

AVON MAITLAND DISTRICT SCHOOL BOARD

We Will: Create Positive, Inclusive Learning Environments, and Maximize Outcomes for Students

DIRECTOR'S ACTION REPORT

TO: Regular Board Meeting – Tuesday, September 27, 2016

AGENDA ITEM: 5.3 a)

SUBJECT: Board Policy Review

1.0 Background

- 1.1 At the March 22nd Committee of the Whole, Open Session Trustees discussed Policies #5 re Board Members' Code of Conduct, #6 re Role of the Trustee, #9 re Board Governance Bylaws, #10 re Committees of the Board and #16 re Selection of the Director of Education and Secretary of the Board.
- 1.2 As per Board direction, staff reviewed Policy #10 re the Audit Committee section of the Regulation and have prepared proposed changes. In addition staff have updated the Finance Committee section in Policy #10.
- 1.3 Staff have updated Policy #9 specifically related to Section 10 re Board Member Expenses referencing current Administrative Procedures ie travel and hospitality.
- 1.4 Policy #9 and #10 will be brought forward to the next Committee of the Whole, Open Session.
- 1.5 During the annual policy reviews trustees had agreed to hold on Policy #5 re Board Members' Code of Conduct pending further information from OPSBA on the Code of Conduct and Enforcement of Code of Conduct. With the additional information from OPSBA Trustee Geddes consolidated Policy #5 and the OPSBA Code of Conduct and trustees were asked to submit further edits for review. No further edits have been received and Policy #5 is attached for approval.
- 1.6 Policy #16 re Selection of the Director has been edited and is attached for review/approval.
- 1.7 Trustees have further agreed to review Policy #3 re Director of Education and Secretary of the Board Job Description at a future meeting.

2.0 Recommendation

It is recommended that

the Avon Maitland District School Board approve the revisions to Policy #5 <i>Board Members' Code of Conduct</i> .
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Ted Doherty
Director of Education and
Secretary of the Board

AVON MAITLAND DISTRICT SCHOOL BOARD

BOARD POLICY #5

BOARD MEMBERS' CODE OF CONDUCT

Legal References: *Education Act: Sections 170-171 Duties and Powers of Boards; Section 207 (2) Closing of Meetings; Section 209 Board Member Declaration; Section 228 Seat Vacated by Conviction, Absence; Guideline—Ontario Schools Code of Conduct; Municipal Conflict of Interest Act; Municipal Freedom of Information and Protection of Privacy Act, Bill 177, OPSBA Code of Conduct Template*

1. Code of Conduct

Avon Maitland District School Board expects of itself and its members ethical and businesslike conduct. This commitment includes proper use of authority and respect in group and individual behaviour when acting as board members. The board sets out the following expectations for the conduct of Board Members (Trustees):

2. Integrity and Dignity of Office

- 2.1 Board Members shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the Avon Maitland District School Board.
- 2.2 Each Board Member shall comply with Board policies, procedures, By-Laws, and Rules of Order.
- 2.3 All Members of the Board shall accept that authority rests with the Board, and that a Member has no individual authority other than that delegated by the Board. Board members shall not attempt to exercise or claim individual authority over the organization.
- 2.4 Each Member shall uphold the implementation of any Board resolution after it is passed by the Board (unless or until the resolution is rescinded or amended according to AMDSB's Rules of Order).

3. Civil Behaviour

- 3.1 Board Members shall at all times act with decorum and shall be respectful of other members and members of staff, as well as the public.
- 3.2 During a meeting a member may comment on, or disagree with, a decision taken by the board. In expressing such comment or disagreement, a trustee may not make disparaging remarks about a trustee(s), or staff, nor speculate on the motives of a trustee or staff.
- 3.3 Board Member interaction with the director of education and staff is encouraged; however, individual board members or groups of board members shall recognize that authority over the director of education is only through the corporate body.

