

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uphold the implementation of any Board resolution after it is passed by the Board (unless or until the resolution is rescinded or amended according to AMDSB's Rules of Order).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 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.