



Policy 8 – Governance Commitment

Date Adopted: June 23, 2010

Revised: February 18, 2020

Reviewed: December 6, 2023

Border Land School Division Board Code of Conduct

PURPOSE:

This code of conduct guides the actions of Board members of the Border Land School Division Board (BLSD) as they carry out their duties described in the Public Schools Act and Board policy.

The Board members of the BLSD occupy positions of public trust and confidence. They are expected to maintain the integrity of the board and their position as a Board member/Trustee. Board members will discharge their duties and responsibilities in a professional and impartial manner. It is imperative that trustees be and be seen to be acting in the best interests of the people they serve.

1. Principle 1: Integrity and Dignity of Office

- 1.1. Trustees of the Board shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Board.
- 1.2. Trustees of the Board shall recognize that the expenditure of school board funds is a public trust and endeavor to see that the funds are expended efficiently, in the best interests of the students.
- 1.3. Trustees' first responsibility is to the students, the parents and the guardians in our school system, our employees and the communities we serve.

2. Principle 2 – Avoidance of Personal Advantage and Conflict of Interest

- 2.1. No Trustee shall accept a gift from any person or entity that has dealings with the Board if a reasonable person might perceive that the gift could influence the Trustee when performing his or her duties to the Board.
- 2.2. A Trustee shall not use his or her office to advance the Trustee's interests or the interests of any family member or person or organization with which the Trustee is related or associated.
- 2.3. A Trustee shall not use his or her office to obtain employment with the Board for the Trustee or a family member.

2.4. Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to Board staff or fellow Board members.

3. Principle 3 - Compliance with Legislation

3.1. A Trustee of the Board shall discharge his or her duties in accordance with the Public Schools Act, any and all applicable legislation and any regulations.

3.2. Every Trustee shall respect and understand the roles and duties of the individual Trustees, Board of Trustees, the Superintendent and the Chair of the Board.

4. Principle 4 – Civil Behaviour

4.1. No Trustee shall engage in conduct during meetings of the Board or committees of the Board, and at all other times that would discredit or compromise the integrity of the Board.

4.2. A Trustee of the Board shall not advance allegations of misconduct and/or a breach of this Code of Conduct that are trivial, frivolous, vexatious, made in bad faith or vindictive in nature against another Trustee of the Board.

4.3. When expressing individual views, Trustees shall respect the differing points of view of other Trustees on the Board, staff, students and the public.

4.4. Trustees shall at all times act with decorum and shall be respectful of other Trustees of the Board, staff, students and the public.

4.5. No Trustees shall engage in expressing opinions and/or sharing information through social media that would discredit, undermine or compromise the integrity of the Board.

4.6. No Trustees shall use divisional brand identity assets, including logos and letterhead, to influence others that their views are those of the board. Includes, but is not limited to, throughout the election process.

5. Principle 5 – Respect for Confidentiality

5.1. Every Trustee shall keep confidential any information disclosed or discussed at a meeting of the Board that was closed to the public unless required to divulge such information by law or authorized by the Board to do so.

5.2. No Trustee shall use confidential information for either personal gain or to the detriment of the Board.

5.3. Trustees shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a Trustee becomes aware of because of his or her position, except when required by law or authorized by the Board to do so.

6. Principle 6 – Upholding Decisions

6.1. All Trustees of the Board shall accept that authority rests with the Board, and that a Trustee has no individual authority other than that delegated by the Board.

6.2. Each Trustee shall uphold the implementation of any Board resolution after it is passed by the Board. A motion to reverse a decision made by the board may be brought forward by a Trustee in accordance with the provisions of Sections 33(2) and 33(3) of The Public Schools Act.

6.3. A Trustee must be able to explain the rationale for a resolution passed by the Board. A Trustee may respectfully state his or her position on a resolution provided it does not in any way undermine the implementation of the resolution.

6.4. Each Trustee shall comply with Board policies, procedures, By-Laws, and Rules of Order.

6.5. The Chair of the Board is the spokesperson to the public on behalf of the Board, unless otherwise determined by the Board. No other Trustee shall speak on behalf of the Board unless expressly authorized by the Chair or Board to do so.

ENFORCEMENT OF THE CODE OF CONDUCT

7. Identifying a Breach of the Code

7.1. A Trustee who has reasonable grounds to believe that a Trustee of the Board has breached the Board's Code of Conduct may bring the alleged breach to the attention of the Board. This is done through the Chair of the Board.

7.2. Any allegation of a breach of the Code must be brought to the attention of the Chair no later than two (2) weeks after the breach comes to the knowledge of the Trustee reporting the breach. In no circumstance shall an inquiry into a breach of the Code be undertaken after the expiration of six (6) months from the time the contravention is alleged to have occurred.