- 3.4 Board members' interaction with the public, media or other entities shall recognize the same limitation and the similar inability of any board member or board members to speak for the board. Questions from the public or the board shall be referred to the Chair or designated spokesperson.
- 3.5 Board members will voice no judgements of the director of education or staff performance except as that performance is assessed against explicit board policies by the official process as outlined in Policy #9.
- 3.6 Any member who resists the rules of the board, uses offensive language, disobeys the decision of the chair/acting chair or the board on points of order, or makes any disorderly noise or disturbance may by resolution of the board be ordered to leave for all or part of the remainder of the meeting. Such removal is to be recorded in the minutes of the meeting.

4. Respect for Confidentiality

- 4.1 Members shall honour confidentiality regarding:
 - 4.1.1 Matters discussed at a closed meeting of a committee of a board, including a committee of the whole board
 - 4.1.2 Correspondence, reports and other information placed in confidence with Members
 - 4.1.3 Confidentiality extends to anyone not in the closed meeting or excluded from the distribution of the information for whatever reason. Members who believe they have been incorrectly excluded shall raise the question with the Board or Committee Chair who will be allowed discretion to correct the exclusion if deemed appropriate.
- 4.2 Members shall not divulge confidential information, including personal information about an identifiable individual or information subject to solicitor-client privilege that a Member becomes aware of because of his or her position, except when required by law or authorized by the Board to do so.

5. Avoidance of personal advantage and conflict of interest

- 5.1 Board Members shall avoid conflict of interest with respect to their fiduciary responsibility. Board Members shall recognize that the expenditure of school board funds is a public trust and endeavour to see that the funds are expended efficiently, in the best interests of the students. [See Section 5.1 in Policy No. 9 Board Governance By-laws.]
 - 5.1.1 A Member shall not use his or her office to advance the Member's interests or the interests of any family member or person or organization with whom or with which the Member is related or associated.
 - 5.1.2 No Member shall accept a gift from any person or entity that has dealings with the Board if a reasonable person might conclude that the gift could influence the Member when performing his or her duties to the Board.
 - 5.1.3 No Member shall use confidential information for either personal gain or to the detriment of the Board.

6. Compliance with Legislation

- 6.1 Members shall comply with the provisions of the Education Act, Municipal Freedom of Information and Protection of Privacy Act, and any other relevant legislation.
- 6.2 Every Member shall respect the roles and duties of the individual Members, the Board of Members, the Director of Education and the Chair of the Board.

Every Member of the Board shall uphold the letter and spirit of this Code of Conduct.

ACKNOWLEDGEMENT AND UNDERTAKING

I confirm that I have read, understand and agree to abide by the Board's Code of Conduct and the Enforcement Procedures detailed in Appendix A.

DATE: ▶

SIGNATURE:

Please Print Name:

Breach of Conduct

A Member of the Board (Trustee) 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 Member of the Board.

1. Identifying a Breach of the Code

A member of a board who has reasonable grounds to believe that another member of the board has breached the board's code of conduct may bring the alleged breach to the attention of 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 of the Board. If the allegation is against both the Chair and Vice-Chair the complainant shall bring the complaint directly to the whole board in Closed Session. (see Policy #9, Section 2.3.2 re Special Meetings)

Any allegation of a breach of the Code must be brought forward no later than six (6) weeks after the breach comes to the knowledge of the Trustee reporting the breach. Notwithstanding the foregoing, 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.

2. Process for Investigation of Allegations of Breach of Conduct

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.

It is expected that whenever possible, allegations of a breach of the Code of Conduct by a Trustee shall be investigated following the *Informal Complaint Procedure*.

2.1 Informal Complaint Procedure

- 2.1.1 At the request of a Trustee of the Board or at his/her own initiative, the Chair may meet informally with the Trustee who is alleged to have breached the Code, to discuss the breach. 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.
- 2.1.2 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 Ontario Education Services Corporation *Professional Development Program for School Board Trustees*.
- 2.1.3 If the Chair of the Board and the Trustee alleged to have breached this Code cannot agree on a remedy, then a formal complaint may 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.

