



Staff Report to the Board of Education

September 20, 2023

TRUSTEE CODE OF CONDUCT AND ETHICS

Adrian Johnson, Secretary-Treasurer

BACKGROUND

The Board has an existing Policy 130, Trustee Code of Ethics and Conduct.

The Policy was last updated at the September 21, 2022, Regular Board Meeting. In June 2023, the Ministry of Education and Child Care, together with the BC School Trustees Association, released voluntary provincial criteria guidelines related to Trustee codes of conduct. The guidelines are included in the Board agenda package.

Subsequently, the Minister of Education and Child Care sent a letter on August 1, 2023, to Chair Acton (included in the Board agenda package) including the following statement:

'... a scan of all BC Boards' codes of conduct has been completed to better understand and support individual boards in revising their codes of conduct. Based on the scan, The School District No. 22 (Vernon) Board has been identified as not having a code with a breaches and sanctions component'

Anne Cooper, a consultant, has been assisting the Board in updating all policies. The Board's consultant has worked with the Superintendent and Secretary Treasurer to:

- Draft revisions to existing Policy 130, Trustee Code of Ethics and Conduct, to better reflect newly released provincial criteria guidelines; and
- Draft a new policy (132, Addressing Breaches of the Trustee Code) using Provincial guidelines to establish a breaches and sanctions component to Board policy.

RECOMMENDATION

That amendments to Board Policy 130 Trustee Code of Ethics and Conduct and new Board Policy 132 Addressing Breaches of the Trustee Code be distributed for comments and further input, in accordance with Board Policy 140.

BOARD OF EDUCATION OF SCHOOL DISTRICT NO.22 (VERNON)

BOARD POLICY NO: 130

Trustee Code of Ethics and Conduct	
Approval Date:	November 15, 2011
Amendment Date(s):	February 22, 2017, September 21, 2022
Reference(s):	<i>School Act</i> , Sections 55-64

The Board and individual trustees will conduct themselves in an ethical and businesslike manner, with a focus on student achievement, equity, and well-being. This commitment includes proper use of authority and appropriate decorum when acting on behalf of the Board. Specifically, we will:

- strive to help create public schools that meet the individual social, emotional, and learning needs of all children.
- be a staunch advocate of high quality, free, public education for all students residing within the district, including Indigenous communities and First Nations on whose traditional territories our schools operate. In fulfilling duties, we will think “students first.”
- do everything possible to maintain the integrity, confidence, and dignity of the office of school trustee, and be committed to responsible digital citizenship to minimize the risks associated with digital media.
- abide by the policies of the Board, all applicable legislation and regulations, in particular the Criminal Code, *Freedom of Information and Protection of Privacy Act*, Human Rights Code, *School Act*, and *Workers’ Compensation Act*.
- recognize that, although elected from a particular area of the District, a trustee’s responsibility is to ensure that decisions are made in the best interests of the District as a whole.
- always contribute to respectful workplaces and relationships with others; and anti-racism, reconciliation, and relations with First Nations.
- devote time, thought and study to the duties and responsibilities so that we may render effective and credible service.
- as an elected official, have an obligation to attend all meetings of the Board unless we are unable to attend due to illness or other urgent circumstances. In such situations, we will advise the Board Chair, as early as possible, of our expected absence and the circumstances preventing our attendance at the scheduled meeting.
- recognize the expenditure of school funds is a public trust and have a fiduciary responsibility to see that all such funds shall be expended efficiently, economically and for the best interest of the students.

- endeavor to work with fellow trustees in a spirit of harmony and cooperation in spite of differences of opinion that may arise during debate. Observe proper decorum and behavior; encourage full and open discussions in all matters with fellow trustees; treat them with respect and consideration; and not withhold or conceal from them any information or matter with which they should be concerned.
- base decisions upon all available facts in each situation; vote with honest conviction in every case, not swayed by partisan bias of any kind; and thereafter, abide by and uphold the final majority decision of the Board.
- refrain from using the schools or any part of the school program for personal advantage or for the advantage of friends; resist every temptation and outside pressure to use the position as a trustee to benefit either ourselves or any other individual or agency and comply fully with Board Policy No. 131 Trustee Conflict of Interest.
- remember at all times, an individual trustee has no legal authority outside the meetings of the Board, unless the Board has so delegated. Trustee relationships with the school staff, employee organizations, the local citizenry and the media will be conducted on the basis of this fact.
- never discuss the confidential business of the Board outside of a Board meeting or a committee meeting.
- always bear in mind that the primary function of the Board is to establish the policies by which the schools are to be administered, and follow the guidelines as set out by Policy No. 120 which outlines the Board Authority, Roles and Responsibilities.
- support and protect school personnel in the proper performance of their duties. We will strive to ensure that all personnel have not only the requisite responsibilities but also the necessary authority to perform effectively.
- strive to ensure the community is fully and accurately informed about our schools and will try to interpret community aspirations to the schools through Board action.
- endeavour to ensure that we maintain communication with our stakeholders.
- affiliate with our professional organization, the British Columbia School Trustees Association, to advocate for public education and, as reasonably possible, attend its conventions and workshops.

