- f. If an investigation by an external party is requested by a majority of Trustees taking part in the deliberations (the "Voting Trustees"), such investigation will be conducted in accordance with the procedures of natural justice and a report of the same will be made to the Board of Education upon the hearing reconvening, with an opportunity for submissions to be made by the parties in respect of the same. The Board of Education may, in its discretion, call upon legal advisors to assist them in the event an investigation is requested.
- g. The Voting Trustees in deliberation may draft a resolution(s) indicating what action, if any, may be taken regarding the complaint and any party.
- h. The presiding Chair shall reconvene the parties and any other Trustees to the Code of Ethics hearing.
- i. The presiding Chair shall call for a resolution(s) to be placed before the Board of Education and a vote will be conducted. Only the Voting Trustees shall be able to vote on any resolution(s). In the event that any of the Voting Trustees

requests that the vote occur by secret ballot, the vote will proceed by secret ballot for all Voting Trustees with the exception of any Voting Trustees who participate by telephone. Any Voting Trustees who are permitted to participate by telephone are deemed to waive the right to a secret ballot upon participating by telephone.

- j. The presiding Chair shall declare the closed (in-camera) Board of Education meeting adjourned.
- k. All documentation that is related to the Code of Ethics hearing shall be returned to the Superintendent or designate immediately upon adjournment or conclusion of the Code of Ethics hearing and shall be retained in accordance with legal requirements. This includes all notes taken by Trustees other than the parties in relation to the submissions or deliberations.
- l. In the case of an adjournment for any reasons, no discussion by Trustees whatsoever of the matters heard at the hearing may take place until the meeting is reconvened. Only those members present for all submissions made in a Code of Ethics hearing will be permitted to deliberate or vote in respect of any resolution of a complaint.
- m. If a party to a complaint does not attend a Code of Ethics hearing where appropriate notice has been provided, the matter will be adjourned in the first instance. If a complaining Trustee indicates they will not attend a Code of Ethics hearing or does not attend for the second Code of Ethics hearing where appropriate notice has been provided, the complaint will be deemed to be withdrawn. If a respondent Trustee indicates they will not attend a Code of Ethics hearing or does not attend for the second Code of Ethics hearing where appropriate notice has been provided, the Code of Ethics hearing will proceed in the absence of the respondent Trustee and the respondent Trustee will be deemed to have waived participation in the hearing.
- n. Any staff support that is necessary or requested under this process is administrative only.

## **Sanctions**

Sanctions for a violation of the Code should be imposed in a remedial and restorative manner, and should reflect the seriousness of the breach.

For example,

1. Having the offending Trustee write a letter of apology;
2. Having the offending Trustee participate in a restorative justice process;
3. Having the offending Trustee participate in specific training, coaching or counselling as directed by the Board of Education
4. Having the Board Chair write a letter of censure marked "personal and confidential" to the offending Trustee, on the approval of a majority of the Voting Trustees at the closed (in-camera) meeting of the Board of Education;
5. Having a motion of censure passed by a majority of the Voting Trustees at the closed (in-camera) meeting of the Board of Education;

6. Having a motion to remove the offending Trustee from one (1), some or all Board of Education committees or other appointments of the Board of Education passed by a majority of the Voting Trustees at the closed (in-camera) meeting of the Board of Education.

The Board of Education may, in its discretion and by resolution of the Voting Trustees, make public any outcomes(s) of the Official Complaint Process if it considered reasonable and appropriate to indicate publicly its disposition of the complaint.

### **Appeals Process**

Trustees who have been sanctioned or have had other measures imposed upon them by the Board of Education under this Policy can appeal those decisions through the legal system, at their own expense.