2.2 Formal Complaint Procedure

- 2.2.1 To initiate the formal complaint procedure, the Trustee who alleges a breach of this Code will present to the Chair, except as described above if the allegation involves the Chair, 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(es) of the Code; (iii) information as to when the breach came to the Trustee's attention;(iv) the grounds for the belief by 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.
- 2.2.2 Except as provided below, if a written complaint is filed then a formal inquiry shall be undertaken, unless the complainant subsequently withdraws the complaint or agrees that the complaint may be dealt with in accordance with the *Informal Complaint Procedure*.
- 2.2.3 In an election year for Trustees, a code of conduct complaint respecting a Trustee who is seeking re-election shall not be brought during the period commencing two months prior to election day and ending after the first Board meeting after the new term of office of the Board commences. If the Trustee accused of a breach of the Code is not re-elected, no inquiry into the alleged breach of the Code by that Trustee shall be undertaken. The limitation period for bringing a complaint shall be extended as necessary.
- 2.3.4 The Chair of the Board shall provide to all Members of the Board a confidential copy of the complaint and initiate the selection process for the Designated Arbitrator, as defined below, within ten (10) 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 for a decision as to whether or not the Trustee has breached this Code.
- 2.3.5 Once the Formal Complaint procedure has been invoked, the Board will meet to appoint a Designated Arbitrator who will carry out any of the duties required under this Code of Conduct and Enforcement. The Trustee who is alleged to have breached the Code may participate in the discussion but not vote on the appointment.
- 2.3.6 In no circumstance shall the Trustee who brought the complaint of a breach of the Code of Conduct be involved in conducting the Formal Inquiry into the complaint.

3. Refusal to Conduct Formal Inquiry

If the Chair and Vice Chair of the Board are 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 for a formal inquiry, a confidential report stating the reasons for this opinion shall be provided to all Trustees of the Board. In this instance, the decision that a formal inquiry not be conducted requires a simple majority vote by the whole board of trustees.

If the Chair and Vice Chair of the Board cannot agree on the above, or if the allegation includes either or both, then a full formal inquiry shall be conducted.

If an allegation of a breach of the Code of Conduct on its face is with respect to the non-compliance with a more specific Board Policy with a separate complaint procedure, the allegation shall be processed under that procedure.

4. Steps of Formal Inquiry

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

The Designated Arbitrator has the authority to investigate alone or ask that a sub-committee be created. No Trustee shall undertake their own investigation of the matter and neither the Trustee who brought the allegation nor the Trustee alleged to have breached the code shall sit on this committee.

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.

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 formal inquiry and in writing.

It is expected that the formal inquiry will be conducted within a reasonable period of time which will depend on the circumstances of the case. The Trustee who is alleged to have breached the Code of Conduct shall provide a written response to the allegations within 10 days of receiving the written allegation, or such extended period of the time as the investigator(s) deem appropriate in the circumstance.

If the Trustee who is alleged to have breached the Code of Conduct refuses to participate in the formal inquiry, the formal inquiry will continue in his/her absence.

Once the formal inquiry is complete, the investigator(s) 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. The two Trustees shall have ten (10) 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.

The final report shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached. This will be determined by the Board of Trustees as a whole.

5. Suspension of Formal Inquiry

If the investigator(s), 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 formal 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.

6. Decision

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. Trustees shall consider only the findings in the final report when voting on the decision and sanction.

- 6.1 Despite subsection 207 (1) of the Act, the part of a meeting of the board during which a breach or alleged breach of the board's code of conduct is considered may be closed to the public when the breach or alleged breach involves any of the matters described in clauses 207 (2) (a) to (e) of the Act.
- 6.2 The board shall do the following things by resolution at a meeting of the board, and the vote on the resolution shall be open to the public:
 - 6.2.1 make a determination that a member has breached the board's code of conduct
 - 6.2.2 impose a sanction under paragraph 7.1
 - 6.2.3 confirm or revoke a determination under paragraph 7.1
 - 6.2.4 confirm, vary or revoke a sanction under paragraph 7.1
- 6.3 A member who is alleged to have breached the board's code of conduct shall not vote on a resolution to do any of the things described above.
- 6.4 The passage of a resolution to do any of the things described above shall be recorded in the minutes of the meeting.
- 6.5 Resolutions shall be decided by a vote of at least 2/3 of the Trustees of the Board present and voting.
- 6.6 The Statutory Powers Procedure Act does not apply to anything done under this section.

