

Policy Title	Code of Conduct - Trustee		
Date of Issue	November 16, 2010	Related Procedure	AP 1901-D
Revision Dates	February 21, 2012 (rev. Rationale-Strategic Plan); June 17, 2014; January 22, 2019	Related Forms	
Review Date	January 1, 2023 (<i>every four years</i>)	Originator	Board of Trustees
References			
Education Act; Municipal Conflict of Interest Act; Municipal Freedom of Information and Protection of Privacy Act; Statutory Powers Procedure Act; BP 1102-D "Role Description – Board of Trustees; BP 1106-D "Role Description – Trustee"; BP 1410-D "Conflict of Interest; Bluewater District School Board Procedural By-Laws; Ontario Regulation 462/97 First Nations Representations on Boards; OPSBA School Board Member (Trustee) Code of Conduct Template; O.Reg. 246/18: Members of School Boards – Code of Conduct			

1.0 RATIONALE

- 1.1 Bluewater District School Board policies will support and provide direction necessary to achieve the board's Vision, Mission and Strategic Plan priorities.
- 1.2 A school board trustee is an elected member of a board of trustees. The position carries with it certain obligations, including the expectation to behave in a way that reflects and respects both legislated requirements and related requirements specified in board by-laws, policies and procedures.
- 1.3 A code of conduct policy contributes to confidence in public education and respect for integrity of trustees in the community.

2.0 POLICY

- 2.1 **It is the policy of Bluewater District School Board that its trustees set direction and establish policies, and in doing so are expected to act at all times in the best interest of the students, the staff and the board. The board commits itself and its trustees to ethical and lawful conduct, integrity and proper use of authority.**
- 2.2 **In addition to the specific items outlined by this policy, each trustee shall comply with board policies, procedure and by-laws including, but not limited to, BP 1102-D "Role Description – Board of Trustees", BP 1106-D "Role Description – Trustee", and AP 1901-D "Trustee Use of Board Resources during an Election Period".**
- 2.3 **This policy provides code of conduct expectations for trustees and identifies steps to be taken for any allegation of breach of the code of conduct.**
- 2.4 **Trustee conduct expectations, as outlined in this policy, also include online behaviour. Trustee behaviour through email, social media and other online systems must be respectful of board policy and confidentiality expectations.**
- 2.5 **This policy applies to all trustees, including the chair.**

- 2.6 In accordance with Ontario Regulation 246/18: Members of School Boards – Code of Conduct, this policy shall be reviewed every four years by the Policy Standing Committee, with recommendation to the Board of Trustees to approve as revised, or confirm existing policy (if no revisions are required).

3.0 CODE OF CONDUCT

3.1 Integrity and Dignity of Office

- i. Trustees shall discharge their duties loyally, faithfully, impartially and in a manner that will inspire public confidence in the abilities and integrity of the board.
- ii. Trustees, as leaders of the board, must uphold the dignity of the office and conduct themselves in a professional manner, especially when attending board events, or while on board property.
- iii. Trustees shall ensure that their comments are issue-based and not personal, demeaning or disparaging with regard to board staff or fellow trustees.
- iv. Trustees 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.
- v. Trustees are encouraged to participate in trustee development opportunities to enhance their ability to fulfill their obligations.

3.2 Avoidance of personal advantage and conflict of interest

- i. No trustee 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 trustee when performing their duties to the board. As per BP 1401-D "Conflict of Interest", trustees, or members of their immediate family, should refrain from engaging in activities that may create, or appear to create, a conflict of interest; such as, accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.
- ii. A trustee shall not use their office to advance the trustee's interests or the interests of any family member or person or organization with whom or with which the trustee is related or associated.
- iii. No trustee shall use their office to obtain employment with the board for the trustee or a family member.

3.3 Compliance with Legislation

- i. A trustee shall discharge their duties in accordance with the Education Act and any regulations, directives or guidelines thereunder and comply with the Municipal Freedom of Information and Protection of Privacy Act, and any other relevant legislation.
- ii. Every trustee shall uphold the letter and spirit of this code of conduct.
- iii. Every trustee shall understand and respect the roles and duties of the individual trustees, the board, the director of education and the chair.