Upon being elected to a term as trustee for the district, and as part of the inaugural meeting, trustees will commit to these statements by formally signing this Code of Ethics and Conduct. Trustees will also annually indicate their commitment to this Code of Ethics and Conduct.

Board policy 132 addresses breaches of the Trustee Code of Ethics and Conduct.

BOARD OF EDUCATION OF SCHOOL DISTRICT NO.22 (VERNON)

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Trustee Code of Ethics and Conduct	
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- strive to help create public schools that meet the individual social, emotional, and learning needs of all children.
- be a staunch advocate of high quality, free, public education for all students residing within the district, including Indigenous communities and First Nations on whose traditional territories our schools operate. In fulfilling duties, we will think “students first.”
- do everything possible to maintain the integrity, confidence, and dignity of the office of school trustee, and be committed to responsible digital citizenship to minimize the risks associated with digital media.
- abide by the policies of the Board, all applicable legislation and regulations, in particular the Criminal Code, Freedom of Information and Protection of Privacy Act, Human Rights Code, School Act, and Workers’ Compensation Act.
- recognize that, although elected from a particular area of the District, a trustee’s responsibility is to ensure that decisions are made in the best interests of the District as a whole.
- always contribute to respectful workplaces and relationships with others; and anti-racism, reconciliation, and relations with First Nations.
- devote time, thought and study to the duties and responsibilities so that we may render effective and credible service.
- as an elected official, have an obligation to attend all meetings of the Board unless we are unable to attend due to illness or other urgent circumstances. In such situations, we will advise the Board Chair, as early as possible, of our expected absence and the circumstances preventing our attendance at the scheduled meeting.
- recognize the expenditure of school funds is a public trust and have a fiduciary responsibility to see that all such funds shall be expended efficiently, economically and for the best interest of the students.

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- base ~~personal~~ decisions upon all available facts in each situation; vote with honest conviction in every case, not swayed by partisan bias of any kind; and thereafter, abide by and uphold the final majority decision of the Board.
- ~~refrain from using the schools or any part of the school program for personal advantage or for the advantage of friends; do everything possible to maintain the integrity, confidence and dignity of the office of school trustee; and resist every temptation and outside pressure to use the position as a trustee to benefit either ourselves or any other individual or agency.~~ and comply fully with Board Policy No. 131 Trustee Conflict of Interest.
- ~~remember at all times, that as an individual, trustees have~~ has no legal authority outside the meetings of the Board, unless the Board has so delegated. Trustee relationships with the school staff, employee organizations, the local citizenry and the media will be conducted on the basis of this fact.
- never discuss the confidential business of the Board outside of a Board meeting or a committee meeting.
- always bear in mind that the primary function of the Board is to establish the policies by which the schools are to be administered, and follow the guidelines as set out by Policy No. 120 which outlines the Board Authority, Roles and Responsibilities.
- ~~attempt to understand the needs and aspirations of the entire school system and to support effective educational programs for the students.~~
- support and protect school personnel in the proper performance of their duties. We will strive to ensure that all personnel have not only the requisite responsibilities but also the necessary authority to perform effectively.
- strive to ensure the community is fully and accurately informed about our schools and will try to interpret community aspirations to the schools through Board action.
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[Board policy 132 addresses breaches of the Trustee Code of Ethics and Conduct.](#)

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BOARD OF EDUCATION OF SCHOOL DISTRICT NO.22 (VERNON)

BOARD POLICY NO: 132

Addressing Breaches of the Trustee Code	
Approval Date:	
Amendment Date(s):	
Reference(s):	<i>School Act, 55-64</i>

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

The Board believes that it is essential to have a clear, fair, and effective process for ensuring the adherence to and enforcement of the obligations established under the Trustee Code of Ethics and Conduct. Trustees also believe that Trustee discipline processes must not be used for frivolous, vexatious, or bad faith reasons, or as a response to legitimate disagreements that have been expressed in a manner consistent with this Code on matters relating to the Board's business.