7.3. Any allegation of a breach of the Code of Conduct shall be investigated following the Informal or Formal Complaint Procedures below, as the case may be.

7.4. It is expected that whenever possible, allegations of a breach of the Code of Conduct by a Trustee shall be investigated following the informal process. It is recognized that from time to

time a contravention of the Code may occur that is trivial, or committed through inadvertence, or an error of judgment made in good faith. In the spirit of collegiality and the best interests of the Board, the first purpose of alerting a Trustee to a breach of the Code is to assist the Trustee in understanding his/her obligations under the Code. Only serious and/or recurring breaches of the Code by a Trustee should be investigated following the Formal Complaint Procedure.

8. Chair/Presiding Officer

8.1. The Code of Conduct applies equally to the Chair of the Board. In the case of an allegation of a breach of the Code by the Chair, wherever a process requires action by the Chair, it shall be modified to read the Vice-Chair.

8.3. The Chair of the Board or Presiding Officer of any meeting of the Board or committee of the Board shall exercise their powers in a fair and impartial manner having due regard for every Trustee's opinion or views.

9. Informal Complaint Procedure

9.1. The Chair of the Board on his/her own initiative, or at the request of a Trustee of the Board (without the necessity of providing a formal written complaint) may review the complaint and may meet informally, with a Trustee of the Board who is alleged to have breached the Code, and the Vice-Chair to discuss the breach. If, either the Chair or Vice-Chair is involved in the breach, the second Vice-Chair will fill in. The purpose of the meeting is to bring the allegation of the breach to the attention of the Trustee and to discuss remedial measures to correct the offending behaviour. The Informal Complaint Procedure is conducted in private. If an informal resolution is achieved a summary report outlining the issue and resolution will be maintained in the trustee's personnel file.

9.2. The remedial measures may include, for example, a warning, an apology, and/or the requirement of the Trustee to engage in the successful completion of professional development training such as that offered by the Manitoba School Boards Association. If the Chair of the Board and the Trustee alleged to have breached this Code cannot agree on a remedy, or the agreed upon remedy is not carried out in an agreed upon timeframe, then a formal complaint will be brought against the Trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Complaint Procedure below. For remedial measures, it is a majority vote of Trustees for the Division. The Trustee said to be in breach cannot vote.

10. Formal Complaint Procedure

10.1. A Trustee who has reasonable grounds to believe that another Trustee of the Board has breached the Board's Code of Conduct may bring the breach to the attention of the Board by

first providing to the Chair of the Board a written, signed complaint setting out the following: (i) the name of the Trustee who is alleged to have breached the Code; (ii) the alleged breach or breaches of the Code when the alleged breach occurred (iii) information as to when the alleged breach came to the Trustee's attention;(iv) the grounds for the belief of the Trustee that a breach of the Code has occurred; and (v) the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.

10.2. The Chair of the Board shall provide to all Trustees of the Board a confidential copy of the complaint within fifteen (15) business days of receiving it. The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the Board of Trustees Code of Conduct Committee for a decision as to whether or not the Trustee has breached this Code and a resolution is brought forward.

10.4. The Chair shall appoint a Committee of three (3) consisting of the Chair and two (2) other Trustees – one selected by the trustee alleged to have breached the code and one selected by the trustee alleging the breach of the code, invited by the chair.

11. Refusal to Conduct Inquiry

11.1. If the Code of Conduct Committee is of the opinion that the breach is out of time, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, an inquiry shall not be conducted and a confidential report stating the reasons for not doing so shall be provided to all Trustees of the Board.

12. Steps of Inquiry

12.1. Procedural fairness and the rules of natural justice shall govern the formal inquiry. The formal inquiry will be conducted in private.

12.2. The formal inquiry may involve both written and oral statements by any witnesses, the Trustee bringing the complaint and the Trustee who is alleged to have breached the Code of Conduct.

12.3. The Trustee who is alleged to have breached the Code of Conduct shall have an opportunity to respond to the allegations both in a private meeting with the person(s) undertaking the inquiry and in writing.

12.4. Once the formal inquiry is complete, the investigators shall provide a confidential draft copy of their report containing the findings of fact to the Trustee who is alleged to have breached the Code of Conduct and the Trustee who brought the complaint for their written comment to the investigator (s). The purpose of providing the draft report to the parties is to ensure no errors of fact are contained in it. These two Trustees shall have fifteen (15) business days (or such reasonable period of time as deemed appropriate by the investigator(s)) from the receipt of the draft report to provide a written response.