3.4 Civil Behaviour

- i. No trustee shall engage in conduct during meetings of the board or board committee meetings, and at all other times, that would discredit or compromise the integrity of the board.
- ii. A 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 trustee.
- iii. When expressing individual views, trustees shall respect the differing points of view of other trustees on the board, staff, students and the public.
- iv. Trustees shall at all times act with decorum and shall be respectful of other trustees, staff, students and the public.
- v. All trustees shall endeavour to work with other trustees and staff in a spirit of respect, openness, courtesy, and co-operation.

3.5 Respect for Confidentiality

- i. Every trustee shall keep confidential any information disclosed or discussed at a meeting of the board or board committee, or part of a meeting of the board or board committee, that was held in-camera, and keep confidential the substance of deliberations of an in-camera meeting, unless required to divulge such information by law or authorized by the board to do so.
- ii. No trustee shall use confidential information for either personal gain or to the detriment of the board.
- iii. 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 their position, except when required by law or authorized by the board to do so.

3.6 Upholding decisions

- i. All trustees shall accept that authority rests with the board, and that a trustee has no individual authority other than that delegated by the board.
- ii. Each trustee shall uphold the implementation of any board resolution after it is passed by the board.
- iii. A trustee should be able to explain the rationale for a resolution passed by the board. A trustee may respectfully state their position on a resolution provided it does not in any way undermine the implementation of the resolution. A trustee must clearly indicate that the opinion is their own.
- iv. A trustee shall not knowingly misrepresent the position of the board.
- v. The chair 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. When individual trustees express their opinions in public, they must make it clear that they are not speaking on behalf of the board.

4.0 ENFORCEMENT OF CODE OF CONDUCT**4.1 Identifying a Breach of the Code**

- i. A trustee who has reason to believe that another trustee has breached the board's code of conduct may bring the alleged breach to the attention of the chair who will consult with the vice-chair.
- ii. Any allegation of a breach of the code must be brought to the attention of the chair as soon as possible, but 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 of conduct be undertaken after the expiration of six (6) months from the time the breach is alleged to have occurred.
- iii. Any allegation of a breach of the code of conduct shall be investigated following the Informal (*section 4.3*) or Formal Complaint processes (*section 4.4*) below, as the case may be.
- iv. 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 (*section 4.3*). It is recognized that from time to time a breach of the code of conduct 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 of conduct is to assist the trustee in understanding their obligations under the code of conduct. Only serious and/or reoccurring breaches of the code of conduct by a trustee should be investigated following the Formal Complaint Procedure (*section 4.4*).

4.2 Chair/Presiding Officer

- i. The code of conduct applies equally to the chair. In the case of an allegation of a breach of the code of conduct by the chair, wherever a process requires action by the chair, it shall be modified to read the vice-chair.
- ii. Each year two alternate trustees shall be chosen by the board to act in place of the chair or vice-chair of the board as needed, and when the circumstances warrant, to carry out any of the duties required under this code of conduct. In no circumstance shall the trustee who brought the complaint of a breach of the code of conduct be involved in conducting any formal inquiry into the complaint.
- iii. Nothing in this policy prevents the chair or presiding officer of any meeting of the board or committee of the board from exercising their power pursuant to s. 207(3) of the Education Act to expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. For greater certainty, this may be done at the sole discretion of the chair or presiding officer, as the case may be, and without the necessity of a complaint or conducting an inquiry before an expulsion or exclusion from a meeting. The rationale for this provision is that a chair or presiding officer must have the ability to control a meeting. Any trustee who does not abide by a reasonable expulsion or exclusion from a meeting is deemed to have breached this code of conduct.
- iv. The chair 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.
- v. The chair or presiding officer shall follow the special rules of order of the board and meeting procedures contained in any board policy or by-law. A breach of a rule of order should be dealt with at the meeting in question by a trustee rising to a point of order or appealing a ruling of the chair in accordance with any applicable rule of order. Once such a motion is dealt with by the

board, all trustees shall abide by that decision and no further action shall be undertaken pursuant to the enforcement of the code of conduct, except for persistent improper use of the applicable rules of order by the chair or presiding officer.