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

1. Conduct constituting breach of the Code of Ethics and Conduct

- 1.1. Allegations of breaches of the Code may arise in many diverse circumstances and it is not possible to exhaustively specify in advance what conduct constitutes a breach of this Code.
- 1.2. The Board recognizes that disciplinary proceedings concerning Trustees are serious matters not lightly to be undertaken, having regard to the democratically elected nature of the Trustee's role and that such proceedings must not be utilized as a response to legitimate policy disagreements.
- 1.3. Notwithstanding the above, the following are provided as examples of conduct that could be subject to sanction or to proceedings:
 - 1.3.1. Where a Trustee violates the law, or advocates the violation of a law;
 - 1.3.2. Where a Trustee's conduct is a violation of expected standards of parliamentary decorum, is uncivil, or is otherwise disruptive of the meetings of the Board;
 - 1.3.3. Where a Trustee breaches the confidences of the Board;
 - 1.3.4. Where a Trustee's conduct gives rise to a breach of the Human Rights Code;
 - 1.3.5. Where a Trustee's conduct is discriminatory or otherwise in breach of a policy of the Board;
 - 1.3.6. Where a Trustee fails to disclose a conflict of interest or acts while in conflict of interest;
 - 1.3.7. Where a Trustee harasses or otherwise engages in misconduct in relation to District staff;
 - 1.3.8. Where a Trustee misuses social media;
 - 1.3.9. Where a Trustee engages in personal attacks on other Trustee's or staff members' integrity or conduct or otherwise defames them;

- 1.3.10. Where the Trustee's conduct exposes the Board to potential liability; or
- 1.3.11. Where the Trustee's conduct is otherwise a clear breach of the Trustee Code of Ethics.

2. Informal Complaint Process

- 2.1. 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 their obligations under the Code. Only serious and/or reoccurring breaches of the Code should be investigated following the formal complaint procedure.
- 2.2. Any Trustee, the Superintendent or the Secretary Treasurer who has reasonable grounds to believe that a Trustee has breached the Code, shall seek resolution in an informal, cooperative fashion marked by mutual respect, seeking to understand with an openness to growth and improvement.
 - 2.2.1. The party will engage in an individual private conversation with the Trustee affected.
- 2.3. 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.
- 2.4. The Chair and at the Chair's option the Chair and Vice Chair will attempt to resolve the matter to the satisfaction of the individual(s) involved.
- 2.5. It is recognized that for reasons which may include the nature of the issue of concern or the way it has come to a Trustee's attention, informal measures may not be appropriate.
- 2.6. If resolution through the Informal Complaint Process is not possible, the Formal Complaint Process, outlined below, will be followed.
- 2.7. All serious and/or reoccurring breaches of the Code by a Trustee should be addressed following the Formal Complaint Process.

3. Formal Complaint Process

- 3.1. Any Trustee who has reasonable grounds to believe that another Trustee has breached this Code, the Superintendent, or the Secretary Treasurer may bring an alleged breach ("Complaint") to the attention of the Chair of the Board or designate.
- 3.2. Where an allegation is made against the Chair, all other references to the Chair in this Policy shall be deemed to read "Vice Chair".
- 3.3. Absent exceptional circumstances, an allegation of a breach of the Code must be brought to the attention of the Chair within 30 days after the breach comes to the knowledge of the Complainant reporting the breach.
- 3.4. The Complaint shall be in writing, signed by the Complainant advancing it, and shall contain:
 - 3.4.1. the name of the Trustee who is alleged to have breached the Code;
 - 3.4.2. the alleged breach or breaches of the Code;
 - 3.4.3. information as to when the breach came to the Complainant's attention;
 - 3.4.4. the grounds for the belief by the Complainant that a breach of the Code has occurred; and
 - 3.4.5. the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.

- 3.5. A Complainant may withdraw the Complaint, but if, in the opinion of the Chair, the interests of the Board so require, the Chair may proceed with the consideration of the Complaint in accordance with this Policy, notwithstanding the withdrawal.

4. Notification

- 4.1. A copy of the complaint will be forwarded to all Trustees, including the allegedly breaching Trustee, the Superintendent and Secretary Treasurer, within seven (7) days of receiving it.
- 4.2. 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.
 - 4.2.1. Public disclosure of the complaint and any resulting decision taken by the Board may be disclosed by the Chair only at the direction of the Board, following the disposition of the complaint by the Board of Education at a Code hearing.

5. Decision not to proceed on Complaint

- 5.1. If the Chair is of the opinion that the Complaint is out of time, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds to proceed, the Chair shall prepare a confidential report to all Trustees stating that opinion and its rationale. The Trustees, excluding the Trustee who is alleged to have breached the Code, shall determine by resolution whether, notwithstanding the Chair's opinion, to continue proceedings with respect to the Complaint.

6. Investigation

- 6.1. The Board may engage an independent investigator to investigate the circumstances of the alleged breach and report to the Board. It is recognized that not all allegations of breach require the appointment of an independent investigator, but that allegations of a breach of this Code may be adequately addressed through the processes outlined below. If an independent investigator is appointed, the independent investigator shall determine their own investigative procedure within the scope of terms of reference established by the Chair with the assistance of counsel. The Trustee who is the subject of the Complaint (the "Respondent Trustee") shall be provided a fair opportunity to respond to the Complaint to the independent investigator.
- 6.2. The independent investigator shall prepare a report that will be provided to the Board and the Respondent Trustee.