7. Enforcement of Code of Conduct/Consequences of Misconduct

- 7.1 If the board determines that the member has breached the board's code of conduct, the board may impose one or more of the following sanctions:
 - 7.1.1 a verbal warning
 - 7.1.2 a letter outlining the breach or concern
 - 7.1.3 a public censure of member
 - 7.1.4 barring the member from sitting on one or more committees of the board, for the period of time specified by the board
- 7.2 For greater certainty, the imposition of a sanction barring a member from attending all or part of a meeting of the board shall be deemed to be authorization for the member to be absent from the meeting.
- 7.3 A member of a board 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.
- 7.4 In respect of a trustee's failure to comply with the duty of confidentiality as stated above, the following additional sanctions may be pursued by the board:
 - 7.4.1 The board may pursue available legal avenues where a trustee has breached his/her duty of confidentiality.
 - 7.4.2 The board will not compensate a trustee for legal costs incurred in response to any action pursued as per (i) above.
 - 7.4.3 Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the board.

8. Appeal of Breach of Conduct

- 8.1 If the board determines that a member has breached the board's code of conduct:
 - 8.1.1 The board shall give the member written notice of the determination and of any sanction imposed by the board.
 - 8.1.2 The notice shall inform the member that he or she may make written submissions to the board in respect of the determination or sanction by a date specified in the notice that is at least 14 (fourteen) days after the notice is received by the member.
 - 8.1.3 The board shall consider any submissions made by the member in accordance with 8.1.1 and shall confirm or revoke the determination within 14 (fourteen) days after the submissions are received.
 - 8.1.4 If the board revokes a determination under clause 8.1.3 any sanction imposed by the board is revoked.
 - 8.1.5 If the board confirms a determination under clause 8.1.3, the board shall, within the time referred to in that clause, confirm, vary or revoke the sanction.
 - 8.1.6 If a sanction is varied or revoked under 8.1.4 or 8.1.5, the variation or revocation shall be deemed to be effective as of the date of the original determination was made under 2.2.

AVON MAITLAND DISTRICT SCHOOL BOARD

BOARD POLICY #16

SELECTION OF THE DIRECTOR

Legal References: *Education Act Section 279 Duty of Board to Employ a Director of Education; Section 283 Chief Education Officer and Chief Executive Officer; Section 286, Duties of Supervisory Officers; Ontario Regulation 309 Supervisory Officers; Ontario Regulation 184/97; Teachers Qualifications: Part V Qualifications of Supervisory Officers; Freedom of Information and Protection of Privacy Act*

Avon Maitland District School Board recognizes the importance of appointing a highly effective system leader to implement the work of the board. When selecting a director of education, the board will seek a chief education officer/chief executive officer who will consider the needs of students as the key mission of the organization.

The board needs a director who will promote a commitment to students and to student learning, ~~and~~ achievement ~~and well-being~~. The director must provide educational leadership, and demonstrate fiscal responsibility, successful organizational and personnel management, and strategic planning. The director will provide system leadership, establish positive working relations with the board of trustees and maintain valuable communications with students, staff members and the community.

The director must uphold the Strategic Plan of the Board and the Board Improvement Plan for Student Achievement ~~and Well Being~~ (BIPSAW). The director will demonstrate leadership in attracting and retaining quality staff members. The director will develop effective communications with all stakeholders to promote and protect public education in the district and in Ontario.

Avon Maitland District School Board is committed to the establishment of selection procedures for the director's position, which capture the complexity of the workplace and provide practical multi-criteria assessments of the degree to which the candidates possess the knowledge, skills and attributes of a successful system leader.

Avon Maitland District School Board shall recruit and select a candidate for the position of director of education who is expected to exhibit strong, responsive, dedicated and knowledgeable administrative leadership for the district. The director of education will ensure effective and efficient use of board resources.

