



Appendix to Policy 5 - Breach of Trustee Code of Conduct

Background

Trustees shall conduct themselves in an ethical and prudent manner in accordance with the Trustee Code of Conduct (the “Code”). A failure to comply with the Code may result in the Board of Education of School District No. 36 (the “Board”) imposing sanctions.

To support the Board’s self-governance, trustees may report an alleged infraction of the Code by following the process set out in this appendix.

Procedures

1. Complaints shall be submitted in writing to the Board Chair. If the Board Chair is the subject of the alleged conduct, complaints must be submitted in writing to the Board Vice Chair. At a minimum, the complaint must refer to the nature of the alleged breach and section(s) of the Code allegedly violated.
2. A trustee who believes that a fellow trustee has violated the Code, should seek resolution of the matter through the informal complaint process, when possible, prior to commencing a formal complaint under this appendix.
3. Only serious or recurring breaches of the Code by a trustee or other complaint should proceed by way of formal complaint process.
4. Informal Complaint Process
 - a. A contravention of the Code may occur that is minor, 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. Both the offending and offended trustee (the “parties”) shall seek resolution in an informal, cooperative fashion marked by mutual respect, seeking to understand with an openness to growth and improvement.
 - b. The trustee who believes a violation has occurred shall engage in an individual private conversation with the trustee affected.
 - c. 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.
 - d. The Board Chair, and Board Vice Chair at Chair’s discretion, will seek to resolve the matter to the satisfaction of the trustees involved.

5. Formal Complaint Process

- a. 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.
- b. If resolution through the Informal Complaint Process is not possible, the Formal Complaint Process will be followed.
- c. A trustee who wishes to commence a formal complaint under the Code shall file a letter of complaint with the Board Chair indicating the nature of the complaint and the section or sections of the Code that are alleged to have been violated by the trustee.
- d. 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.
- e. 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.
- f. When a trustee files a letter of complaint, and a copy of that letter of complaint is forwarded to all trustees, the filing, notification, the 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 may be disclosed by the Board Chair only at the direction of the Board, following the disposition of the complaint by the Board of Education at a Code hearing.
- g. As with any formal Board meeting, quorum must be established for the closed in-camera meeting to proceed. For efficiency purposes and due to the potentially limited number of individuals who may be able to participate in a vote related to a complaint, all trustees will make their best efforts to attend such a meeting of the Board, even in circumstances where such individuals may be in a conflict of interest or may otherwise wish to abstain.
- h. 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 in order to address the circumstances of the complaint, provided that any deviation from this process is consistent with natural justice and procedural fairness.
 - i. The complaint shall be heard at a Code of Conduct hearing, at a closed in-camera Board meeting convened for that purpose.
 - ii. All preliminary matters, including whether adaption to the process for the hearing should be amended or whether one 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.

- iii. 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 Conduct 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 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.
- iv. The sequence of the Code of Conduct 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.
 - 1. The complaining trustee shall provide a presentation that may be written or oral or both. The complaining trustee may opt to rely on the written complaint in place of this presentation.
 - 2. The respondent trustee shall provide a presentation that may be written or oral or both.
 - 3. The complaining trustee shall then be given an opportunity to reply to the respondent trustee's presentation.
 - 4. The respondent trustee shall then be provided a further opportunity to respond to the complaining trustee's presentation and subsequent remarks.
 - 5. The remaining trustees of the Board shall be given the opportunity to ask questions of both parties.
 - 6. The complaining trustee shall be given the opportunity to make final comments.
 - 7. The respondent trustee shall be given the opportunity to make final comments.
- v. Following the presentation of the parties' respective positions, the parties and all other persons, except those trustees who do not have a conflict of interest, shall be required to leave the room, if quorum is maintained. The remaining trustees shall deliberate with the support of the Superintendent and Secretary-Treasurer. The Board may, at its discretion, call upon legal advisors to assist 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.
- vi. Where 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 Board Chair may request a recess or, if necessary, an adjournment of the hearing to a later date.

- vii. 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 upon the hearing reconvening, with an opportunity for submissions to be made by the parties in respect of the same. The Board may, in its discretion, call upon legal advisors to assist them in the event an investigation is requested.
- viii. The voting trustees in deliberation may draft a resolution(s) indicating what action, if any, may be taken regarding the complaint and any party.
- ix. The presiding Chair shall reconvene the parties and any other trustees to the Code of Conduct hearing.
- x. The presiding Chair shall call for a resolution 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. In the event that any of the voting trustees request 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, video conference or other means of virtual communication. Any voting trustees who are permitted to participate by telephone, video conference or other means of virtual communication are deemed to waive the right to a secret ballot upon participating virtually.
- xi. The presiding Chair shall declare the closed in-camera Board meeting adjourned.
- xii. All documentation that is related to the Code of Conduct hearing shall be returned to the Secretary-Treasurer or designate immediately upon adjournment or conclusion of the Code of Conduct hearing and shall be retained in accordance with legal requirements.
- xiii. In the case of an adjournment for any reasons, no discussion by the 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 Conduct hearing will be permitted to deliberate or vote in respect of any resolution of a complaint.
- xiv. If a party to a complaint does not attend a Code of Conduct 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 Conduct 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 Conduct hearing or does not attend for the second Code of Conduct hearing where appropriate notice has been provided, the Code of Conduct hearing will proceed in the absence of the respondent trustee and the respondent trustee will be deemed to have waived participation in the hearing.
- xv. Any staff support that is necessary or requested under this process is administrative only.

6. Sanctions

- a. Sanctions for a violation of the Code should be imposed in a remedial and restorative manner and should reflect the seriousness of the breach. The Board of Education may consider culturally appropriate, or restorative justice approaches, and may engage a third party to assist the Board for this purpose. Examples of sanctions may include:
 - i. Having the offending trustee write a letter of apology.
 - ii. Having the offending trustee participate in a restorative justice process.
 - iii. Having the offending trustee participate in specific training, coaching or counselling as directed by the Board.
 - iv. 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.
 - v. Having a motion of censure passed by a majority of the voting trustees at the closed in-camera meeting of the Board.
 - vi. 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 the voting trustees at the closed in-camera meeting of the Board.
- b. The Board may, in its discretion and by resolution of the voting trustees, make public any outcome(s) of the Formal Complaint Process if it considers it reasonable and appropriate to indicate publicly its disposition of the complaint.

7. Appeal Process

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

Approved: June 10, 2026