7. Procedural Fairness

- 7.1. The Chair or Presiding Officer at any meeting considering a Complaint shall exercise their powers in a fair and impartial manner having due regard for every Trustee's opinion or views and ensuring the conduct of the proceeding is fair to the Respondent Trustee.

8. Rules of Order

- 8.1. Except as otherwise provided in this Policy, at any meeting with respect to Trustee discipline the Chair or Presiding Officer shall follow the rules of order adopted by the Board for the conduct of its meetings or any special rules adopted for the conduct of Trustee discipline meetings.

9. Processes May be Amended

- 9.1. If, in the opinion of the Board, the circumstances of a particular Complaint so require, the Board may amend these processes, but in no case shall the Respondent Trustee be denied procedural fairness.

10. Inquiry Procedure

- 10.1. All meetings in respect of Trustee discipline will be conducted in a Closed Meeting.
- 10.2. The Secretary Treasurer is responsible to facilitate the Board's process and make any administrative arrangements for the Board's consideration of a Complaint against a Trustee.
- 10.3. The Complainant and the allegedly breaching Trustee may make representations to the Board in respect of the Complaint.
- 10.4. A Complaint may be considered on the basis of written representations, oral representations or a combination of both, as determined by the Board. Where an independent investigation has occurred, the investigator's report shall be placed before the Board. The Secretary Treasurer will make arrangements to provide relevant documents to the Board and the Trustee who has allegedly breached the Code.
- 10.5. The Trustee may be represented by counsel or another representative, at their own expense, unless the Board determines otherwise, provided that counsel or representative agrees to maintain the confidentiality of the proceedings. The Board may have counsel to assist the Board with matters of procedure, law, and in respect of its deliberations.
- 10.6. Witnesses will not be called and cross examination will not be permitted at any meeting concerning a Complaint. The Complainant and allegedly breaching Trustee may be asked questions of clarification by the other Trustees in respect of their written and oral representations.
- 10.7. The Board will endeavor to address any Complaint within 90 days of receipt by the Chair. Consideration of a Complaint may, if in the opinion of the Board circumstances so require, be deferred if the matter is subject to investigation by the police or to proceedings under any applicable legislation.

11. Trustee Deliberations and Decision

- 11.1. Following receipt of submissions by the Respondent Trustee, the Complainant, and the other information before the Board in accordance with this Policy, the Trustees, excluding the Respondent Trustee, and, if the alleged misconduct is directed at another Trustee, excluding that other Trustee, shall deliberate in a closed meeting with respect to the Complaint and reach a decision with respect to whether a breach of the Code of Conduct occurred, what that breach was, and what, if any, sanction will be imposed.

12. Sanctions

- 12.1. If the Board determines that there has been no breach of the Code of Conduct or that although a contravention occurred, the Trustee took all reasonable measures to prevent it, or that the contravention was trivial or committed through inadvertence or an error of judgment made in good faith, no sanction shall be imposed.
- 12.2. Where a sanction is to be imposed, the Board will determine, by resolution, the appropriate level. Sanctions for a violation of the Code should be imposed in a remedial and restorative manner and should reflect the seriousness of the breach.
- 12.3. Sanctions may include:
 - 12.3.1. having the offending Trustee write a letter of apology;
 - 12.3.2. having the offending Trustee participate in a restorative justice process;
 - 12.3.3. having the offending Trustee participate in specific training, coaching, or counselling as directed by the Board
 - 12.3.4. having the Board Chair issue a letter of censure marked “personal and confidential” to the offending Trustee;
 - 12.3.5. having a motion to remove the offending Trustee from one (1), some or all Board committees or other appointments of the Board, for a period of time.
 - 12.3.6. any other sanction the Trustees consider appropriate in the circumstances.
- 12.4. A Trustee who is barred from attending all or part of a meeting or meetings of the Board or a meeting or meetings of a committee of the Board is not entitled to receive any materials that relate to that meeting or that part of the meeting that are not available to members of the public.

13. Publication of Decision

- 13.1. The Board may, in its discretion and by resolution of the Voting Trustees, determine to publish any sanctions respecting a Trustee, including disclosing the substance of the Complaint, the Board’s decision and any sanction imposed.
- 13.2. Personal privacy of any affected third party will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*.

14. Powers of Presiding Officer Preserved

- 14.1. Nothing in this Policy prevents the Board from exercising its power pursuant to s. 70 of the *School Act* to expel or exclude from any meeting any Trustee person who has been guilty of improper conduct at the meeting without the necessity of a complaint or conducting an investigation or other inquiry before an expulsion or exclusion from a meeting.

15. Appeal of Decision

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