4.3 Informal Complaint Procedure

- i. The chair, on their own initiative, or at the request of a trustee (without the necessity of providing a formal written complaint) who believes that a possible breach of the code of conduct has occurred, may meet informally with the trustee who is alleged to have breached the code of conduct, along with the vice-chair, to discuss the possible breach. The purpose of the meeting is to bring the allegation of the possible breach to the attention of the trustee and to discuss remedial measures to correct the offending behaviour, if confirmed. The Informal Complaint Procedure is conducted in private and a copy of the record, including resolution, shall be provided to all trustees.
- ii. The remedial measures may include, for example, a facilitated discussion with the chair, vice-chair and parties involved, 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*. If the chair and the trustee alleged to have breached this code of conduct cannot agree on a remedy, then a formal complaint may be brought against the trustee alleged to have breached this code of conduct and that complaint will be dealt with in accordance with the Formal Complaint Procedure (section 4.4) below.

4.4 Formal Complaint Procedure

- i. A trustee who has reasonable grounds to believe that another trustee has breached the board's code of conduct may bring the breach to the attention of the board by first providing to the chair a written, signed complaint setting out the following:
 - a. the name of the trustee who is alleged to have breached the code;
 - b. the alleged breach or breaches of the code;
 - c. information as to when the breach came to the trustee's attention;
 - d. the grounds for the belief by the trustee that a breach of the code has occurred; and
 - e. the names and contact information of any witnesses to the breach or any other persons who have relevant information regarding the alleged breach.
- ii. Except as provided below, if a written complaint is filed with the chair 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 (section 4.3).
- iii. 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.
- iv. The chair shall provide to all trustees a confidential copy of the complaint within 10 calendar days of receiving the written allegation, or such reasonable time as the chair deems appropriate, with an extension no greater than five (5) calendar days. The complaint, any response to the complaint and the investigation of the complaint shall be confidential until it is before the board for a decision as to whether or not the trustee has breached this code of conduct.

4.5 Refusal to Conduct Formal Inquiry

- i. If the chair and vice-chair of the board are of the opinion that the complaint is beyond the time limit, trivial, frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for a formal inquiry, a formal inquiry shall not be conducted at that time and a confidential report stating the reasons for their recommendations shall be provided to all trustees, and confirmed by resolution of the board.
- ii. 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.

4.6 Steps of Formal Inquiry

- i. If a formal inquiry of an alleged breach of the code of conduct is undertaken, it shall be done by the chair and vice-chair of the board or an outside investigator/consultant chosen by the chair in consultation with the vice-chair.
- ii. Regardless of who undertakes the formal inquiry the following steps shall be followed.
- iii. The *Statutory Powers Procedure Act* does not apply to anything done regarding the enforcement of this code of conduct. No formal trial-type hearing will be conducted.
- iv. Procedural fairness shall govern the formal inquiry. The formal inquiry will be conducted in private.
- v. 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.
- vi. 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.
- vii. It is expected that the formal inquiry will be conducted promptly within a reasonable period of time which will depend on the circumstances of the case, as determined by the investigator. 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 deems appropriate.
- viii. 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 their absence.
- ix. The investigator will prepare a final report outlining the finding of facts, and if requested by the board, a recommendation to the board of trustees whether the code of conduct has been breached.
- x. In the case where the chair and vice-chair complete the initial formal inquiry and they cannot agree on the final finding of facts, it shall be referred to an outside investigator to complete the formal inquiry.

4.7 Suspension of Formal Inquiry

- i. If the investigators, 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.