1. Preparation for the Selection Process

When it is known that the position of director of education will become vacant, the following preparations shall be made for the selection process.

- 1.1. The board will establish an *ad hoc* Director's Selection Committee ~~to short-list the candidates to be interviewed by the board~~. The Director's Selection Committee shall consist of all the trustees of the board. The chair of the board or designate shall chair the Director's Selection Committee. All meetings of the *ad hoc* Director's Selection Committee shall be in Closed Session.

- 1.2. The Director's Selection Committee [shall consider the importance of maintaining objectivity during the process and](#) will decide whether to hire an [external consultant/recruiting firm](#). When making this decision the committee shall consider areas where it needs support during the process, such as advertising, reference gathering, and interview preparation. ~~Additionally the Director's Selection Committee shall consider the importance of the consultant/recruiting firm in maintaining objectivity during the process.~~ If the decision is made to use an [external consulting/recruiting firm, an RFP process, or other cost comparing a transparent, competitive](#) mechanism shall be employed to determine the successful ~~consulting/recruiting~~ firm. If the committee uses such a firm they may ask the ~~successful firm consultant~~ to perform any of the duties outlined in this policy. [References below to the 'Selection Committee' can be read as 'Recruiter, in consultation with the Committee', where applicable.](#)
- 1.3. Timelines for the various aspects of the process, including advertising, application deadline, short listing, interviews, reference check, decision and start date should be tentatively established by the Director's Selection Committee.
- 1.4. The Director's Selection Committee shall review the contract with the board lawyer, looking at the existing contract and gathering information on [Ministry regulations and what is competitive to determine the parameters of the negotiations with the successful applicant.](#)

2. The Screening Process

- 2.1. Applications shall be submitted by letter with an attached résumé indicating experience, education and references with the appropriate releases under the *Freedom of Information and Protection of Privacy Act*. In addition, candidates ~~will~~ [may](#) be requested to submit a paper of approximately two typewritten pages indicating their concept of the role of a director of education, or other topic as determined by the Director's Selection Committee.
- 2.2. The Director's Selection Committee will study all submissions from all candidates, contact references as applicable, and select an appropriate number of candidates for further consideration. Selected external applicants may, at the discretion of the Director's Selection Committee, receive an on-site visit by members of the committee, if the distances involved make this feasible. The most appropriate candidates will be included in a short-list for further consideration.

3. Candidates Selected for an Interview

- 3.1. In preparation for the interview, the Director's Selection Committee will review the achievements of each of the candidates to be interviewed and contact references as appropriate. The Director's Selection Committee will also study the skills, knowledge and personal characteristics of the candidates as determined by the submissions and on-site visits, if such visits were made.
- 3.2. The Director's Selection Committee will prepare interview questions that can be used to determine the suitability of the candidates for the director's role. The criteria must be entirely consistent with the terms of Policy No. 3 Director of Education Job Description.

- 3.3. Final consideration will include an interview of all short-listed candidates and a review of all information gathered to date. The Director's Selection Committee will choose one of the candidates for the director's position if that candidate is supported by a [clear two-thirds](#) majority of the Director's Selection Committee.

4. Negotiations with Selected Candidate

- 4.1. Since all trustees on the board are involved in the Director's Selection Committee's decision to support the selected candidate, the candidate may be so informed, and negotiations over the contract begin. Time is given for the candidate to seek an outside opinion. Any changes are reviewed by the board lawyer.
- 4.2. The unsuccessful candidates are informed by the Director's Selection Committee. The Director's Selection Committee shall determine a method to notify the unsuccessful candidates.

5. Director's Selection Committee Decision

- 5.1. The Director's Selection Committee makes a recommendation to Avon Maitland District School Board in open session that the board hire the successful candidate.

6. Appointment of Director of Education and Secretary of the Board

- 6.1 The board of trustees resolves to appoint the candidate as Director of Education and Secretary of the Board.
- 6.2 The board motion shall include the start date.
- 6.3 The status of the contract is noted in the motion. If a contract is not yet finalized, a later motion to accept the contract is required.
- 6.4 The appropriate Ministry officials are advised of the appointment.