12.5. If the accused Trustee refuses to participate in the formal inquiry, the formal inquiry will continue in his/her absence.

13. Suspension of Inquiry

13.1. If the Code of Conduct Committee, when conducting the formal inquiry, discover that the subject matter of the formal inquiry is being investigated by police, that a charge has been laid, or is being dealt with in accordance with a procedure established under another Act, the inquiry shall be suspended until the police investigation, charge or matter under another Act has been finally disposed of. This shall be reported to the rest of the Board of Trustees.

14. Decision

14.1 The final report shall be delivered to the Board of Trustees, and a decision by the Board of Trustees as to whether or not the Code of Conduct has been breached and the sanction, if any, for the breach shall be made as soon as practical after receipt of the final report by the Board.

14.2. Trustees shall consider only the findings in the Final Report when voting on the decision and sanction. No Trustee shall undertake their own investigation of the matter.

14.3. The Trustee who is alleged to have breached the Code of Conduct shall not vote on a resolution to determine whether or not there is a breach or the imposition of a sanction. The Trustee who brought the complaint to the attention of the Board may vote on those resolutions.

14.4. The Trustee who is alleged to have breached the Code of Conduct may be present during the deliberations regarding the above but shall not intimidate throughout the deliberations and shall not be required to answer any questions at that meeting.

14.5. The Trustee who is alleged to have breached the Code of Conduct shall not in any way, after the final report is completed, intimidate the vote on the decision of breach or sanction, except as permitted below after these decisions have been made.

14.6. The determination of a breach of the Code of Conduct and the imposition of a sanction with respect to a complaint investigated in accordance with the Formal Complaint Procedure must be done by resolution of the Board at a meeting of the Board, and the vote on the resolution shall be open to the public. The resolutions shall be recorded in the minutes of the meeting. The first sanction shall be decided by a majority vote of Trustees for the Division. The 2nd and 3rd sanctions shall be decided by a vote of at least two thirds (2/3rd) of the Trustees for the Division.

14.7. In accordance with subsection 35.2(2) of the Public Schools Act, the motion may be debated at a board meeting that is closed to the public, but must be voted on in public.

14.8. Whether the complaint is found to be valid or unfounded, a record of the decision, any action taken, and all written documentation of the complaint shall be maintained in confidence by the Secretary Treasurer.

15. Sanctions

15.1. If the Board determines that the Trustee has breached the Board's Code of Conduct, the Board may impose one or more of the following sanctions as implicated by the remedial measures in Section 9:

- a) Censuring the Trustee.
- b) Barring the Trustee from attending all or part of a meeting of the school board or a committee of the school board (may include removing network access).
- c) Suspending the Trustee from the school board, including suspending all the trustee's rights, duties, privileges and network access as a member of the school board, for up to three months.

15.2. The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous such as a warning or a requirement that the Trustee successfully complete specified professional development at the expense of the Board. The Board has no power to declare the Trustee's seat vacant.

15.2. The Board shall not impose a sanction which is more onerous than the above but may impose one that is less onerous such as an apology or participation in recommended professional development. If the Chair of the Board and the Trustee alleged to have breached this Code cannot agree on a sanction, then a formal complaint will be brought against the Trustee alleged to have breached this Code and that complaint will be dealt with in accordance with the Formal Complaint Procedure (Section 10). The Board has no power to declare the Trustee's seat vacant.

15.3. A Trustee who is barred from attending all or part of a meeting of the Board or a meeting of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting and that are not available to members of the public.

15.4. The imposition of a sanction barring a Trustee from attending all or part of a meeting of the Board shall be deemed to be authorization for the Trustee to be absent from the meeting and therefore, not in violation of the Public Schools Act regarding absences from meetings as stated in subsection 35.2(3).

16. Appeal to Adjudicator

16.1. As stated in subsection 35.3(1) of the Public Schools Act, in accordance with the regulations, a Trustee who is sanctioned under item 2 or 3 of subsection 35.2(1) may appeal to a single adjudicator appointed by the minister.

16.2. In accordance with subsection 35.3(2) of the Public Schools Act a Trustee who wishes to appeal a sanction must provide written notice to the minister within 10 days of the day the sanction was imposed.

16.3. As stated in subsection 35.3(3) of the Public Schools Act an adjudicator who hears an appeal under this section may vary or set aside the sanction imposed on a Trustee, as the adjudicator sees fit.

16.4. In accordance with subsection 35.3(4) of the Public Schools Act the costs of an adjudication must be paid by the school division. If authorized by the adjudicator, the school division may recover some or all of the costs from the Trustee.