4.8 Decision

- i. The final report shall be delivered to the board, and a decision by the board 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.
- ii. 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.
- iii. If the board determines that there has been no breach of the code of conduct or that a breach occurred, although the trustee took all reasonable measures to prevent it, or that a breach occurred that was trivial, or committed through inadvertence, or an error of judgment made in good faith, no sanction shall be imposed.
- iv. Despite s. 207 (1) of the *Education Act*, the part of the 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) being:
 - a) the security of the property of the board;
 - b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or their parent or guardian;
 - c) the acquisition or disposal of a school site;
 - d) decisions in respect of negotiations with employees of the board; or
 - e) litigation affecting the board.
- v. 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 (section 4.4) 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 reasons for the decision shall be recorded in the minutes of the meeting. Both resolutions shall be decided by a majority vote of the trustees present and eligible to vote.
- vi. 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.
- vii. The trustee who is alleged to have breached the code of conduct may be present during the deliberations regarding the above but shall not participate in the deliberations, and shall not be required to answer any questions at that meeting.
- viii. The trustee who is alleged to have breached the code of conduct shall not in any way, after the final report is completed, influence the vote on the decision of breach or sanction, except as permitted below after these decisions have been made.

4.9 Sanctions

- i. 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:

- a) Censure of the trustee.
 - b) Barring the trustee from attending all or part of a meeting of the board or a meeting of a committee of the board.
 - c) Barring the trustee from sitting on one or more committees of the board, for the period of time specified by the board.
- ii. 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 courses at the expense of the board. The board has no power to declare the trustee's seat vacant.
 - iii. If the board determines that a trustee has breached the board's code of conduct the board shall:
 - (a) give the trustee written notice of the determination, the reasons for the decision and any sanction imposed by the board;
 - (b) the notice shall inform the trustee that he or she may make written submissions to the board in respect of the determination or sanction by the date specified in the notice that is at least fourteen (14) days after the notice is received by the trustee; and
 - iv. 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.
 - v. 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 Education Act regarding absences from meetings.
 - vi. The board will have regard for Ontario Regulation 462/97 First Nations Representations on Boards. This Regulation provides that appointed First Nation trustees are deemed to be elected trustees and as such the board will have consideration of the role of a First Nation's trustee when imposing any sanctions for a breach of the code of conduct.

4.10 Reconsideration

- i. If the board determines that a trustee has breached the board's code of conduct the board shall consider any submissions made by the trustee and shall confirm or revoke the determination or sanction within 14 days after the submissions are received.
- ii. If the board revokes a determination, any sanction imposed by the board is revoked.
- iii. If the board confirms a determination, the board shall, within the fourteen (14) days above, confirm, vary or revoke the sanction.
- iv. If a sanction is varied or revoked, the variation or revocation shall be deemed to be effective as of the date the original determination was made.
- v. The board decisions to confirm or revoke a determination or confirm, vary or revoke a sanction shall be done by resolution at a meeting of the board and the vote on the resolution shall be open to the public. Both resolutions shall be decided by a majority vote of the trustees present and eligible to vote. The resolutions shall be recorded in the minutes of the meeting together with the reasons for confirming or revoking a determination. The board shall provide to the trustee alleged to have breached the code of conduct written notice of the decision to confirm or revoke the determination together with reasons for the decision and written notice of any decision to confirm, vary or revoke a sanction. The trustee alleged to have breached the code of conduct shall not vote on those resolutions. The trustee who brought the complaint may vote.

- vi. The trustee who is alleged to have breached the code of conduct may be present during the deliberations regarding the above but may not participate in the deliberations or the vote and shall not be required to answer any questions at that meeting.
- vii. If appropriate, the original sanction may be stayed pending the reconsideration by the board of the determination or sanction.

Please refer to Appendix A for the trustee's acknowledgement and undertaking.

APPENDIX A
ACKNOWLEDGEMENT AND UNDERTAKING

I confirm that I have read, understand and agree to abide by the board's code of conduct.

DATE: ▶

SIGNATURE:

Please Print Name:
